

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF DORCHESTER

Plaintiff RENE McMASTERS

2013-002311

v.

SUBPOENA IN A CIVIL CASE

Defendant HOWARD W. CHARPIA, ET AL

Case Number: 2009-CP-18-2200 Pending in Dorchester County

TO: South Carolina Court of Appeals

YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME , AM

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

SEE ATTACHED

PLACE MAIL TO

DATE AND TIME , AM

1450 JAHNZ AVE Summerville, SC 10 DAYS FROM RECEIPT

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature

5-24-2017

HOWARD W. CHARPIA

Indicate if Attorney for Plaintiff or Defendant Attorney's Address and Telephone Number :

Date

Print Name

Clerk of Court/Issuing Officer's Signature

5/08/2017

Cheryl Graham, Clerk of Court

Pro Se Litigant's Name, Address and Telephone Number : H. Wayne Charpia, Pro Se

Date

Print Name

1450 Jahnz Avenue, Summerville, SC 29485 843-873-0976

RECEIVED

MAY 26 2017

SC Court of Appeals

PROOF OF SERVICE

| | | |
|-----------|-------|---------------------------------------------------------------------------------------------------------------------------------------|
| SERVED | DATE | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$ |
| | PLACE | |
| SERVED ON | | MANNER OF SERVICE |
| SERVED BY | | TITLE |

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

To: SC Court of Appeals
1220 Senate Street
Columbia, SC 29201

5-24-17

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

Re: Appellate Case # 2013-002311
Case # 2009-CP-18-2200
McMasters v. Charpia

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SC Court of Appeals

Pursuant to Rule 221 SCACR, Order was signed February 8, 2017. Remittitur was mailed February 14, 2017 and recorded by the Dorchester County Clerk's office on February 16, 2017. This violates the 15 day allowance to send the Remittitur.

Please submit the following .

Opinion 2016-UP-423 states , " the Charpia's argue : the judgment underlying the foreclosure is void because the 10 years has expired without execution."

1. *Exactly where and how did the Appellate Court derived as this conclusion that*

" the judgment was not void because McMasters sought to enforce it within the 10 year period "

McMasters filed a "foreclosure of a judgment lien " action in August 2009 . There has never been a "mortgage" on said property .

There is no statutory rule or provision to "foreclose on a judgment lien " , these actions fall within / under the statues of executions , i.e. 15-39-10 , 15-39-20 and 15-39-30 ; S.C. Code of Laws .

McMasters received her Order from Judge Dickson on October 29 , 2012 to execute on said property and chose not to initiate collection efforts to satisfy said judgment.

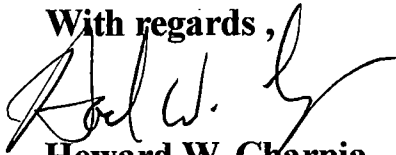
McMasters was not waiting on an Order to “execute” from the Appellate Court, she already had an Order to “execute “ from Judge Dickson .

The 10 year active energy was never brought before the lower Court , therefore it is not preserved for Appellate review .

Charpia’s only argument in his Briefs to the Court were “due process” violations.

Issues not argued in the Appellant’s brief are deemed abandoned on Appeal .

This information is vital to further my argument with the lower Court and my Appeal process.

With regards ,

Howard W. Charpia
843-873-0976
quarterback@att.net



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MAY 26 2017

The South Carolina Court of Appeals SC Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

February 14, 2017

The Honorable Cheryl L. Graham
5200 E Jim Bilton Blvd
St George SC 29477-8020

REMITTITUR

Re: Rene McMasters v. H. Wayne Charpia
Lower Court Case No. 2009CP1802200
Appellate Case No. 2013-002311

RECORDED
2017 FEB 16 AM 11:34
CHERYL L. GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

2-16-17 11:34 AM

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

Jody E. Charpia
CLERK

Enclosure

cc: Howard W. Charpia
Jody E. Charpia
Frank M. Cisa, Esquire

The Supreme Court of South Carolina

Rene McMasters now known as Rene McMasters
Ronaghan, Respondent,

v.

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

Of Whom Howard W. Charpia is Petitioner.

Appellate Case No. 2016-002522
Lower Court Case No. 2009-CP-18-02200

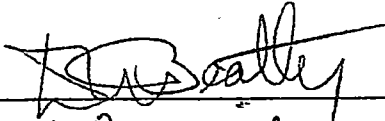
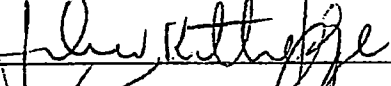

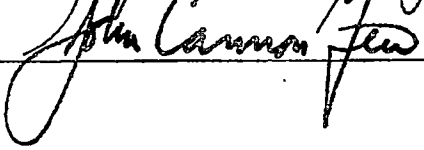
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SC Court of Appeals

ORDER

This matter was dismissed because the petition for a writ of certiorari and appendix did not comply with Rule 242, SCACR. Petitioner moves to reinstate the matter and has filed a corrected petition and appendix. The motion to reinstate is granted and the amended petition and appendix are accepted as filed. The amended petition for a writ of certiorari is denied.

| | |
|--------------------------------------------------------------------------------------|------|
|  | C.J. |
|  | J. |
|  | J. |
|  | J. |

Columbia, South Carolina

February 8, 2017

**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.

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SC Court of Appeals

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.

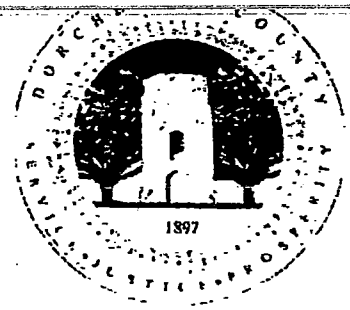
10-12-16

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

AFFIRMED.

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

DORCHESTER COUNTY CLERK OF COURT
Cheryl Graham, Clerk of Court
5200 East Jim Bilton Blvd.
St. George, SC 29477



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MAY 26 2017

December 6, 2016

SC Court of Appeals

H. Wayne Charpia
1450 Jahnz Ave.
Summerville, SC 29485

Re: Rene' McMasters vs. Charpia Residential, LLC
Case No: 2002-CP-18-00932

Rene McMasters vs. H Wayne Charpia, et al.
Case No: 2009-CP-18-2200

FILED-RECORDED
2016 DEC -6 PM 1:10
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

Mr. Charpia:

Pursuant to your request, please let this letter confirm that there are ~~no~~
~~pending~~ Writ of Executions in the above-referenced cases.

Sincerely yours,

A handwritten signature in cursive script that reads "Cheryl Graham".

Cheryl Graham
Clerk of Court

114

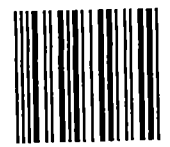
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MAY 26 2017

SC Court of Appeals

J. CLARE ALLEN
SC Court of Appeals
1220 SENATE STREET

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MAY 26 2017

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