

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2016CP4201952

Henry H. Edwards, and Pamela J. Edwards,

Respondents,

v.

Walter L. Pepperman II, and T. Ann Pepperman,

Appellants.

AFFIDAVIT OF WALTER L. PEPPERMAN II

Walter L. Pepperman II, being duly sworn according to law, does depose and say:

1. I am an appellant in the captioned matter.
2. I attended the hearing before the Honorable R. Keith Kelly on August 23, 2016, at which the Court took the e mail addresses of the parties for purposes of notifying them of the hearing result. At that time, respondent Pamela J. Edwards related that she did not want to receive e mails involving appellants. In response, my recollection is that the Court said the parties would also be receiving the result via U. S. Mail.
3. I thereafter received nothing from Judge Kelly, either by U. S. Mail or e mail.
4. On November 29, 2016, and since it was then over 3 months from the hearing, I called the Clerk's office to inquire about this and was referred to the web site Public Index. It said merely that the case was dismissed on September 9, 2016.
5. On November 30, 2016, I sent a letter to the Clerk with regard to this situation, pointing out that I had received no written notice of any decision, and expressing concern about my appellate rights. Attached is a true and correct copy of that letter.
6. Having then received no response to this letter, I sent to the Clerk another letter on December 8, 2016, requesting specifically a copy of whatever order was entered on September 9, 2016. Attached is a true and correct copy of that letter.
7. On December 16, 2016, I received in the U. S. Mail a certified copy of Judge Kelly's Order of September 9, 2016, which is the subject matter of this appeal. This is the first time I received written notice of this Order and its contents. Attached is a true and correct copy of the

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envelope in which I received Judge Kelly's Order, postmarked December 14, 2016.

8. Under SCACR 203 (b) (1) on appeals from the Court of Common Pleas, a notice of appeal must be served within 30 days after receipt of written notice of the entry of an order or judgment. In the light of the foregoing, I respectfully submit that the Notice of Appeal in this case is timely in that I did not receive the required written notice until December 16, 2016.

December 19, 2016.



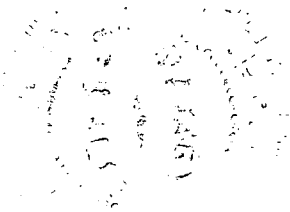
Walter L. Pepperman II
165 Old Melvin Hill Road
Campobello, SC 29322
(864) 592 2978
Appellant

SWORN AND SUBSCRIBED BEFORE ME THIS 19 TH DAY OF DECEMBER, 2016.

Notary Public

Heenese P. Hamerion
my comm. expires 03-01-22

Henry H. Edwards and Pamela J. Edwards
2081 Red Radford Road
Campobello, SC 29322
Respondents
(864) 381 3928



M. Hope Blackley
Clerk of Court
Spartanburg County Court House
180 Magnolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483

November 30, 2016

Re: Pepperman v. Edwards; Case No. 2016CP4201952; Court of Common Pleas

Dear Ms. Blackley:

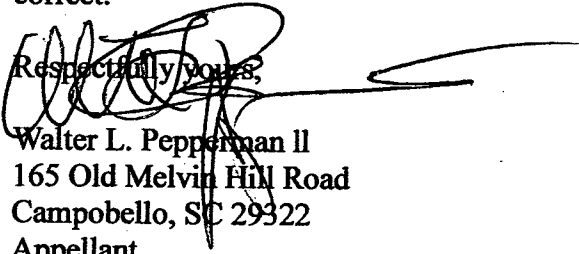
The captioned matter is an appeal from the Magistrate's Court. It was heard before the Honorable R. Keith Kelly on August 25, 2016.

Having received nothing from Judge Kelly, either by US Mail or e mail, and since it was now over 3 months from the hearing, I went on your website at the Public Index yesterday and found that the case was dismissed on September 9, 2016. I immediately became concerned about any expiration of my appellate rights.

Under South Carolina Supreme Court Rule 203 (b) (1) on appeals from the Court of Common Pleas, a notice of appeal must be served within 30 days after receipt of written notice of the entry of an order or judgment. In that I received no written notice of this apparent dismissal, I believe my right to appeal to the South Carolina Supreme Court has not expired.

Please refer this letter to Judge Kelly with my request that he confirm that my belief in that regard is correct.

Respectfully yours,


Walter L. Pepperman II
165 Old Melvin Hill Road
Campobello, SC 29322
Appellant

cc: Henry and Pamela Edwards, Appellees

December 8, 2016

M. Hope Blackley
Clerk of Court
Spartanburg County Court House
180 Magolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483

Re: Pepperman v. Edwards, Case No. 2016CP4201952; Court of Common Pleas


Dear Ms. Blackley:

I have received no response to my letter to you dated November 30, 2016, mailed one week ago yesterday.

Please send to me promptly a copy of whatever order was entered on September 9, 2016, dismissing this case. I have never received written notice of it and, accordingly, have never seen it. A copy of it must be attached to my Notice of Appeal to the Court of Appeals, which I cannot file until I receive it.

Your earliest response to this request would be greatly appreciated.

Respectfully yours,


Walter L. Pepperman II
165 Old Melvin Hill Road
Campobello, SC 29322
Appellant

cc: Henry and Pamela Edwards, Appellees

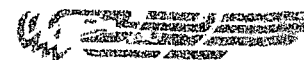
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M. HOPE BLACKLEY
Clerk of Court, Spartanburg County
Post Office Box 3483
Spartanburg, South Carolina 29304-3483

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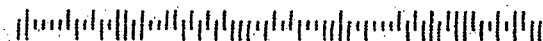
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WALTER L PEPPERMAN II
165 OLD MELVIN HILL RD
CAMPOBELLO SC 29322

40 JRDJNMP 29322



STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
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)
Walter L. Pepperman II, et al,)
) Appellant)
)
v.)
)
Henry H. Edwards, et al,)
) Appellee)
)
)
IN RE:)
)
Walter L. Pepperman II, et al,)
) Plaintiff)
)
v.)
)
Henry H. Edwards, et al,)
) Defendant)
)
_____)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

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SC Court of Appeals

**ORDER AFFIRMING THE HOLDING
OF THE MAGISTRATE JUDGE**

Case No. 2016-CP-42-1952

Date
Judge
Attorney for Appellant
Attorney for Appellee
Court Reporter

23 August 2016
R. Keith Kelly
Pro Se
Pro Se
Margaret Woods

BACKGROUND

This matter comes before the Court by way of an appeal from a bench trial held in the Magistrate Court for the County of Spartanburg, State of South Carolina on November 30, 2015, the Honorable Charlie Jones presiding.

[Faint signature and text]

This matter arose from a dispute over a roof leak. According to the facts as alleged by the parties, Appellant Pepperman and his wife purchased a property from Appellees. The property included a home and a detached barn. According to Appellants, the roof of the barn leaked with the "first driven rain" that they experienced there. Appellants sued Appellees on a latent defect claim. Appellees counterclaimed against Appellants. At trial, the Magistrate Court held, in its discretion, that neither party had proven its case. Thus, the trial judge held in favor of Appellees on the original claim, and in favor of Appellants on the counterclaim. Final disposition was issued on or about May 13, 2016. Appellant wrote and filed the notice of civil appeal to this Court with the Clerk of Court on May 23, 2016. The trial court's return was filed on July 29, 2016, following Appellant's notice of appeal in the instant matter.

STANDARD OF REVIEW

Appeals from the Magistrate Courts are to the Circuit Courts of this state. *SC Code Ann Sec. 18-7-10 (Supp 2015)*. The Circuit Court is empowered to correct errors of law or fact when sitting as the appellate court. *S.C. Code Ann Sec. 18-7-170 (Supp 2015)*. However, the reviewing court is not required to disregard the findings of the trial court judge who saw and heard the witnesses and was in a better position to evaluate the testimony.

ANALYSIS

Pursuant to S.C. Code Ann. § 27-50-10(2), "'Disclosure statement' means a residential property condition disclosure statement written on a form as required by this article and promulgated by regulations of the commission." A "[r]eal estate contract" means a contract for the transfer of ownership of real property. S.C. Code Ann. § 27-50-10(6). Further, "[r]eal property" means the lot or parcel and the dwelling unit described in a real estate contract subject to this article. S.C. Code Ann. § 27-50-10(8). S.C. Code Ann. § 27-50-20 states that the article applies to the

following transfers of residential real property consisting of at least one but not more than four dwelling units: (1) sale or exchange; (2) installment land sales contract; or (3) lease with an option to purchase contract.

As laid out in the aforementioned code sections, the Residential Property Condition Disclosure Statement applies to the lot or parcel and the dwelling unit described in the contract. The real estate contract may include barns, outbuildings, or other structures, but those are not included in the Disclosure Statement since they are not categorized as a dwelling unit. The General Assembly enacted these statutes to protect persons in regard to their home or dwelling, but no protection is made as to a barn or outbuilding. As such, Appellants cannot claim protection under the Code. Appellants do not raise errors of law or fact, and this Court may not conduct a de novo hearing. The holdings of the Magistrate Court are affirmed.

CONCLUSION

Appellants fail to meet the requisite standard for this Court to overturn the holdings of the Magistrate Court. Thus, Appellants' appeal is dismissed, and the disposition rendered by the trial judge is affirmed.

IT IS SO ORDERED.

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Spartanburg Common Pleas

Case Caption: Walter L Pepperman II , plaintiff, et al VS Henry H Edwards ,
defendant, et al
Case Number: 2016CP4201952
Type: Order/Other

It is so Ordered.

s/ R. Keith Kelly - 2165

Electronically signed on 2016-09-09 10:55:40 page 4 of 4

A CERTIFIED COPY

M. Hope Blackberry
CLERK OF COURT
SPARTANBURG COUNTY
BY: *William M. Kelly* p.c.
DATED: *12-14-16*