

THE STATE OF SOUTH CAROLINA

In The Supreme Court

Gernaris Hamilton, Appellant,

V.

Henry Scott, Jr. Respondent

RECEIVED

APR 24 2017

S.C. SUPREME COURT

PETITION FOR
WRIT OF CERTIORARI TO THE COURT OF APPEALS

PETITIONERS APPENDIX

Appeal From Charleston County

Circuit Court Judge

J.C. Nicholson, Jr.

2015-cp-10-3372

Appellant Case No. 2015-002039

Gernaris Hamilton
4453 Jenwood Street
Ladson, S.C., 29456
(843)718-8952

Bruce A. Berlinsky, P.A.
One Carriage Ln. Bldg. F
Charleston, SC 29407
(843)852-2202

STATE OF SOUTH CAROLINA)

2015CV1011500219
CIVIL CASE NUMBER

COUNTY OF CHARLESTON)

IN THE MAGISTRATE'S COURT

ANSWER

Garnaris Hamilton
2064 Arbutus Avenue
North Charleston, SC 29405
(843) 718-8952
PLAINTIFF(S)

FILED IN CHARLESTON COUNTY

MAR 03 2015

SMALL CLAIMS COURT

Vs

AGENT

Henry Scott Sr
105 Waterstone Way
Goose Creek, SC 29445
DEFENDANT(S)

(843) 345-1344

On 3/2/2015 I was served with a Complaint requiring me to answer within thirty days from the date of service. My Answer, which is hereby filed with the **Charleston County Summary Court**, is as follows:

CHECK ONE:

A. I contest the jurisdiction of the court based on the following: (use additional pages if necessary)

B. I admit everything in the complaint and do not want a trial.

C. I admit that I am responsible, but not for the total amount claimed by the Plaintiff(s) because: (use additional pages if necessary)

D. I deny that I am responsible at all because: (use additional pages if necessary)

At the end of Mr. Hamilton lease it was not renewed. He was given 30 days to move out and remove his belongings. Mr. Hamilton
YOU MUST FILE THIS DOCUMENT WITH THE COURT WITHIN THIRTY DAYS *see attach sheet*

THE DEFENDANT/PLAINTIFF STATES THAT THE INFORMATION CONTAINED IN THIS ANSWER IS TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLEDGE

DATED: 3/3/2015

Henry Scott Sr
SIGNATURE OF DEFENDANT(S) (OR ATTORNEY)

IF MORE THAN ONE DEFENDANT, ALL MUST FILE ANSWER

PLEASE RETURN TO:

Small Claims - North
4045 Bridge View Drive, P. O. Box 70235
North Charleston, SC 29405
Phone: (843) 202-6650

left the house abandon. The doors were open
I tracked Mr. Hamilton down to remove
his belongings from the house. He came
and remove the food that was in the house
and left all the other items there. Repairs
had to be made to bring the house into
livable condition.

All necessary documents will be brought
to court.

I DESIRE A JURY TRIAL.

FILED IN CHARLESTON COUNTY
MAR 03 2015
SMALL CLAIMS COURT

Garnaris Hamilton
Plaintiff

Henry Scott Sr
Defendant

2015 AUG 26 PM 2:09

JULIE J. ROBERTS
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 SCRPC, §9 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 dismissal of 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. SCRPC RULES

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

b. SCRPC 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-Jonwood St
Lads on S.C. 29456

FILED

Gernaris Hamilton
PLAINTIFF(S)

2015 SEP 16 PM 2:52

Henry Scott, Sr.
DEFENDANT(S)

Submitted by: JULIE J. ARMSTRONG
CLERK OF COURT

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 : _____

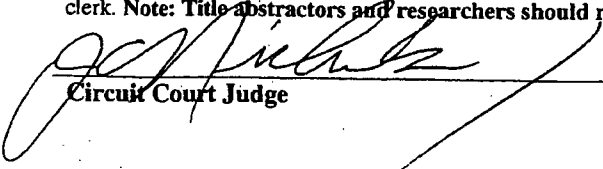
INFORMATION FOR THE JUDGMENT INDEX

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.


Circuit Court Judge

2117
Judge Code

9/14/15
Date

BRUCE A. BERLINSKY, P.A.
Attorney at Law

Mailing Address:
PO Box 206
Charleston, SC 29402

One Carriage Lane, Building F
Charleston, SC 29407

Office: (843) 852-2202
Fax: (843) 852-4844
Bruce@berlinskylawfirm.com

April 22, 2015

VIA HAND DELIVERY
William Thrown, Esquire
4 Carriage Lane
Charleston, SC 29407

Re: Hamilton v. Scott

Dear Bill,

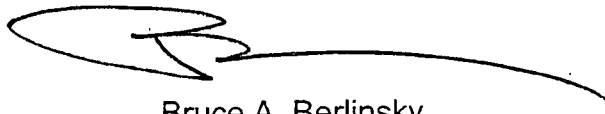
Please be advised that my offer of settlement in the amount of \$250.00 will be withdrawn at noon today.

(All my witnesses are now available for trial and I will begin preparing for the same immediately upon withdrawal of the offer.)

I kindly await your client's reply.

With kind regards, I am

Sincerely,



Bruce A. Berlinsky

BAB/jlr

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Gernaris Hamilton, Appellant,

v.

Henry Scott, Sr., Respondent.

Appellate Case No. 2015-002039

Appeal From Charleston County
J. C. Nicholson, Jr., Circuit Court Judge

Unpublished Opinion No. 2017-UP-059
Submitted December 1, 2016 – Filed January 25, 2017

AFFIRMED

Gernaris Hamilton, of Ladson, pro se.

Bruce Alan Berlinsky, of Charleston, for Respondent.

PER CURIAM: Gernaris Hamilton sued Henry Scott, Sr. in magistrate's court, alleging unlawful ouster and unlawful withholding of a security deposit. The magistrate held a nonjury hearing and granted judgment for Scott. The circuit

court affirmed, and Hamilton now appeals to this court. We affirm¹ pursuant to Rule 220(b)(1), SCACR, and the following authorities:

As to whether the magistrate erred in finding Scott had a right to enter the premises without a writ of ejectment: S.C. Code Ann. § 27-40-530(d)(4) (2007) (permitting a landlord to enter a leased residence if "the tenant has abandoned or surrendered the premises").

As to whether the magistrate erred in proceeding with a nonjury trial even though Scott had previously requested a jury trial: *Talley v. S.C. Higher Educ. Tuition Grants Comm.*, 289 S.C. 483, 487, 347 S.E.2d 99, 101 (1986) ("It is an axiomatic rule of law that issues may not be raised for the first time on appeal."); *Tupper v. Dorchester Cty.*, 326 S.C. 318, 324 n.3, 487 S.E.2d 187, 190 n.3 (1997) ("[An] appellant cannot bootstrap an issue for appeal by way of [another party's] objection.")

As to whether the magistrate should have continued the matter when Hamilton's attorney left the magistrate's court before commencement of the hearing: *Talley*, 289 S.C. at 487, 347 S.E.2d at 101 ("It is an axiomatic rule of law that issues may not be raised for the first time on appeal."); *In re Care and Treatment of Corley*, 365 S.C. 252, 258, 616 S.E.2d 441, 444 (Ct. App. 2005) ("Constitutional issues, like most others, must be raised to and ruled on by the trial court to be preserved for appeal.").

As to whether the evidence supported the magistrate's rulings: S.C. Code Ann. § 18-7-170 (2014) (stating the standard of review to be applied by the circuit court when reviewing a magistrate's judgment); *Burns v. Wannamaker*, 281 S.C. 352, 357, 315 S.E.2d 179, 183 (Ct. App. 1984) (acknowledging "the [c]ourt of [a]ppeals will presume that an affirmance by a [c]ircuit [c]ourt of a magistrate's judgment was made upon the merits where the testimony is sufficient to sustain the judgment of the magistrate and there are no facts that show the affirmance was influenced by an error of law").

AFFIRMED.

WILLIAMS, THOMAS, and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



North
Charleston
Housing
Authority

"Equal Housing Opportunities"

Box 70987
North Charleston, SC 29415-0987
Telephone (843) 747-1793
Facsimile (843) 744-3466

07/16/2014

HENRY SCOTT, SR.
105 WATERSTONE WAY
GOOSE CREEK SC 29445

Phone
(843)345-1344

Phone

RE: Failed Inspection Notification/30 Day Notification of Abatement

Dear Owner/Landlord:

On 07/09/14, we inspected your property located at 2208 CLINTON STREET , NORTH CHARLESTON SC 29405. This unit was found to be in violation of the requirements of the federal Housing Quality Standards (HQS) and has **FAILED** the inspection.

ALL REPAIRS MUST BE COMPLETED WITHIN 30 DAYS FROM THE DATE OF THIS NOTIFICATION.

On 08/19/14, between the hours of 8:30 am and 5:00 pm, we will re-visit your property to conduct a re-inspection. In pursuant to your Housing Assistance Payment (HAP) Contract with the Housing Authority, you are responsible to correct the failed items on the enclosed inspection report.

If the unit does not comply with the HQS standards by the date of the second inspection, the HAP Payment for this family will be abated as of 09/01/14. Abatement means that your next HAP will be reduced by the corresponding daily rate for the number of days in which the unit is not in compliance. Please reference the HAP Contract, part B, Section 3.

If you have any questions or concerns, please call Ms. Trisa Smalls at 843-266-5928. We look forward to hearing from you.

Sincerely,

Housing Authority Representative

Enclosure

* NOTE 9-1-14 - see letter from (B-30-14)

Tenant: GARNARIS HAMILTON
2208 CLINTON STREET
NORTH CHARLESTON SC 29405

CC: File
SERENA GIBBS-JOHNSON

Inspection Checklist
Housing Choice Voucher Program

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0169
(exp. 04/30/2014)

Public reporting burden for this collection of information is estimated to average 0.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Assurances of confidentiality are not provided under this collection.

This collection of information is authorized under Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f). The information is used to determine if a unit meets the housing quality standards of the section 8 rental assistance program.

Name of Family HAMILTON GARNARIS	Tenant ID Number XX003704	Date of Request (mm/dd/yyyy) 05/19/2014
Inspector ROBINSON GEORGE	Neighborhood Census Tract 0.00	Date of Inspection (mm/dd/yyyy) 07/09/2014
Type of Inspection [Annual Inspection] <input type="checkbox"/> Initial <input type="checkbox"/> Special <input checked="" type="checkbox"/> Reinspection	Date of Last Inspection (mm/dd/yyyy) 10/31/2013	PHA NORTH CHARLESTON HOUSING

A - General Information

Inspected Unit 008362	Year of Construction (yyyy) 2006	Insp.# 1000023667	Housing Type (check as appropriate)
Full Address (including Street, City, County, State, Zip) 2208 CLINTON STREET NORTH CHARLESTON SC 29405 0 County:			<input checked="" type="checkbox"/> Single Family Detach <input type="checkbox"/> Duplex or Two Family <input type="checkbox"/> Row or Town House <input type="checkbox"/> Low Rise: 3/4 Stories including Garden <input type="checkbox"/> High Rise: 5 Stories <input type="checkbox"/> Manufactured Home <input type="checkbox"/> Congregate <input type="checkbox"/> Cooperate <input type="checkbox"/> Independent Group Residence <input type="checkbox"/> Single Room Occupancy <input type="checkbox"/> Shared Housing <input type="checkbox"/> Other
Number of Children in Family Under 6	0		
Owner			
Name of Owner or Agent Authorized to Lease Unit Inspected SCOTT, SR. HENRY		Phone Number (843)345-1344	
Address of Owner or Agent 105 WATERSTONE WAY GOOSE CREEK SC 29445			

B. Summary Decision on Unit (To be completed after form has been filled out)

<input type="checkbox"/> Passed	Number of Bedrooms for Purposes of the FMR or Payment Standard 2.00	Number of Sleeping Rooms
<input checked="" type="checkbox"/> Failed		
<input type="checkbox"/> Inconclusive		

Inspection Checklist

Item No.	Yes Pass	No Fail	In-Conc.	Comments	Approval Date
2.10 Kitchen - 1st Floor - Failed Stove or Range with Oven		F		Owner Responsibility : : stove surface light won't shut off.	
6.4 Building Exteriors - 1st Floor - Failed Condition of Exterior Surfaces		F		Owner Responsibility : : check and unstick as needed.	

If the owner is required to correct any lead-based paint hazards at the property including deteriorated paint or other hazards identified by a visual assessor, or certified lead-based paint inspector, the PHA must obtain certification that the work has been done in accordance with all applicable requirements of 24 CFR Part 35. The Lead-Based Paint Owner Certification must be received by the PHA before the execution of the HAP contract or within the time period stated by the PHA in the owner HQS violation notice. Receipt of the completed and signed Lead-Based Paint Owner Certification signifies that all HQS lead-based paint requirements have been met and no re-inspection by the HQS inspector is required.

*Room Codes: 1 = Bedroom or any other room used for sleeping (regardless of type of room); 2 = Dining Room or Dining Area;
3=Second Living Room, Family Room, Den, Playroom, TV Room; 4=Entrance Halls, Corridors, Halls, Staircases; 5=Additional Bathroom; 6=Other

E. Inspection Summary/Comments (Optional)

Provide a summary description of each item which resulted in a rating of "Fail" or "Pass with Comments"

Tenant ID Number XX003704	Inspector ROBINSON GEORGE	Date of Inspection (mm/dd/yyyy) 07/09/2014	Address of Inspected Unit 2208 CLINTON STREET NORTH CHARLESTON SC 29405
Type of Inspection [Annual Inspection]	<input type="checkbox"/> Initial	<input type="checkbox"/> Special	<input checked="" type="checkbox"/> Reinspection
0	County:		
Item Number	Reason for "Fail" or "Pass with Comments" Rating		

Owner Signature

Inspector Signature

Dear Mr. Hamilton

Please Consider this letter as your 30
days notice to vacate the property.

Your lease will not be renewed as of
September 1, 2014. You have until October
1, 2014 to remove all your possessions.

If there are any damages that
was committed by you please make
sure all repairs are completed
before October 1, 2014. ~~If not your~~
deposit will be used to cover any
repairs. Please note that if
repairs exceeds your deposit you will
be required to pay the balance.

Sincerely
Henry Scott Sr.

cc: Gibbs-Johnson 44

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE SMALL CLAIMS COURT)
CASE NO: 2015CV1011500219)
COMMON PLEAS: 2015-CP-10-3372)

GARNARIS HAMILTON)

Plaintiff- Appellant)

-versus-)

HENRY SCOTT, SR.)

Defendant - Respondent)

RETURN

FILED IN
CHARLESTON COUNTY
JUL 07 2015
SMALL CLAIMS COURT

THIS is an appeal from the Charleston County Small Claims Court, North Charleston Division.

The action commenced by the Plaintiff Hamilton filing a complaint alleging violations of the provisions in the South Carolina Landlord Tenant Act relating to ouster of a tenant and deposit.

An attachment to the complaint listed various items of personal property alleged to be improperly disposed of by Scott, the landlord.

The pro se answer filed by Scott asserted that Hamilton received proper written notice of termination and that Hamilton abandoned the household and his personal property by failing to secure it and leaving doors open.

Scott requested a jury trial in his answer but the demand was waived after he obtained counsel.

A non-jury trial was conducted on May 27, 2015. The court ruled in favor of the Defendant Scott by written order dated June 1, 2015.

FILED
2015 JUL 08 AM 11:37
JULIE J. ARMSTRONG
CLERK OF COURT

7-21-15

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PROCEEDINGS

THE COURT: All right Mr. Hamilton, I've read the return from the Magistrate. I'll be glad to hear you on your appeal.

MR. HAMILTON: Yes, sir. Your Honor, I'm appealing the case on the findings of the court factual not conclusive when he said there was evidence to support that I did not prove ousted. Mr. Scott never produced a writ of eviction and that's on page 14 of the judge's return which he said that he would produce these in court when he came. He never produced a writ of eviction to show that he had legal rights to be in the house under the resident landlord tenant act 27-40-530.

THE COURT: Is that the reason you're appealing?

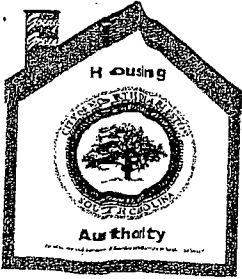
MR. HAMILTON: Yes, sir. I'm appealing the findings of the court because I did prove that he ousted me because he had no probable cause to be in my house without the writ of eviction notice to be inside the house to terminate it and a written letter from him in which he said I abandoned the house. We are under an HCV contract under North Charleston housing; anything under that I would have been put out the program. And that was not proven there because he didn't put any evidence to prove to show that I abandoned the house which I did not do because if I abandoned the house under the amendment

1 to perform, which I amended the complaint to the answer
2 that shows in there that I am under the HCV program and
3 anything under the housing authority clearly states there
4 is no documents of landlord stating that I owed for any
5 damage to the unit. There is no paperwork from the court
6 pertaining to the Magistrate writ of eviction; only the
7 30 days notice which he wrote a letter telling me he
8 wasn't going to renew the contract.

9 My lease was still up at the time -- and it clearly
10 states that if I had abandoned the house they would have
11 sent me a termination letter for abandonment. So
12 anything under the court's finding that I didn't prove
13 ousted because he had no writ to go in the house. And
14 legally under 530 of the access clearly states that only
15 he must give me 24 hours notice before he enters the
16 premises.

17 Under 530 it says the only way the landlord has no
18 other rights it says rights of accessing except pursuant
19 to a court order which is a writ permitted by 27-40-720
20 and 27-40-30 when accompanied by a law enforcement
21 officer at a reasonable time the purpose to serve a
22 process of eviction proceedings. These things never
23 happened. He never evicted me. He never filed a writ of
24 eviction and that's clearly a violation of due process
25 anyway giving notice to be in court.

Exhibit. 101



City of North Charleston Housing Authority
"Providing Safe and Decent Housing to the Citizens of North Charleston"

*Board of
Commissioners*

July 21, 2015

*Chairperson
James L. Gibbs*

To Whom It May Concern:

*Vice-Chairperson
Robert L. Phillips*

Reference: Garnaris Hamilton

Keith M. Thompson, Sr.

Jeff Baxter

Mr. Hamilton is a participant in the North Charleston Housing Authority HCV Program. Per his request for documentation from his folder pertaining to his tenancy at 2208 Clinton Street, North Charleston, SC, there is no documentation from his landlord stating that he owes for damages to the unit. There is also not paper work from the courts pertaining to him being taken to the magistrate or a Writ of eviction being done. The only item we have is a 30day notice to vacate given to Mr. Hamilton from his previous landlord Mr. Henry Scott.

CB "Mitch" Mitchell

Ralph Calhoun, II

Eleanor C. Jagler

If Mr. Hamilton had abandoned his unit we would have sent him a termination letter for abandonment. He was issued a new voucher to look for another unit. We also have no documentation stating that Mr. Hamilton owes his previous landlord Mr. Henry Scott for damaged that he caused to the unit.

*Executive Director
Gary W. Scott*

If you need anything further please contact me at 843-266-5902.

Sincerely,

Sharon Hill
HCV Program Coordinator



P. O. Box 70987, North Charleston, S. C. 29415-0987
Phone: 843-747-1793—Fax: 843-744-3466—TDD: 843-767-0552

Web: nchashousingauthority.com

1 client did not file a writ of ejectment. My client
2 doesn't have to file a writ of ejectment. My client was
3 a defendant in an action Mr. Hamilton filed and we
4 defended that. As you know general law -- well first off
5 an appeal from Magistrate court is only if the judge made
6 an error of law.

7 THE COURT: Not in civil court but in criminal
8 court that's correct. You can modify the findings of
9 fact in the civil side, okay.

10 MR. BERLINSKY: But the fact of the matter was my
11 client didn't have to file a writ of ejectment. He
12 voluntarily left after we sent him a letter that said
13 you're violating the lease because you have a dog and the
14 lease clearly says no animals on the premises. The trial
15 took place. There was -- Mr. Hamilton testified on his
16 behalf with no independent witnesses. Mr. Scott
17 testified on his behalf with three independent witnesses.
18 The judge has to weigh the creditability of the evidence
19 and creditability of the witnesses. We proved our case
20 that he violated the lease. He voluntarily left
21 therefore abandoning the premises he came back three to
22 four times; that was the testimony to retrieve his
23 possessions. He never said I want possession of the
24 house again that you've improperly ousted me until he
25 files this action several months after he voluntarily

1 left and after the lease expired. So the weight of the
2 evidence is that my client did nothing wrong other than
3 tell him you're violating the lease by having a dog on
4 the premises and either you or the dog has to do. The
5 next thing we know he's gone; Mr. Hamilton, not the dog.
6 So I don't know where we've wrongfully ousted him. And I
7 don't know that we have to do an eviction.

8 With regard to the jury trial issue my client
9 requested the jury trial, not Mr. Hamilton. We decided
10 to waive the jury trial. We're entitled to do that. He
11 had notice of that and he told the judge that he was fine
12 with that. We also discussed Mr. Thrower not being
13 available and the judge offered him the opportunity to
14 continue the trial and he said I feel comfortable with
15 you I'm ready to go forward today. Nobody forced him to
16 go forward that day. He was in court; he was there
17 before we were. So I don't know where there are any
18 grounds for appeal in this thing where my client did
19 anything wrong. And that's resulted in Judge Turner's
20 ruling.

21 THE COURT: Thank you Mr. Berlinsky.

22 MR. BERLINSKY: Thank you.

23 THE COURT: All right Mr. Hamilton, anything you
24 want to say very briefly in reply?

25 MR. HAMILTON: Yes, sir. Your Honor, Mr. Scott's

Exhibit 4)



Charleston Water System

103 St. Philip Street
P.O. Box B
Charleston, SC 29402
(843) 727-6800
www.charlestonwater.com

March 24, 2015

Garnaris Hamilton
2064 Arbutus Ave
N Charleston SC 29405-6126

To Whom It May Concern:

Re: Responsibility Date Letter
2208 Clinton St
Charleston SC 29405-7934

The above referenced service was established in the name of **Garnaris Hamilton** on **November 1, 2013 until November 4, 2014** at the above referenced location. At the present time, this is a closed account.

A new customer signed on to this account on **November 5, 2014**.

If you have any further questions, please feel free to contact our office at (843) 727-6800.

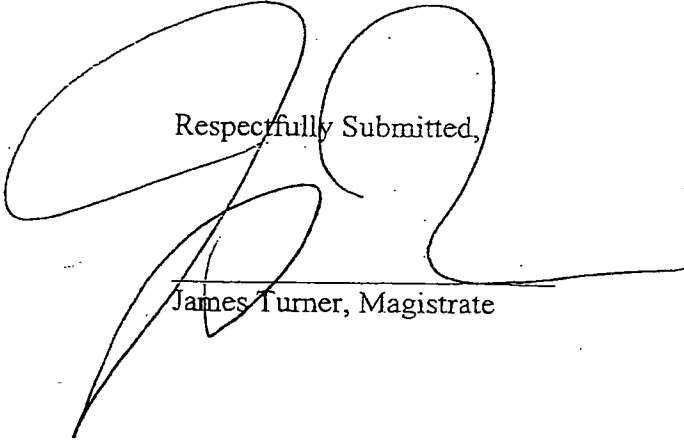
Sincerely,

Customer Service Department
Charleston Water System

Conclusions

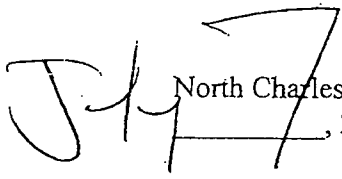
The court found that appropriate written notice to terminate the lease was delivered to Hamilton by Scott prior to the expiration of the lease. Hamilton failed to prove an ouster by the preponderance of the evidence.

Additionally, the court found that although the security deposit was withheld it was not wrongfully withheld. The ruling was that the expenses incurred by the landlord exceeded the deposit and that damages could not be recovered under S.C. Code of Laws, section 27-40-410.



Respectfully Submitted,

James Turner, Magistrate



North Charleston, South Carolina
, 2015

1 THE COURT: Anything else?

2 MR. HAMILTON: You want me to go on?

3 THE COURT: All right.

4 MR. HAMILTON: The jury -- the non jury -- as far
5 as the non-jury trial in there we were -- I wasn't given
6 notice to be to court but attorney William Thrower was
7 given the notice ---

8 THE COURT REPORTER: --- what was the attorney's
9 name?

10 MR. HAMILTON: William Thrower was given notice,
11 attorney Berlinsky, and also Mr. Scott. I never
12 received a notice to be in court for a jury trial. But
13 on the date given for the jury trial Mr. Thrower had --
14 access to the court. He had a federal court appointment,
15 which he should have asked for a continuance. He did not
16 ask for a continuance but the judge went on with the case
17 after the attorney left and dismissed the jury, which is
18 considered stayed action. He shouldn't be involved in a
19 jury case anyway once he was given notice for a jury
20 trial that was supposed to happen under the due process
21 laws. And as far as Mr. Scott signing a waiver I never
22 seen a waiver. I never received anything as far as an
23 answer, returns or anything. I never received anything
24 from the defendant or his counsel. The only reason I
25 knew about the court date is when I called the Clerk of

1 left and after the lease expired. So the weight of the
2 evidence is that my client did nothing wrong other than
3 tell him you're violating the lease by having a dog on
4 the premises and either you or the dog has to do. The
5 next thing we know he's gone; Mr. Hamilton, not the dog.
6 So I don't know where we've wrongfully ousted him. And I
7 don't know that we have to do an eviction.

8 With regard to the jury trial issue my client
9 requested the jury trial, not Mr. Hamilton. We decided
10 to waive the jury trial. We're entitled to do that. He
11 had notice of that and he told the judge that he was fine
12 with that. We also discussed Mr. Thrower not being
13 available and the judge offered him the opportunity to
14 continue the trial and he said I feel comfortable with
15 you I'm ready to go forward today. Nobody forced him to
16 go forward that day. He was in court; he was there
17 before we were. So I don't know where there are any
18 grounds for appeal in this thing where my client did
19 anything wrong. And that's resulted in Judge Turner's
20 ruling.

21 THE COURT: Thank you Mr. Berlinsky.

22 MR. BERLINSKY: Thank you.

23 THE COURT: All right Mr. Hamilton, anything you
24 want to say very briefly in reply?

25 MR. HAMILTON: Yes, sir. Your Honor, Mr. Scott's



Judge James Turner
Magistrate

NORTH AREA SMALL CLAIMS
COURT

843.202-6650
Fax: 843.202-6652
Lonnie Hamilton, III Public Services
Building
4045 Bridge View Drive
Post Office Box 70235
North Charleston, SC 29415-0235

July 6, 2015
VIA INTER-OFFICE MAIL

Clerk of Court
100 Broad Street, Ste. 106
Charleston, SC 29401

RE: GARNARIS HAMILTON vs. HENRY SCOTT
CASE NO: 2015CV1011500219
COMMON PLEAS: 2015-CP-10-3372

Dear Madam Clerk:

Enclosed you will find an original case file and two copies **Magistrates Return** regarding the above captioned case. I would appreciate it if you would file the Return and return a filed copy to me in the envelope provided.

Thanking you in advance, I am,

Sincerely,

Kimberly M. Delpit
Kimberly M. Delpit
Summary Court Specialist

Enclosure: File/Return

RECEIPT

RECEIPT OF THESE DOCUMENTS IS ACKNOWLEDGED BY:

(X) Clerk of Court Charleston County

() Magistrate _____

Date of Receipt: July, 8, 20 15 By Lonnie Hamilton III Court Specialist II
(Name and Title)

M.R. 4

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE SMALL CLAIMS COURT)
CASE NO: 2015CV1011500219)
COMMON PLEAS: 2015-CP-10-3372)

GARNARIS HAMILTON)

Plaintiff- Appellant)

-versus-)

HENRY SCOTT, SR.)

Defendant - Respondent)

RETURN

FILED IN
CHARLESTON COUNTY
JUL 07 2015
SMALL CLAIMS COURT

THIS is an appeal from the Charleston County Small Claims Court, North Charleston Division.

The action commenced by the Plaintiff Hamilton filing a complaint alleging violations of the provisions in the South Carolina Landlord Tenant Act relating to ouster of a tenant and deposit.

An attachment to the complaint listed various items of personal property alleged to be improperly disposed of by Scott, the landlord.

The pro se answer filed by Scott asserted that Hamilton received proper written notice of termination and that Hamilton abandoned the household and his personal property by failing to secure it and leaving doors open.

Scott requested a jury trial in his answer but the demand was waived after he obtained counsel.

A non-jury trial was conducted on May 27, 2015. The court ruled in favor of the Defendant Scott by written order dated June 1, 2015.

FILED
2015 JUL 08 AM 11:37
JULIE J. ARMSTRONG
CLERK OF COURT

7-21-15

Factual Background

Mr. Hamilton admitted the lease into evidence which expressed an expiration date of November 1, 2014 at midnight. The lease commenced on November 1, 2013 and stated it was for a one year term.

Hamilton testified that he appeared on November 1, to move everything out but that Scott along with a painter and another individual cleaning the premises had already entered.

Hamilton testified that numerous items were missing and recited their value. He testified that his monthly rent contribution was twenty two dollars per month and that he paid a security deposit of five hundred fifty dollars which was not returned.

Scott testified that he discovered an unauthorized dog and sent written notice per the lease terminating the tenancy as of October 1, 2014. He testified that between twelve to thirteen hundred dollars was expended for repairs and painting including but not limited to damage from the dog. This expenditure exceeded the security deposit.

Shirley Washington, the sister in law of Scott who was also the next door neighbor of Hamilton testified that she observed several trucks loaded by Hamilton and he appeared to have completely vacated.

Emily Hamilton testified that she cleaned the property for Scott. She testified that Hamilton appeared and did not want to recover anymore items left at the premises. She described the items as trash. Emily Hamilton did not observe any of the items that the Plaintiff Hamilton claimed to be missing.

Conclusions

The court found that appropriate written notice to terminate the lease was delivered to Hamilton by Scott prior to the expiration of the lease. Hamilton failed to prove an ouster by the preponderance of the evidence.

Additionally, the court found that although the security deposit was withheld it was not wrongfully withheld. The ruling was that the expenses incurred by the landlord exceeded the deposit and that damages could not be recovered under S.C. Code of Laws, section 27-40-410.

Respectfully Submitted,

James Turner, Magistrate

North Charleston, South Carolina
2015

BRUCE A. BERLINSKY, P.A.
Attorney at Law

Mailing Address:
P.O. Box 206
Charleston, SC 29402

One Carriage Lane, Building F
Charleston, SC 29407

Office: (843) 852-2202
Fax: (843) 852-4844
Bruce@berlinskylawfirm.com

Fax Transmittal

TO:	<u>Honorable James Turner</u>	FAX#:	<u>(843) 202-6652</u>
FROM:	<u>Jessica Reynolds/Bruce A. Berlinsky</u>	DATE:	<u>April 22, 2015</u>
RE:	<u>Gamaris Hamilton v. Henry Scott, Sr.</u>	PAGE:	<u>2 (Including cover)</u>
	<u>Case No.: 2015-CV-1011500219</u>		

Judge Turner,

Please see attached letter from Mr. Berlinsky.

Thanks,
Jessica

Jessica Reynolds
Legal Secretary/ Bruce A. Berlinsky

FILED IN CHARLESTON COUNTY
APR 22 2015
SMALL CLAIMS COURT

MR 17

NORTH AREA SMALL CLAIMS COURT
4045 BRIDGE VIEW DRIVE
NORTH CHARLESTON, SC 29405

Return Service Requested

William J. Thrower, Esquire
Thrower & Schwartz
6 Carriage Lane, Ste. A
Charleston, SC 29407

FILED IN CHARLESTON COUNTY
APR 22 2015
SMALL CLAIMS COURT

NORTH AREA SMALL CLAIMS COURT
4045 BRIDGE VIEW DRIVE
NORTH CHARLESTON, SC 29405

Return Service Requested

Bruce Berlinsky, Esquire
1 Carriage Lane, Ste. F
Charleston, SC 29407

MR. 19

WILLIAM J. THROWER
ATTORNEY

THROWER & SCHWARTZ

6 CARRIAGE LANE, SUITE A
CHARLESTON, SC 29407

OFFICE: (843) 571-4604 FAX: (843) 571-4602

WILLIAMJTHROWER@GMAIL.COM



843.202-6650
Fax: 843.202-6652
Lonnie Hamilton, III Public Services
Building
4045 Bridge View Drive
Post Office Box 70235
North Charleston, SC 29415-0235

Judge James Turner
Magistrate

NORTH AREA SMALL CLAIMS
COURT

April 22, 2015

William J. Thrower, Esquire
Thrower & Schwartz
6 Carriage Lane, Ste. A
Charleston, SC 29407

Bruce Berlinsky, Esquire
1 Carriage Lane, Ste. F
Charleston, SC 29407

RE: GARNARIS HAMILTON vs. HENRY SCOTT, SR.
CASE NO: 2015CV1011500219

Notice to all parties:

This letter is to advise all parties that the **Jury Trial** for the above referenced case has been scheduled. This trial will take place on:

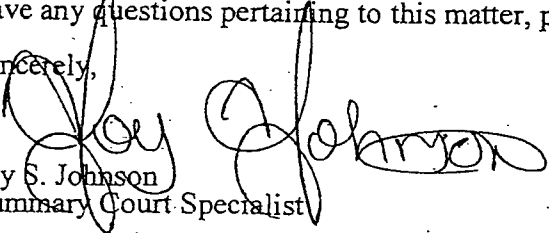
WEDNESDAY, MAY 27, 2015 AT 9:00 A.M.

If either party does not appear the case may be dismissed and a Judgment may be entered against the party who does not appear. **Documents or photographs submitted as evidence will not be returned. Please make copies of all documentation that needs to be retained.**

If you have witnesses, books or any evidence bearing on this claim, you should bring them with you at the time of the hearing. If you need to subpoena witnesses, your request for subpoenas must be submitted to this Court as soon as possible prior to the hearing date and a fee of eight (\$8.00) Dollars will be charged for each subpoena. This fee must be remitted when the subpoena is requested. The Court does not provide a court reporter. You must make any appropriate arrangements. **A WRITTEN, NOTARIZED, OUT OF COURT STATEMENT FROM A WITNESS CANNOT BE USED AS EVIDENCE. A WITNESS MUST APPEAR IN PERSON IN COURT TO TESTIFY.**

Please check in with the Small Claims office prior to entering the courtroom and if you have any questions pertaining to this matter, please don't hesitate to contact this Court.

Sincerely,


Joy S. Johnson
Summary Court Specialist

cc: file
Enclosure: Jury List

MR. 18



843.202-6650
Fax: 843.202-6652
Lonnie Hamilton, III Public Services
Building
4045 Bridge View Drive
Post Office Box 70235
North Charleston, SC 29415-0235

Judge James Turner
Magistrate

NORTH AREA SMALL CLAIMS
COURT

March 23, 2015

William J. Thrower, Esquire
Thrower & Schwartz
6 Carriage Lane, Ste. A
Charleston, SC 29407

Henry Scott, Sr.
105 Waterstone Way
Goose Creek, SC 29445

RE: GARNARIS HAMILTON vs. HENRY SCOTT, SR.
CASE NO: 2015CV1011500219

Notice to all parties:

This letter is to advise all parties that the **Jury Trial** for the above referenced case has been scheduled. This trial will take place on:

THURSDAY, APRIL 23, 2015 AT 9:00 A.M.

If either party does not appear the case may be dismissed and a Judgment may be entered against the party who does not appear. **Documents or photographs submitted as evidence will not be returned. Please make copies of all documentation that needs to be retained.**

If you have witnesses, books or any evidence bearing on this claim, you should bring them with you at the time of the hearing. If you need to subpoena witnesses, your request for subpoenas must be submitted to this Court as soon as possible prior to the hearing date and a fee of eight (\$8.00) Dollars will be charged for each subpoena. This fee must be remitted when the subpoena is requested. The Court does not provide a court reporter. You must make any appropriate arrangements. **A WRITTEN, NOTARIZED, OUT OF COURT STATEMENT FROM A WITNESS CANNOT BE USED AS EVIDENCE. A WITNESS MUST APPEAR IN PERSON IN COURT TO TESTIFY.**

Please check in with the Small Claims office prior to entering the courtroom and if you have any questions pertaining to this matter, please don't hesitate to contact this Court.

Sincerely,


Joy S. Johnson
Summary Court Specialist

cc: file
Enclosure: Jury List

MR. 20

North Area Small Claims Court

MAY 27, 2015

Attorney List

JUROR#	NAME	RACE	SEX	DOB	ADDRESS
1	Aiken, Katherine E	W	F	10/31/1982	442 Mount Royall Dr Mount Pleasant, SC 29464
2	Amick, James H Jr.	W	M	6/22/1961	10 Brigadoon Pl Charleston, SC 29414
3	Anderson, Evelyn E	B	F	7/4/1954	1635 Raoul Wallenberg Blvd Apt Charleston, SC 29407
4	Baird, Jane M	W	F	3/22/1990	4195 Live Oak Ave Ravenel, SC 29470
5	Barron, Laurence	B	M	10/22/1951	13 PLAINFIELD DR CHARLESTON, SC 29407
6	Blake, Barbara B	W	F	7/30/1949	3889 Sweet Briar Ct Johns Island, SC 29455
7	Boone, Sallybruce M	W	F	2/18/1973	208 Wandolea Dr Mt Pleasant, SC 29464
8	Burnsed, David L	W	M	6/3/1962	852 Mikell Dr Charleston, SC 29412
9	Campbell, Edith	B	F	6/7/1939	25 Cedar St Charleston, SC 29403
10	Capps, Brandon B	W	F	11/12/1976	1332 Osmond Rd Mt Pleasant, SC 29466
11	Carroll, Steve W	W	M	2/25/1969	340 N Shelmore Blvd Mount Pleasant, SC 29464
12	Chard, Richard D	W	M	6/23/1951	867 Law Ln Mt Pleasant, SC 29464
13	Copeland, Henry D	W	M	1/31/1954	1298 Ashley Hall Rd Charleston, SC 29407
14	Cunningham, Ryan A	W	M	2/26/1985	3590 Mary Ader Ave Apt 1024 Charleston, SC 29414
15	Davis, Courtney B	B	M	1/6/1988	7736 OVALDALE DR NORTH CHARLESTO, SC 29418
16	Dustan, Jacob P	W	M	7/2/1993	2659 Burden Creek Road Ext Johns Island, SC 29455
17	Elgin, Kayce T	W	M	12/7/1994	178 Saint Philip St Apt D Charleston, SC 29403
18	Ervin, Laurie N III	W	M	6/1/1963	395 Sirop Ct Mt Pleasant, SC 29464
19	Fincher, Matthew T	W	M	9/17/1990	4014 MICHIGAN AVE APT A CHARLESTON AFB, SC 29404
20	Gannon, Cheryl M	W	F	9/1/1978	1360 Southern Magnolia Ln Mount Pleasant, SC 29464
21	Girault, Marc D	W	M	6/15/1965	1242 Chicorie Way Charleston, SC 29412
22	Hogan, Matthew J	W	M	3/14/1989	610 SEMAHT ST CHARLESTON, SC 29412
23	Holmes, Tyrone J	B	M	5/17/1986	8752 JESSICA CT N CHARLESTON, SC 29406
24	Ignacio, Jessica L	W	F	10/23/1980	1094 Talisman Rd Mt Pleasant, SC 29464

North Area Small Claims Court

MAY 27, 2015

Attorney List

JUROR#	NAME	RACE	SEX	DOB	ADDRESS
25	Jamison, Larry	B	M	12/9/1955	1270 Chandler Rd Awendaw, SC 29429
26	Jenkins, Shajuana T	B	F	1/21/1975	3376 Island Estates Dr Johns Island, SC 29455
27	Jones, Patricia B	W	F	3/19/1944	1315 Thompson Ave Sullivans Islan, SC 29482
28	Killeen, Kelly A	W	F	3/21/1979	2158 Medway Rd Charleston, SC 29412
29	Kobes, Linda K	W	F	9/9/1945	642 Hobcaw Bluff Dr Mt Pleasant, SC 29464
30	Leber, Edward J	W	M	4/11/1996	132 MOSSY OAK WAY MT PLEASANT, SC 29464
31	Lyles, Lori L	W	F	5/4/1962	1651 Atlantic Ave Sullivans Is, SC 29482
32	Mackey, Alexandria M	B	F	11/22/1987	2937 Murraywood Rd Johns Island, SC 29455
33	Maffett, Carroll A	W	M	3/29/1960	7947 STEAMBOAT LANDING RD EDISTO ISLAND, SC 29438
34	Magrane, Margaret E	W	F	1/7/1987	1090 Kentwood Cir Charleston, SC 29412
35	Massalon, Susanna S	W	F	4/21/1996	64 Logan St Charleston, SC 29401
36	Mccarty, Katelyn A	W	F	7/12/1984	428 Limbaker St Charleston, SC 29412
37	Mckinney, Ayren S	O	F	5/6/1996	5106 Willis Dr No Charleston, SC 29406
38	Murray, Thomas C	B	M	2/25/1955	1852 Greenmore Dr Charleston, SC 29407
39	Nash, Angela R	W	F	11/3/1969	1122 Idbury Ln Charleston, SC 29414
40	Nealy, Marie A	B	F	1/10/1972	7927 Saint Ives Rd Apt 206 North Charlesto, SC 29406
41	Obrien, Haley D	W	F	8/7/1986	253 Saint Philip St Apt B Charleston, SC 29403
42	Osterdock, Christine L	W	F	9/15/1976	211 FIDDIE ST LADSON, SC 29485
43	Otieno, Aviana K	O	F	11/27/1995	228 Xavier St Charleston, SC 29414
44	Preston, Karen H	W	F	8/30/1940	2030 Sterling Marsh Ln Johns Island, SC 29455
45	Ravenel, Sylvester R	B	M	11/29/1938	1910 Leland St Apt A No Charleston, SC 29405
46	Richardson, Kevin J	B	M	10/21/1987	4017 Niagara St No Charleston, SC 29405
47	Robertson, Edward H III	W	M	6/14/1945	1901 Ion Ave Sullivans Is, SC 29482
48	Seyle, Juliane B	W	F	11/5/1975	2298 N Lander Ln Charleston, SC 29414

North Area Small Claims Court

MAY 27, 2015

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25	Jamison, Larry	B	M	12/9/1955	1270 Chandler Rd Awendaw, SC 29429
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41	O'Brien, Haley D	W	F	8/7/1986	253 Saint Philip St Apt B Charleston, SC 29403
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North Area Small Claims Court

MAY 27, 2015

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45	Ravenel, Sylvester R	B	M	11/29/1938	1910 Leland St Apt A No Charleston, SC 29405
46	Richardson, Kevin J	B	M	10/21/1987	4017 Niagara St No Charleston, SC 29405
47	Robertson, Edward H III	W	M	6/14/1945	1901 Ion Ave Sullivans Is, SC 29482
48	Seyle, Juliane B	W	F	11/5/1975	2298 N Lander Ln Charleston, SC 29414

North Area Small Claims Court

APRIL 23, 2015

Attorney List

JUROR#	NAME	RACE	SEX	DOB	ADDRESS
1	Bace, Mary K	W	F	10/27/1938	1 Bishop Gadsden Way Charleston, SC 29412
2	Bechtold, Clifford F	W	M	9/6/1954	1175 Quick Rabbit Loop Charleston, SC 29414
3	Beckett, Bonnie R	B	F	7/4/1951	2440 BERGERON WAY MOUNT PLEASANT, SC 29466
4	Beland, Todd K	W	M	7/15/1983	2789 CHERRY POINT RD WADMALAW IS, SC 29487
5	Bernstein, Charles S	W	M	5/20/1929	1512 Carolina Jasmine Rd Mt Pleasant, SC 29464
6	Boineau, Marion M	W	M	4/7/1932	5095 Highway 174 Hollywood, SC 29449
7	Boyle, Ann L	W	F	10/12/1955	338 SEEWEE CIR MOUNT PLEASANT, SC 29464
8	Brafford, Twylia R	B	F	11/9/1963	3357 Dowling Rd North Charlesto, SC 29405
9	Braxton, Barbara L	B	F	11/7/1956	111 Spring St Apt D Charleston, SC 29403
10	Buck, Deanna M	W	F	4/6/1974	2494 Etiwan Ave Apt L3 Charleston, SC 29414
11	Burns, Kyleigh H	W	F	12/22/1995	1385 MADISON CT MT PLEASANT, SC 29466
12	Case, Anna Z	W	F	7/26/1980	7712 Corley Dr No Charleston, SC 29418
13	Cass, Brian J	W	M	12/20/1983	16 Cannon St Apt 204 Charleston, SC 29403
14	Cox, Zachary A	W	M	12/8/1954	3100 ASHLEY TOWN CENTER DR CHARLESTON, SC 29414
15	Cullen, Thomas J	W	M	11/8/1970	2246 N Marsh Dr Mount Pleasant, SC 29466
16	Delacretaz, Nicole A	W	F	2/14/1983	175 Wentworth St Charleston, SC 29401
17	Deleston, Patricia A	B	F	6/15/1949	1855 Grimball Rd Charleston, SC 29412
18	Dix, Kellyanne	W	F	2/8/1982	1401 Basildon Rd Mt Pleasant, SC 29466
19	Eller, Barry V	W	M	1/5/1964	24 Brockman Dr Charleston, SC 29412
20	Ellis, Timothy P	W	M	7/16/1981	1309 Coastal Marsh Rd Mount Pleasant, SC 29464
21	Falcone, Norman J	W	M	12/31/1938	2620 Turben Pl Mt Pleasant, SC 29466
22	Falotico, Sherry M	W	F	8/19/1946	311 Shoals Dr Mt Pleasant, SC 29464
23	Fulse, Latoyia T	B	F	1/30/1981	7479 Church Hill Road Anx Hollywood, SC 29449
24	Glenn, Thomas P Jr.	W	M	5/21/1977	1911 Fruitwood Ave Charleston, SC 29414

North Area Small Claims Court

APRIL 23 . 2015

Attorney List

JUROR#	NAME	RACE	SEX	DOB	ADDRESS
25	Granger, Tiffany P	B	F	2/12/1984	1901 PINE WALK CT APT 315 NORTH CHARLESTO, SC 29405
26	Horton, Jacqueline C	W	F	1/31/1952	1852 Palmetto Isle Dr Mount Pleasant, SC 29466
27	Hughes, Britny I	W	F	1/2/1989	9200 University Blvd North Charlesto, SC 29406
28	Jones, Swantelle D	B	F	7/1/1973	2303 Aintree Ave North Charlesto, SC 29405
29	King, Alice E	W	F	5/7/1954	714 Landgrave Ave Charleston, SC 29414
30	Lewis, Michelle D	W	F	2/21/1973	6701 DORCHESTER RD APT 608 NORTH CHARLESTO, SC 29418
31	Li, Tai K	A	M	10/12/1949	661 CORNERSTONE CT CHARLESTON, SC 29412
32	Lund, Christina L	W	F	1/4/1969	3609 W Higgins Dr Mount Pleasant, SC 29466
33	Markowski, Paul J	W	M	1/20/1955	1837 Bermuda Stone Rd Charleston, SC 29414
34	Martin, Benjamin T	W	M	6/30/1979	1647 Hutchinson Ave Apt A No Charleston, SC 29404
35	Means, Harratial A Jr.	B	M	11/13/1970	586 Rutledge Ave Apt B Charleston, SC 29403
36	Menzie, Hazel L	B	F	1/29/1931	1079 Shadow Arbor Cir Charleston, SC 29414
37	Mizel, Steven L	W	M	3/23/1950	1511 Saint Helenas Pt Charleston, SC 29407
38	Moody, Claire D	B	M	1/17/1953	2245 Greenridge Rd Apt 415 No Charleston, SC 29406
39	Morrison, Leslie L	W	F	7/15/1977	3499 Legareville Rd. Johns Island, SC 29455
40	Mullane, Harvey J	W	M	3/22/1950	801 AFFIRMATION BLVD APT 100 CHARLESTON, SC 29412
41	Novo, Andrew N	H	M	1/3/1996	716 HIBBENS GRANT BLVD MT PLEASANT, SC 29464
42	Pacheco, Daniel D	O	M	8/20/1991	2112 Royal Castle Ln Charleston, SC 29414
43	Pinckney, Clarence	B	M	12/13/1932	338 Susan Dr Charleston, SC 29407
44	Platt, Robert B III	W	M	10/22/1956	1435 Trailmore Dr Charleston, SC 29407
45	Poole, Jacob A	W	M	1/24/1984	4098 E Amy Ln Johns Island, SC 29455
46	Price, John E	W	M	12/20/1984	1061 Johnnie Dodds Blvd Apt B4 Mount Pleasant, SC 29464
47	Propst, Robert C	W	M	3/25/1990	1110 Westchase Dr Charleston, SC 29407
48	Rabon, Mitchell D JR	W	M	8/18/1979	1596 TERNS NEST RD CHARLESTON, SC 29412

North Area Small Claims Court

APRIL 23, 2015

Attorney List

JUROR#	NAME	RACE	SEX	DOB	ADDRESS
49	Ravenel, Lillie B	B	F	11/10/1949	4346 Royal Harbor Rd Hollywood, SC 29449
50	Roberts, Cerissa D	W	F	3/1/1983	2025 COUNTRY MANOR DR MT PLEASANT, SC 29466
51	Rodgers, Erica E	W	F	3/28/1983	1430 Coles Rd Johns Island, SC 29455
52	Salsburg, Julia A	W	F	12/23/1967	2125 RICH ST N CHARLESTON, SC 29405
53	Scott, Reginald B	B	M	2/17/1967	65 Jawol Dr Charleston, SC 29414
54	Shortsleeve, Dane	W	M	8/14/1924	1829 Banbury Ct Charleston, SC 29414
55	Staubes, Patsy C	W	F	10/26/1935	2073 MARSHLAND DR CHARLESTON, SC 29414
56	Stubbings, Jason P	W	M	7/17/1975	1623 Ellsworth St Mt Pleasant, SC 29466
57	Taylor, Angela B	W	F	7/10/1942	8 DUFFERS CT APT E CHARLESTON, SC 29414
58	Thompson, David L	W	M	11/9/1950	198 N Shelmore Blvd Mt Pleasant, SC 29464
59	Trainer, Thomas	W	M	12/17/1946	46 King St Charleston, SC 29401
60	Tristen, Joseph J JR	W	M	12/6/1994	1543 FOX POND LN WADMALAW ISLAND, SC 29487
Total Number of Jurors:		60			

1 Magistrate court. And as far as me not being there to
2 come back; no I wasn't there because I had a nervous
3 breakdown. I was at the Charleston Center and if you
4 look inside the original filing I do have the papers in
5 there stating that I was in Charleston Center because I
6 had a breakdown, Your Honor.

7 THE COURT: Okay. Thank you so very much.
8 Looking at the Magistrate's return, look at the
9 Magistrate's file the Magistrate found for the defendant
10 and said the plaintiff failed to prove ouster. The
11 plaintiff brought the action in the case so as far as his
12 argument on the eviction etcetera the Magistrate found
13 that he was not ousted, he voluntarily left. And I see
14 no error of law or any reason to modify the findings of
15 the Magistrate at the lower court ---

16 MR. HAMILTON: --- Your Honor ---

17 THE COURT: --- the appeal is denied. Have a good
18 day.

19 MR. HAMILTON: Okay. Thank you.

20 THE COURT: Thank you very much.

21 MR. BERLINSKY: Thank you, Your Honor.

22 MR. HAMILTON: Thank you, Your Honor.

23 THE COURT: Mr. Berlinsky, you want to do a form
24 order or do you want me to do a short order?

25 MR. HAMILTON: Yes, sir. Please do a form order

1 please.

2 THE COURT: Do you want me to do a short order or a
3 form order ---

4 MR. BERLINSKY: --- yes, please if you don't mind.
5 I mean if you prefer I'll do it.

6 THE COURT: It doesn't matter. I'll do a short
7 order just stating that the appeal is denied based upon
8 the record.

9 MR. BERLINSKY: Okay.

10 THE COURT: Okay. Thank y'all very much.

11 MR. BERLINSKY: Thank you, Your Honor.

12 MR. HAMILTON: Thank you.

13 *****END OF TRANSCRIPT OF RECORD*****
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25

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Gernaris Hamilton, Appellant,

v.

Henry Scott, Sr., Respondent.

Appellate Case No. 2015-002039

RECEIVED

APR 24 2017

S.C. SUPREME COURT

Appeal From Charleston County
J. C. Nicholson, Jr., Circuit Court Judge

Unpublished Opinion No. 2017-UP-059
Submitted December 1, 2016 – Filed January 25, 2017

AFFIRMED

Gernaris Hamilton, of Ladson, pro se.

Bruce Alan Berlinsky, of Charleston, for Respondent.

PER CURIAM: Gernaris Hamilton sued Henry Scott, Sr. in magistrate's court, alleging unlawful ouster and unlawful withholding of a security deposit. The magistrate held a nonjury hearing and granted judgment for Scott. The circuit

court affirmed, and Hamilton now appeals to this court. We affirm¹ pursuant to Rule 220(b)(1), SCACR, and the following authorities:

As to whether the magistrate erred in finding Scott had a right to enter the premises without a writ of ejectment: S.C. Code Ann. § 27-40-530(d)(4) (2007) (permitting a landlord to enter a leased residence if "the tenant has abandoned or surrendered the premises")

As to whether the magistrate erred in proceeding with a nonjury trial even though Scott had previously requested a jury trial: *Talley v. S.C. Higher Educ. Tuition Grants Comm.*, 289 S.C. 483, 487, 347 S.E.2d 99, 101 (1986) ("It is an axiomatic rule of law that issues may not be raised for the first time on appeal."); *Tupper v. Dorchester Cty.*, 326 S.C. 318, 324 n.3, 487 S.E.2d 187, 190 n.3 (1997) ("[An] appellant cannot bootstrap an issue for appeal by way of [another party's] objection.").

As to whether the magistrate should have continued the matter when Hamilton's attorney left the magistrate's court before commencement of the hearing: *Talley*, 289 S.C. at 487, 347 S.E.2d at 101 ("It is an axiomatic rule of law that issues may not be raised for the first time on appeal."); *In re Care and Treatment of Corley*, 365 S.C. 252, 258, 616 S.E.2d 441, 444 (Ct. App. 2005) ("Constitutional issues, like most others, must be raised to and ruled on by the trial court to be preserved for appeal.").

As to whether the evidence supported the magistrate's rulings: S.C. Code Ann. § 18-7-170 (2014) (stating the standard of review to be applied by the circuit court when reviewing a magistrate's judgment); *Burns v. Wannamaker*, 281 S.C. 352, 357, 315 S.E.2d 179, 183 (Ct. App. 1984) (acknowledging "the [c]ourt of [a]ppeals will presume that an affirmance by a [c]ircuit [c]ourt of a magistrate's judgment was made upon the merits where the testimony is sufficient to sustain the judgment of the magistrate and there are no facts that show the affirmance was influenced by an error of law").

AFFIRMED.

WILLIAMS, THOMAS, and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Gernaris Hamilton, Appellant,

V.

Henry Scott, Sr. Respondent.

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), SCRCP-in an initial merits hearing under the Act. 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), SCRCP. 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), SCRCP. 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))

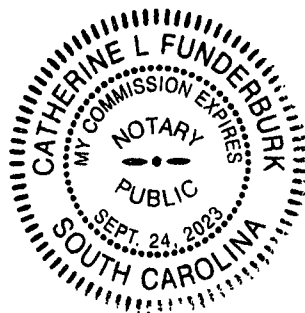
As to S.C. Code Ann & 27-40-530 (d) (4) 2007 tenant could not abandoned or surrendered premises. (See Records on appeal) "AMENDMENT TO CONFORM TO THE EVIDENCE ON MOTION TO DISMISS. Page (42). If Appellant abandoned premise's a termination letter from North Charleston Housing would have been sent an appellant 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 J. Funderburk
Feb 2, 2017



Respectfully Submitted,

Gernaris Hamilton

Gernaris Hamilton

4453 Jenwood Street

Ladson, S.C., 29456

(843)718-8952

Burce A. Berlinsky, P.A.

One Carriage Ln. Bldg. F

Charleston, SC 29409

(843)852-2202

Respondent

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Gernaris Hamilton, Appellant,

V.

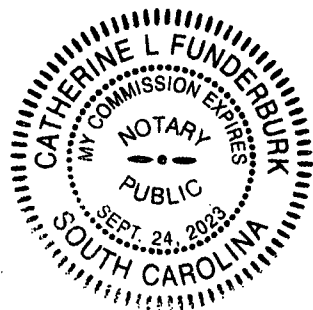
Henry Scott, Sr. Respondent.

Appellate Case No. 2015-002039

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



Dum Mb

1955993552B

LETTER TO THE APPELLATE COURT CLERK: FILING FEE, FOR PETITION FOR REHEARING UNDR SCACR 221 AND 240

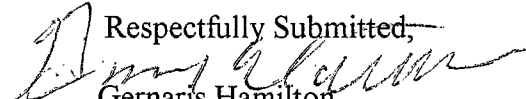
RE: Gernaris Hamilton Appellant, Bruce A. Berlinsky, P.A. for Respondent case # 2015-002039

Dear Ms. Kitchings,

Enclosed is the filing fee of \$25.00.

Enclosed are the following

1. Proof of Service Resent to Bruce A. Berlinsky, P.A.
2. The Original and six copies
3. Money Order for filing \$25.00

Respectfully Submitted,

Gernaris Hamilton

4453 Jenwood Street

Ladson, S.C., 29456

(843)718-8952

Bruce A. Berlinsky, P.A.

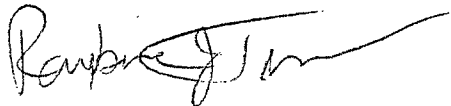
One Carriage Ln. Bldg. F

Charleston, SC 29407

(843)852-2202

Respondent

SWORN TO BEFORE ME
THIS THE 10th DAY OF
February, 2019



RAYBURNE J. TURNER
My Commission Expires:
August 21, 2024

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Gernaris Hamilton.....Appellant

V.

Henry Scott, Sr.....Respondent

Appellate Case No. 2015-002039

Appeal from Charleston County

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

RULE 221 REHEARING

UNDER

SCACR 240

Gernaris Hamilton
4453 Jenwood Street
Ladson, S.C., 29456
(843)718-8952

Bruce A. Berlinsky, P.A.
One Carriage Ln. Bldg. F
Charleston, SC 29407
(843)852-2202

REC-#
82477

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Noisette V. Ismail 304 S.C. 56, 403 S.E.2d122 (1991).....	5
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ISSUES MISAPPRENDED

1. Rule 52(A) SCRPC
2. Rule 59 (E) SCRPC
3. S.C. Code ANN 27-40-530 (D) (4)
4. S.C. Code of LAW 18-7-170
5. RECORDS ON APPEAL

PETITION FOR REHEARING

Appellant move's before the court on this petition under SCACR Rule 221 and Rule 240.a petition that the court have overlooked the records on appeal from the lower court in reference to "ISSUES being raise for the first time on appeal." "PRESERVATION "

Facts

The records on appeal pages 2, 3, and 4 it is very clear that appellant filed in court after being denied a Rule 59(e) in compliance with SCRCF. The court did not file a form order 52 (a) as required in a non-jury trial. (See records on appeal transcript pages 14 – lines 17-25 and page 15 lines 1-8) The court did not file the SCRCF Rule 52(a) finding by the court but in fact ask the attorney for the Respondent to write the SCRCF Rule 52 (a) for him (see Records on appeal transcript page 14 line 23-24.) "Due Process protection afforded by the fourteen amendment and South Carolina Constitution "To preserved the Issue" and Equal Protection. South Carolina Constitution Art. 13 "Requires "All PERSON" to be treated alike circumstances and conditions both in privileges conferred and liabilities imposed. By the courts Action toward the Appellant it clear the court was not going to give the appellant facts finding or conclusion of Law.

Issues Over Looked

SCRCF Rule52 (A)

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 Act.2 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:

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SCRPC Rule 59(E)

Appellant filed a Motion to Alter or AMEND. Facts finding and Conclusion of law August 26, 2015. Chiappetta V. ORR, 359, S.E. 530 (S.C.Ct.App.1987). Jackson V speed, 326 S.C. 289.486 S.E. 2d 750 (1991) holding issue not presented for appellant review where appellant failed to object to the cost issue either at the hearing or in their motion to alter or amend the order. Noisett V. Ismail 304. S.C. 56.403 SE 2d.122 (1991) holding that where a trial court does not explicitly rule on an argument raised and appellant makes no Rule 59 (e) motion to obtain a ruling the appellate court may not address the issue. (Jackson V. Speed, Suprai.. Noisette V Ismail. This issue was not presented for appellate review because it was not ruled upon by the trial court and no Rule 59 € SCRAP motion made.

Inside the Records on appeal

1. Page (4) Denial of the appeal
2. Page (3) Rule 59€ Motion to alter or amend order
3. Page (2) Denying Motion to alter or amend

Transcript

1. Page 14. Line 25 Appellant asked the court for a form order
2. Page 14 Line 23 and 24 the court asked Respondent to write the SCRPC Rule 52 (a) Findings by the Court.
3. A look at the Magistrate’s file (page 14- line 8-9)

ABANDONMENT

Page 25 Charleston water system letter of service

Page 42 – Amendment to confirm North Charleston Housing Authority letter. HCV Program.

I

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 COT 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

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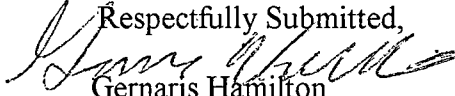
Appellant respectfully submits this Petition that the lower court erred in S.C.R.C.P Rule’s 52(a) and 59(e). No findings of fact or conclusion of law after the judgment of the court or on the motion filed.

APPEAL ERROR

S.C. Code Ann & 18-7-170: The evidence to support the finding of the court. The standard of review to be applied by the circuit court when reviewing a magistrate judgement:

The judge general ruling is insufficient on the issue for appellant review. Appellant moves to alter and amend judgement with SCRC P Rule 59 € after the court erred “in asking” Respondent to write the order of the court. (Records on Appeal transcript page 14 Line 23-24).

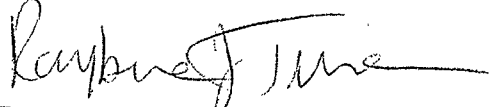
Appellant moves before the appellant court that the Records on Appeal state’s the fact that the lower court ERRED and this case should be ‘Reversed’ SCRC P Rule 59 (e) was filed.

Respectfully Submitted,

Gernaris Hamilton

4453 Jenwood Street
Ladson, S.C., 29456
(843)718-8952

Bruce A. Berlinsky, P.A.
One Carriage Ln. Bldg. F
Charleston, SC 29407
(843)852-2202
Respondent

SWORN TO BEFORE ME
THIS THE 16th DAY OF
February, 2017


RAYBURNE J. TURNER
My Commission Expires:
August 21, 2024

The South Carolina Court of Appeals

Gernaris Hamilton, Appellant,

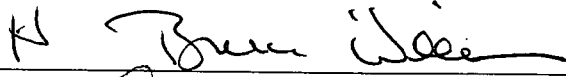
v.

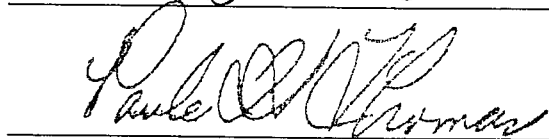
Henry Scott, Sr., Respondent.

Appellate Case No. 2015-002039

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.


_____ J.


_____ J.


_____ J.

Columbia, South Carolina

cc:

Gernaris Hamilton

Bruce Alan Berlinsky, Esquire

The Honorable J. C. Nicholson, Jr.

FILED

March 23, 2017