

THE SOUTH CAROLINA COURT OF APPEALS

First Citizens Bank and Trust Company, Inc.,
Respondent,

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SC Court of Appeals

v.

Beck Holding Company, LLC, C.J.B. Holding & Trust
Company, LLC, Cornelius J. Beck, Jr., Andrews Dental
Center, Inc., Inlet Dental Center, Inc., Seaside Surgical,
Inc., Georgetown Dental Center of South Carolina, Inc.
And South Beach Dental Center, Inc.
Defendants,

Of whom Cornelius J. Beck, Jr. is the Appellant.

Appellate Case No. 2016-000329

INITIAL BRIEF

Attorney For Respondent
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Beck Jr, Cornelius Johnathan 34
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Pawley's Island, SC

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TABLE OF AUTHORITIES

- [FRCP Rule 5.1(a)]
- Relief under [FRCP Rule 24(1)]

STATEMENT OF ISSUES ON APPEAL

On December 14, 2014, I filed a timely Constitutional Challenge Rule 5.1 and an injunction under FRCP Rule 24(1). The Plaintiff ignored the filing of such documents, and continued on with due course of the foreclosure case.

QUESTION ON APPEAL

Isn't it true that once a Constitutional Challenge has been filed that all actions in the case must stop until that matter resolved?

STATEMENT OF THE CASE

1. On or around about July 17, 2014, a Summons and Complaint was filed by the Plaintiff.
2. Sometime thereafter, I was served with the Summons and Complaint.
3. On September 2, 2014, I responded to the Summons and Complaint with an answer.
4. On December 31, 2014, I filed a Constitutional Challenge along with an Injunction pursuant to FRCP 24(1).
5. On March 31, 2015, the Plaintiff proceeded with a Request for Summary Judgment and was granted a foreclosure judgment.

ARGUMENT

COMES NOW, Beck Jr, Cornelius Johnathan in this Initial Brief to argue the issue on appeal in order to resolve the issues between me and the Plaintiff.

On July 17, 2014, the Plaintiff filed a Summons and Complaint. Shortly thereafter I was served with a copy of the Summons and Complaint, and then on September 2, 2014, I responded to the Summons and Complaint challenging the jurisdiction of the court. This response was followed up with a Constitutional Challenge being filed on December 31, 2014.

After filing the Constitutional Challenge Plaintiff made Motion to Strike the Constitutional Challenge and continued to move forward with the proceedings of the foreclosure disregarding the Constitutional Challenge.

At no point during between December 31, 2014 and October 14, 2016 have I forfeited, or waived my right to the Constitutional Challenge that was filed. To the best of my knowledge the clerk of the court never certified the Constitutional Challenge, according to 28 U.S.C. §2403.

According to Federal Rule 5.1.(c), the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.

(c) INTERVENTION; FINAL DECISION ON THE MERITS. Unless the court sets a later time, the attorney general may intervene within 60 days after the notice is filed or after the court certifies the challenge, whichever is earlier. Before the time to intervene expires, the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.

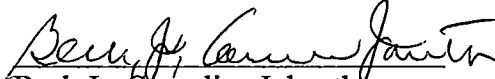
At no point in this case has my claim of constitutional challenge has been forfeited pursuant to Federal 5.1.(d).

(d) NO FORFEITURE. A party's failure to file and serve the notice, or the court's failure to certify, does not forfeit a constitutional claim or defense that is otherwise timely asserted.

IN CONCLUSION, the fact that I did file the constitutional challenge against statutes for foreclosure, there should be no final judgement for foreclosure and sale, which includes but not limited to Summary Judgement. According to the rule, given that the Attorney General did not intervene in the matter will hold that the statutes are unconstitutional, and thereby there can be no judgment, neither can there is an order to sale. I pray that this court will overturn the order granting foreclosure judgement and dismiss this case with prejudice.

Respectfully submitted,

March 13, 2017


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