

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Gernaris Hamilton, Appellant,

V.

Henry Scott, Sr. Respondent.

RECEIVED

FEB 06 2017

SC Court of Appeals

Appellate Case No. 2015-002039

Appeal from Charleston County

J. C. Nicholson, Jr., Circuit Court Judge

RULE 221 REHEARING

PETITION FOR REHEARING

Appellant Hereby moves before the court on SCACR Rule 221 Rehearing on:

PRESERVATION OF ISSUE FOR APPEAL

In the Matter of the Treatment and Care of Luckabaugh, 351 S.C. 122, 568 S.E.2d 338 (2002). The court held in Luckabaugh that the circuit court erred in failing to set forth its findings-and violating Rule 52 (a), SCRCF-in an initial merits hearing under the Luckabaugh recognizes the obvious-meaningful appellate review is more readily obtained when we are presented with a clear presentation of the basis for the circuit court's findings:

Trail courts, sitting without juries in an action at law, write their findings specially and separately:

To allow a reviewing court to determine from the record whether the judgement-and the legal conclusions which underlie it-represent a correct application of the law. The requirement for appropriately detailed findings is thus not a mere formality or a rule of empty ritual; it is designed instead to dispose of the issues raised by the pleadings and to allow the appellate courts to perform their proper function in the judicial system.

Appellant contends the lower court erred because it failed to substantially comply with Rule 52(a), SCRCF. When reviewing an action at law, on appeal of a case tried without a jury, this Court will not disturb the judge's finding of fact "unless found to be without evidence which reasonably supports the judge's findings." Townes Associates, Ltd. V. City of Greenville 266 S.C. 81, 86, 221 S.E.2d. 773, 775 (1976). The South Carolina Rules of Civil Procedure require "[i]n all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts special and state separately its conclusions of law thereon." Rule 52(a), SCRCF. The rule is directorial in nature so "where a trial court substantially complies with Rule (52) and adequately states the basis for the result it reaches.

Appellant filed a Motion to Alter or AMEND. Facts finding and Conclusion of law August 26, 2015. S.C. 403. S.E.2d 122 (S.C. 1991) Chiappetta V. ORR, 359, S.E. 530 (S.C.Ct.App.1987).

(See Records on Appeal page (3) Motion to Alter or Amend Rule 59(e))

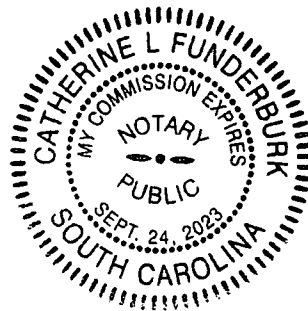
As to S.C. Code Ann & 27-40-530 (d) (4) 2007 tenant could not abandoned or surrendered premises. (See Records on appeal) "AMENDMENT TO CONFORM TO THE EVIDENCE ON MOTION TO DISMISS. Page (42). If Appellant abandoned premise's a termination letter from North Charleston Housing would have been sent an appellant would have been terminated from the Housing Program. The Charleston water system letter stating that service started November 3, 2013 until November 4, 2014 page (25) see Records on Appeal (Amendment Pleading and Exhibits).

As to what the opinion of the court said if "the tenant has abandoned or surrendered the premises

This was before (raised) the Court but not ruled on all the facts are in the Records on appeal.

Appellant respectfully submits this Petition that the lower court erred in S.C.R.C.P Rule's 52(a) and 59(e). No findings of fact or conclusion of law after the judgment of the court or on the motion filed.

Catherine L Funderburk
Feb. 2, 2017



Burce A. Berlinsky, P.A.
One Carriage Ln. Bldg. F
Charleston, SC 29409
(843)852-2202
Respondent

Respectfully Submitted,

Danz Hamilton

Gernaris Hamilton

4453 Jenwood Street

Ladson, S.C., 29456

(843)718-8952

THE STATE OF SOUTH CAROLINA

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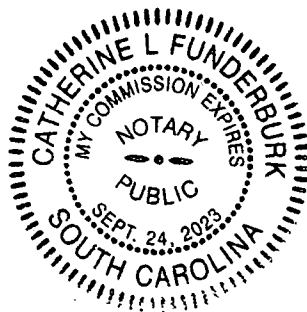
SC Court of Appeals

CERTIFICATION OF SERVICE

I have serve this Rehearing Petition to Burce A. Berlinsky, P.A. at One Carriage Lane, Bldg. F, Charleston, S.C. 29409 by U.S. Mail.

Catherine J. Funderburk
Feb 2, 2017

Larry Hunter



Gernaris Hamilton
 PLAINTIFF(S)

Henry Scott, Sr.
 DEFENDANT(S)

FILED
 JULIE J. ARMSTRONG
 CLERK OF COURT

Submitted by:

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Appellant Gernaris Hamilton's Motion to Reconsider (Motion to Amend) is respectfully denied.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

[Signature]
 Circuit Court Judge

2117
 Judge Code

9/14/15
 Date

Garnaris Hamilton
Plaintiff

Henry Scott Sr
Defendant

2015 AUG 26 PM 2:09

JULIE J. HAMILTON
CLERK OF COURT

BY _____

2015-CP-10-3372
MOTION TO
AMEND JUDGEMENT

The plaintiff moves before the court on a motion to amend the verbal order to a written order. Specifically to the finding of facts and conclusion of law on the issue presented under SCRCPSA RULE(E).

MAGISTRATES COURTS RULES

1. Attorney-Client: Sufficient process, notice retainer in a civil matter.

a. William Thrower: No Show at hearing or documents

b. S.C. code of law: titles 27. Residential Landlord and Tenant Act (ACCESS)

c. Rule (8) written notices, demand or similar documents delivery to parties.

2. CONSTITUTIONAL LAW, Jury and Equal protection:

a. Magistrates disqualify jury in a jury trial with notice.

b. Due process notice requirements for a non-jury trial, or writ of eviction issued by the courts.

3. APPEAL AND ERROR

Order issued by the Magistrate Court controlled by an error of law, where the order was based on factual conclusion without evidentiary support.

4. SCRCP RULES

a. SCRCP Rule (11). Affirmation of counsel.

b. SCRCP Rule(15). Filing after and active Roster

c. Motion to dismiss; on notatimely filed appeal

Plaintiff respectfully request the finding and conclusion of law from the oral ruling of the court.

I, Garnaris Hamilton certify that I have placed a copy in the U.S. mail to Henry Scott SR 105 Water Stone
Way Goose Creek South Carolina 29445

3

Garnaris Hamilton
4453-Jonewood St
Ladson S.C. 29456

Gernaris Hamilton
 PLAINTIFF(S)

Henry Scott, Sr.
 DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

FILED
 2015 AUG 18 PM 4:22
 JUDGE ABSTRACTING
 CLERK'S OFFICE

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Appellant Gernaris Hamilton's appeal, filed on July 13, 2015, came before this Court on August 14, 2014. Upon review of the appeal and Appellant's argument before this Court, the appeal is hereby denied because the Appellant raised no error of law made by the Magistrate Judge.

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk : _____

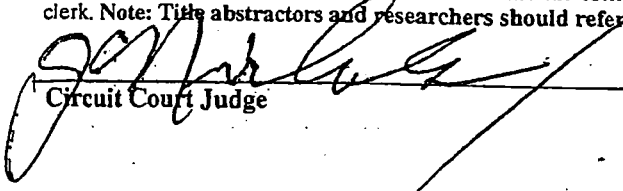
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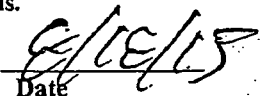
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 Circuit Court Judge

2117
 Judge Code


 Date

4

Jarvis HAM
4453 Jenwood
LADSON S.C. 29456

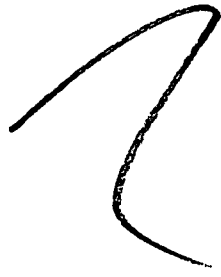


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FEB 06 2017
SC Court of Appeals