

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
Appellate Case No. 2016-001062

Appeal from the Circuit Court of Lexington County, South Carolina

The Honorable James O. Spence/ Master of Equity
Albert J. Dooley, Judge/ Special Referee

Case No. 2010-cp-32-00669

RECEIVED
JAN 10 2017
SC Court of Appeals

JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION SUCCESSOR BY
MERGER TO CHASE HOME FINANCE
LLC S/B/M TO CHASE MANHATTAN
MORTGAGE CORPORATION.....Respondent

V.

Demetric Hayes.....Appellant

MOTION TO STRIKE THE INITIAL BRIEF OF RESPONDENT

Appellant Demetric Hayes hereby moves for an Order striking the initial brief of the Respondent. As stated in appellant's initial brief, respondent's pleadings, special referee Dooley (Special Referee Title) and public record (**Record of Deeds office**), appellant sold the property at 232 Edinfield Ct. Gaston, South Carolina 29053 in September 2011. Before the property was sold, a title search was conducted and the said property was free of any liens or mortgages. Therefore, appellant had the right to do as he wished with his property. Even if Hayes had still owned the property, respondent does not have standing to bring suit because respondent has never established that it was the holder in due course.

To date, respondent has yet to produce any document to support its claim other than them saying "it was a merger". The respondent has never been forced by Judge Spence or Special Referee Dooley to prove standing. The respondent has repeatedly unlawfully attacked the estate of Demetric Hayes, DEMETRIC HAYES for property he simply does not own. The respondent, respondent attorneys and Special referee Dooley has continued to damage Hayes's good name, health (from the burden of fighting to keep

his good name, credit, defaming his character and negativity impacting his ability to obtain a VA Loan from the Veteran Affairs Administration.

ARGUMENT

First and foremost, Hayes nor his Fiancée were ever served. The description of the person that the respondent claim to have served is totally different. An affidavit was submitted by a personal processor that he made 6 attempts to serve Hayes was unsuccessful. This was due to the fact that Hayes and his fiancée was out of town. The respondent along with it's attorneys Genevieve Johnson of Butler & Houch, Mary Caskey and James Becker of Haynsworth Sinkler Boyd, P.A. entire case has been built on fraud and deceit with the help of Lexington County Master of Equity, James O. Spence (whom recused himself) and Special Referee Albert J. Dooley of the Dooley Law Firm (whom has refused to recuse himself after handled countless residential real estate closings for Chase) being partial to the Respondent. **Master of Equity, James O. Spence denied Hayes the right to represent himself and told him, that he had to have a licensed South Carolina attorney to represent him. Hayes was there to represent himself and was denied that right. This is a violation of Title 18 U.S.C. Section 241 and 242. Also, when there is fraud involved, time is not barred. Fraud can be proven at anytime of a case.**

The respondent has failed to mention that in March 2013, Hayes informed Judge James O. Spence that he had moved his case to federal court, all proceedings was suppose to stop. Yet after Hayes informed Judge Spence by way of presenting the federal case number, he pretended that didn't understand what Hayes was telling him. He tried to continue on with the proceedings. At those proceedings by law Hayes had the right to cross-examine the witness. **Hayes 6th amendment right to cross-examine the witness violated. This was due to the fact that when the case was remanded back to state court, proceedings never picked up where they left off.** Again on 14 April 2014, Hayes filed a Motion for Reconsideration and Vacating of Order Based on Newly Discovered Evidence. The new evidence shows that a fraudulent mortgage was created and rerecord (**book 9324 page 237**). The respondent attorneys removed the original page number 19 which was the property description page which Hayes acknowledged with his initials (**book 9298 page 293**). A Mortgage that Hayes had no knowledge of and did not bear his signature or initials. Respondent is not allowed to substitute a page into a Mortgage and/or Contract without the authorization or knowledge of the appellants. This substitution renders all of Respondent's action and claims unenforceable and void.

Hayes never received a court date and motion was denied but no reason why. Mr. Dooley should have removed himself from the case as well due to his financial relationship with JP Morgan Bank Chase N.A. He failed to do so. **Hayes filed a Motion for Removal of Special Referee Due to Conflict of Interest. Hayes waited on a court date for that hearing. Hayes never received a court date. Instead, Hayes motion was denied by Special Referee Dooley but no reason why. Again this was a conflict of**

interest for the simple fact Mr. Dooley signed an order which the motion filed pertained to his actions. The lower court erred when it failed to appoint another Judge or special referee to preside over Hayes's Motion for Removal of Special Referee Due to Conflict of Interest. It was Mr. Dooley's judicial obligation to take the initiative to recuse himself from these legal proceedings due to the fact these proceedings were about his actions.

Yet the respondent has claimed that they have done nothing wrong. They claim they have acted in a lawful matter. Respondent have no documents to validate their claim. Attorney James Y. Becker presented fraud on the lower court when they presented a fraudulent copy of what Hayes signed. Their presentment didn't have Hayes initials on page 19, the legal description page, as evidenced by his initials on the last page of the true legal description. Plaintiff presented a fictitious instrument with the intent to defraud the Defendant and the courts, both state and federal which is a violation of Title 18 U.S.C. 514. The documents that were presented to the Special Referee (attorney Dooley) didn't bare Hayes signature nor did the (legal description page number 19) bare Hayes initials (Hayes and Special Referee Dooley was presented with a copy of those fraudulent documents). Apparently, Mr. Dooley and the respondent's attorneys must have figured that Hayes wouldn't recognize a true note and mortgage. Therefore, the respondent's claims are without merit and should have been void.

What needs to address as well is if Hayes formal property didn't have a mortgage or lien when it was sold, which can be verified at the Lexington County deeds office (public record). How was a case allowed to be filed against Hayes when he wasn't a party of interest? **Judge Spence stated that before he allowed this case to move forward he made sure that all documents were in place to include all assignments recorded in the deeds office. Yet the respondent (attorney James Y. Becker) stated that they didn't have to record an assignment. Therefore, there is no chain of title. They claim they done what they call a "merger" and was a real party of interest from the beginning. Well if this was true, they wouldn't have filed for a Motion to Substitute Plaintiff on 16 May 2012. According to UCC 3-301 and UCC 3-309 if the respondent sold, transfer or merger, the note without proof of a valid assignment, they lost the right of the holder of the original wet-ink note.**

Chase Manhattan Corporation never filed an assignment. Chase Home Finance, LLC never filed an assignment. JP Morgan Chase Bank never filed an assignment. Therefore, not only is there a broken chain of title, there isn't any chain of title. **Each of the companies listed as the respondent has different EIN #, which means they were separate entities. JP Morgan Chase Bank N.A. has never been named on any documents proving real party of interest.**

At the 8 September 2015 sale Ms. Marshall acknowledges that she was the high bidder, she also acknowledges and let Mr. Dooley know that her property was not on the foreclosure sale list as well. Mr. Dooley call her out side of the court room during the auction and refused to give Ms. Marshall the paperwork associated with her winning the bid. **When Ms. Marshall asked Mr. Dooley if the property was in foreclosure, why is**

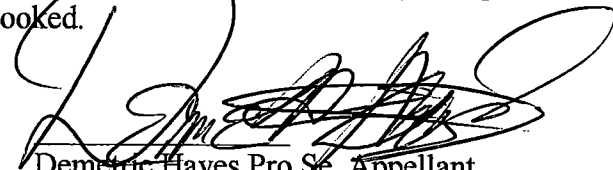
it not listed on the foreclosure list? Mr. Dooley replied "oh it's on the special judges list, which is different from the regular list. Mr. Dooley refused to give Ms. Marshall the documents to secure her winning of the bid. Mr. Dooley is just as much apart of the fraud as the respondent and respondent's attorneys.

On page 8 of the respondent's brief the Respondent attorney's states that on 2 November 2015 Special Referee Dooley held the sell. This is not true. Master of Equity James O. Spence held the sale. Special Referee Dooley was a bidder at the sell. Again this is a conflict of interest. Again the property at 232 Edinfield Ct. Gaston, SC was not listed on either of the foreclosure lists. Master of Equity James O. Spence asked before the auction began does any one have a property they wanted to sell that's not on the list and Mr. Dooley replied "I do 232 Edinfield Ct. Gaston, SC". It is unlawful and unethical for Mr. Dooley to preside over a case and then bid on the same property.

Due to the fact that the respondent has never shown any chain of assignment, any proof to being the holder in due course, the fact that JP Morgan Chase Bank, N.A. was not a party until 2012, appellant has never been allowed to cross-examine the witness, the fact that Judge Spence recused himself because of a conflict of interest. the fact that Special referee Dooley has had a financial relationship with JP Morgan Bank, N.A., Chase Home Finance, LLC and Chase Manhattan Mortgage which are different entities. Special Referee Dooley and Master of Equity orders and all rulings should be vacate and voided.

The respondent's entire lawsuit is a fraud upon the court. Appellant has produced evidence proving the fraud and misrepresentation by the respondent but none of appellant's evidence has ever been considered.

The order signed by Mr. Dooley failed to address the fact that evidence was presented that this matter involves The Department of Veterans Administration. Respondent is in federal violation of Title 38 C.F.R. 36.4317. The Respondent must give notice to the Veterans Administration of their **INTENT TO FORECLOSE**. This must happen before any foreclosure action being. Respondent failed to do so. Respondent was asked by Mr. Dooley to provide evidence that this requirement was meet. Yet this important issue is not referenced in Mr. Dooley's order. This case should have never been allowed to be filed in the lower court. The only reason this case has continue to move forward is because the lower court has been partial to the respondent from the beginning. The Respondents fraud and deceit has been over looked.



Demetric Hayes Pro Se, Appellant
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January 2017

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PROOF OF SERVICE

I certify that a copy of the foregoing Appellant's MOTION TO STRIKE THE INITIAL BRIEF OF RESPONDENT has been served upon the Respondent by placing the same in the United States mail, addressed to the following as shown below this 5 January 2017.


Counsel of record for the respondent:

Mary M. Caskey, Esquire, FeD ID No. 10120
James Y Becker, Esquire, Fed ID No. 5733
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CC:

Court of Appeal Administration
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Columbia, South Carolina 29201-3739

A handwritten signature in black ink, appearing to read "Demetric Hayes", written over a horizontal line.

Demetric Hayes Pro Se, Appellant
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5 January 2017

DEMETRIC HAYES
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