

**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**

Rene McMasters now known as Rene McMasters
Ronaghan, Respondent,

v.

H. Wayne Charpia a/k/a Howard W. Charpia and Jody E.
Charpia, Appellants.

Appellate Case No. 2013-002311

Appeal From Dorchester County
Edgar W. Dickson, Circuit Court Judge

Unpublished Opinion No. 2016-UP-423
Submitted September 1, 2016 – Filed October 5, 2016

AFFIRMED

Howard W. Charpia and Jody E. Charpia, of
Summerville, pro se.

Frank M. Cisa, of The Law Firm of Cisa & Dodds, LLP,
of Mt. Pleasant, for Respondent.

PER CURIAM: Howard W. Charpia and Jody E. Charpia (the Charpias) appeal the denial of their motions to reconsider the granting of a foreclosure of a judgment lien and to vacate or void the compulsory order of reference. The Charpias argue

(1) the judgment underlying the foreclosure is void because ten years has expired without execution of the judgment and (2) the circuit court lacked jurisdiction and violated the Due Process Clause because the Charpias were not properly notified of the hearings. We affirm.¹

1. We find the judgment underlying the foreclosure was not void because Rene McMasters Ronaghan sought to enforce it within the ten-year statutory period. *See* S.C. Code Ann. § 15-39-30 (2005) ("Executions may issue upon final judgments or decrees at any time within ten years from the date of the original entry thereof and shall have active energy during such period, without any renewal or renewals thereof"); *Linda Mc Co., Inc. v. Shore*, 390 S.C. 543, 554, 703 S.E.2d 499, 505 (2010) ("[W]hen a party has complied with the applicable statutes . . . and is merely waiting on a court's order regarding execution and levy, the ten[-]year limitation found in section 15-39-30 is extended to when the court finally issues an order."); *id.* at 555, 703 S.E.2d at 505 ("[I]f a party takes action to enforce a judgment within the ten-year statutory period of active energy, the resulting order will be effective even if issued after the ten-year period has expired.").

2. We find the circuit court properly exercised jurisdiction. *See Milgroom v. McDaniel*, 308 S.C. 5, 8-9, 416 S.E.2d 626, 627-28 (1992) (finding the master-in-equity properly returned the matter to the circuit court because of a potential conflict and the circuit court "reached [its] own findings only after conducting an independent hearing and review of the record"). Additionally, the circuit court did not violate the Charpias' due process rights. Although the Charpias were not properly notified of the January 9, 2013 hearing, the circuit court had already held a July 30, 2012 hearing on the foreclosure action that the Charpias attended, and it issued a thorough order granting foreclosure. *See Murdock v. Murdock*, 338 S.C. 322, 334, 526 S.E.2d 241, 248 (Ct. App. 1999) ("It is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment must have *a day in court, or opportunity to be heard*, and that without due notice and opportunity to be heard a court has no jurisdiction to adjudicate such personal rights." (emphasis added) (quoting *Webster v. Clanton*, 259 S.C. 387, 391, 192 S.E.2d 214, 216 (1972))). Further, the January 9, 2013 hearing consisted primarily of discussion about whether the Charpias received notice, and the circuit court's order did not indicate it considered anything presented at the hearing. Thus, we find the circuit court did not err in denying the Charpias' motion to reconsider. *See* Rule 59(f), SCRCP ("The motion [to alter or amend the judgment] may in the

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

discretion of the court be determined on briefs filed by the parties without oral argument.").

AFFIRMED.

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

EXHIBIT # 1

Appeal From Greenville County
Charles B. Simmons, Jr., Master-in-Equity

Unpublished Opinion No. 2016-UP-264
Submitted February 1, 2016 – Filed June 8, 2016

AFFIRMED

David Richard Price, Jr., of David R. Price, Jr., P.A., of
Greenville, for Appellants.

Daniel Quigley Orvin and Matthew Tillman, both of
Womble Carlyle Sandridge & Rice, LLP, of Charleston,
for Respondent Deutsche Bank National Trust Company
as Trustee for First Franklin Mortgage Loan Trust 2006-
FFI Pass-Through Certificates, Series 2006-FFI.

Thomas Elihue Dudley, III, of Kenison Dudley &
Crawford, LLC, of Greenville, for Respondent Edman
Hackworth.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998)
("[A]n issue cannot be raised for the first time on appeal, but must have been raised
to and ruled upon by the trial judge to be preserved for appellate review."); *Mize v.*
Blue Ridge Ry. Co., 219 S.C. 119, 129-30, 64 S.E.2d 253, 258 (1951) (finding if an
appellant does not raise an issue at trial, but the trial judge addresses it, it is still not
preserved for appeal because it was not raised by the appellant); *Johnson v. Sonoco*
Prods. Co., 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009) ("An issue may not be
raised for the first time in a motion to reconsider.").



The South Carolina Court of Appeals

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October 28, 2014

Mr. Frank M. Cisa, Esquire
858 Lowcountry Blvd.
Ste. 101
Mt. Pleasant SC 29464

Re: Rene McMasters v. H. Wayne Charpia
Appellate Case No. 2013-002311

Dear Counsel:

Please be advised our records indicate that you have not served and filed a respondent's final brief, which was due on October 14, 2014. Therefore, the appellant's final brief and the record on appeal are accepted as filed and this matter will be considered ~~without the respondent's brief.~~

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Howard W. Charpia
Jody E. Charpia

To: SC Court of Appeals 5-10-17
1220 Senate Street
Columbia, SC 29201

From: Howard W. Charpia
1450 Jahnz Ave.
Summerville , SC 29485

RECEIVED

MAY 11 2017

Re: Appellate Case # 2013-022311
McMasters v. Charpia

SC Court of Appeals

Court ,

This correspondence is to address a grave error made by the Appellate Court . Opinion 2016-UP-423 , filed October 5 , 2016 did not address the merits of my case .

- 1. The opinion states “ The Charpia’s argue (1) the judgment underlying the foreclosure is void because 10 years has expired without execution of the judgment . “**
- 2. This argument and/or subject matter was not brought before the circuit Court , therefore it is not preserved for Appellate review .
(See exhibit # 1)**
- 3. Issues not argued in the Appellant’s brief are deemed abandoned on Appeal .**
- 4. This argument (10 year active energy) was not in the Appellant’s brief.**
- 5. Only argument made by the Appellant (Charpia) was violation of “due process”.**

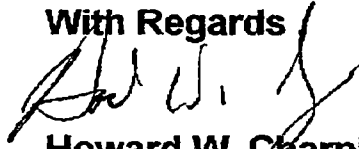
This decision by the Appellate Court is a manifest of injustice and cause irreversible harm to the Appellant .

The Appellant (Charpia) needs to know exactly how the Appellate Court derived at this decision in their opinion # 2016-UP-423 (1) .

This information is material and vital to Charpia's future causes of action and pending Appeal .

All help in this matter is deeply appreciated .

With Regards



Howard W. Charpia

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*MATED
5-10-17
Jwe*