

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
The Housing Authority of the City of )  
Charleston, )  
 )  
Plaintiff-Appellant, )  
 )  
vs. )  
 )  
Katrina Brown, )  
 )  
Defendant-Respondent. )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
**ORDER GRANTING PLAINTIFF'S  
MOTION FOR REMAND**

**RECEIVED**

FEB 16 2017

SC Court of Appeals

Civil Action No.: 2016-CP-10-2230

This matter comes before the Court pursuant to The Housing Authority of the City of Charleston's appeal of the Magistrate Court's decision. Both parties to this matter were present in court with their respective counsel. This Court has had the opportunity to review the submissions of the parties, the return of the Magistrate, and to consider the arguments of counsel.

#### **SCOPE OF REVIEW**

The standard which the Circuit Court applies to an appeal from a Summary Court follows:

Upon hearing the appeal, the Appellate Court shall give judgement according to the justice of the case, without regard to technical errors and defects which do not affect the merits. In giving judgment, the Court may affirm or reverse the judgment of the Court below, in whole or in part, as to any or all of the parties and for errors of law or fact.

Bowers v. Thomas, 373 S.C. 240, 244, 644 S.E. 2d 751, 753 (S.C. Ct. App. 2007);

Section 18-7-170 of The South Carolina Code of Laws, 1976, as amended, provides that on appeal from Magistrate's Court, the Circuit Court may make its own findings of fact. Parks v. Characters Night Club, 345 S.C. 484, 490, 548 S.E. 2d 605, 608 (S.C. Ct. App. 2001);

*AS?*

## FACTS

The Lease Agreement governing this matter was signed on December 16, 2015, by Katrina Brown for 2214-A Sunnyside Drive. Listed on the lease are Katrina Brown, Janique Richardson, and Anthony Cobbs. A subsequent lease was signed by Mrs. Brown on February 1, 2016, listing the same three individuals.

A Charleston Police Department incident report for trespass was generated on January 14, 2016. Officers responded to 1 Cool Blow Street in reference to an armed robbery. Anthony Cobb, Mrs. Brown's minor son, a resident at the Sunnyside Drive location, was later arrested and charged with Unlawful Carrying of a Pistol and admitted to the Attempted Armed Robbery in conjunction with the incident at 1 Cool Blow. As Mr. Cobb is a resident of the Sunnyside Drive apartment, this is a breach of the Dwelling Lease Agreement and Mrs. Brown was rightfully subject to eviction.

The details of the Magistrate level hearing are outlined in the Return prepared by the Honorable Jennifer McCoy, which is already a part of the Court's file. This includes testimony by Detective Jarrell that Mr. Cobb confessed to the attempted armed robbery and testimony from Mrs. Brown that Mr. Cobb was in fact a resident on the premises, although he was being held at the Charleston County Detention Center at the time of the hearing. In spite of Mrs. Brown's testimony that Mr. Cobb would not be residing with her, she listed him as a resident on the February 1 lease, which was executed two weeks after the armed robbery incident.

## FINDINGS

The controlling case in this matter is *The Department of Housing and Urban Development vs. Rucker*. 535 U.S. 125 (2002). In *Rucker*, the Supreme Court found that a public housing

As 2

agency has the authority to evict a tenant under similar circumstances. The Supreme Court conducted a fairly exhaustive review of the relevant statute and determined, notwithstanding potential harsh results on tenants, the plain language of the statute vested a public housing agency with the authority to evict a tenant under circumstances similar to the case at bar. This Court is certainly cognizant of the arguably inequitable and unfortunate results of a strict interpretation of the statute. The undersigned, on a strictly personal level, finds it unsettling that a hard-working mother, entirely innocent, could be evicted from her residence based upon the immature and asinine transgressions of a household resident. However, public policy, as advanced by the Legislature and the Supreme Court, recognizes that drug activity and violent crime is a plague on public housing communities. Therefore, this legislation was enacted to potentially curb this illegal activity. Whether or not the subject mechanism is effective in that regard is a debate for another date and time. Quite simply, it is a tool of public policy enacted by the Legislature and found acceptable by the Supreme Court.

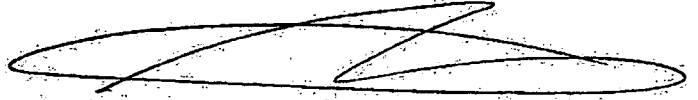
After a review of the record, this Court cannot find how the instant case is substantively dissimilar from the factual pattern in *Rucker*. The Order of the Magistrate references "distinguishable facts" from *Rucker* but fails to articulate what those distinguishing characteristics may be.

THEREFORE, the case is remanded to the Summary Court for a ruling consistent with the Supreme Court decision in *Department of Housing and Urban Development vs. Rucker*. Id. The Magistrate may conduct an additional evidentiary hearing or rely upon the previous record.

*RCS*

The Housing Authority of the City of Charleston vs. Katrina Brown: 2016-CP-10-2230

**AND IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'ROBIN B. STILWELL', enclosed within a hand-drawn oval border.

ROBIN B. STILWELL

January 11, 2017  
Greenville, South Carolina

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STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016-CP-10-2230

RECEIVED

The Housing Authority of the City of Charleston

Katrina Brown

FEB 16 2017

SC Court of Appeals

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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.  See Page 2 for additional information.
- 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:

ORDER INFORMATION

See Attached Order Granting Plaintiff's Motion for Remand.

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)
		\$
		\$
		\$
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

