

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

J. Ernest Kinard, Jr., Circuit Court Judge      Tanya A. Gee, Circuit Court Judge

Appellant Case No. 2015-001627

Case No: 2013-CP-40-05675

Willie J. Riley,..... Appellant,

v.

Dennis Wayne Catoe,..... Respondent.

FINAL BRIEF OF APPELLANT

Willie J. Riley  
84 Wild Indigo Ct.  
Columbia, SC 29229  
(803) 414-5501  
Pro Se Appellant

**TABLE OF CONTENTS**

STATEMENT OF ISSUES ... .. pg 1

STATEMENT OF THE CASE... ..pg 2 & 3

STATEMENT OF THE FACTS... ..pg 3

ARGUMENT... ..pg 3

- I. Did the Judge Err in granting a Summary Judgement, based on the expiring of the Statute of limitations.
    - a. Respondent Catoe, Catoe told Appellant Riley ... ..pg 2
    - b. Appellant Riley had no control ... ..pg 3
    - c. Appellant Riley believes that the case should have been tolled... ..pg 3
    - d. Appellant Riley believes that the case should have been tolled based on the Judge retiring... ..pg 3
  
  - II. Did the Judge Err in the start date of the running of the statute of limitation.
    - a. Mr. William Booth III, never took the case ... ..pg 3
    - b. Appellant Riley never received a letter from William Booth III... ..pg 3
    - c. Appellant Riley first time seeing those letters ... ..pg 3
- CONCLUSION ... ..pg 4

### STATEMENT OF ISSUES

- III. Did the Judge Err in granting a Summary Judgement, based on the expiring of the Statute of limitations.
  - a. Respondent Catoe, Catoe told Appellant Riley,
  - b. Appellant Riley had no control,
  - c. Appellant Riley believes that the case should have been tolled,
  - d. Appellant Riley believes that the case should have been tolled based, on the Judge retiring,
  
- IV. Did the Judge Err in the start date of the running of the statute of limitation.
  - a. Mr. William Booth III, never took the case,
  - b. Appellant Riley never received a letter from William Booth III,
  - c. Appellant Riley first time seeing those letters,

## STATEMENT OF THE CASE

This case was brought by Appellant Willie Riley against Respondent Dennis Wayne Catoe, and others, seeking damages for a defective title in a real estate transaction, which Respondent Dennis Wayne Catoe was the closing attorney that handle the real estate transaction. Respondent Dennis Wayne Catoe, was also the one that was responsible for the title search and also provided the title insurance for the property.

Appellant Willie Riley purchased the real estate property after receiving a clear title report from Respondent Dennis Wayne Catoe on July 29, 2008 for the purchased amount of (\$3,800.00) Three thousand and eight hundred dollars, with the intent of tearing down the old house on the property and rebuilding a new one, after expecting the home and the attempt to save the old structure. Appellant Willie Riley started to do rehab on the property. Nine months into the rehab Appellant Willie Riley was approached by a Gentleman who stated Appellant was working on the wrong house. Appellant Willie Riley went straight to Respondent Dennis Wayne Catoe's office and told Respondent Dennis Wayne Catoe what was told to Appellant Willie Riley, since Respondent Dennis Wayne Catoe was the attorney that was responsible for the title search and also the attorney that handles the real estate closing. To Appellant Riley's surprise Respondent Catoe, told Appellant Riley to ignore the gentleman and if Appellant Riley had any more concern to seek another attorney for help.

Appellant Riley did what was told to him by Respondent and search for another attorney to look into the matter. Appellant Riley called several attorneys but most of them wanted upfront fees to look into the case, not sure if there was a real problem, Appellant Riley search for attorney to just look into without upfront cost. Appellant Riley, called Attorney William E. Booth III, Mr. Booth agreed to look over it, but would not take the case until he had all the information. Appellant Riley met with Mr. Booth, Mr. Booth looked over the title but could not give Appellant Riley advice if there was a problem without having more information. Mr. Booth phone the Respondent Catoe, to schedule a meeting and to check over the title search report. Respondent Catoe agreed to a meeting which was attended by Appellant Riley, Mr. Booth, Respondent Catoe and Mr. Vince who performed the title search for Respondent Catoe.

At the meeting Respondent Catoe, apologized for his response, stating he had surgery and was not himself. Respondent Catoe then stated he would continue to look into the matter and resolve any issues with the title stating it should take a few months to go back in front of the Judge and fix the matter. Mr. Booth never was able to retain the files to determine if there was a problem. After the meeting, Respondent Catoe filed the papers with the Courts and a hearing was scheduled August 2, 2010, but had to be continued due to the Judge having to go to the Doctor until October 6, 2010. On November 3, 2010 an order was issued that the property be joint ownership with the gentleman who stated Appellant was working on the wrong piece of property. On April 26, 2011 a hearing was

heard for a Motion to reconsider and it was denied, but an amended order was issued. The case was appealed and heard on, which the case reversed and remand. Due to the Judge retiring, a new judge had to hear the case and a new hearing was scheduled on April 24, 2013 and an order granting Appellant the property with a cost of appeals attached to the title. After the last order Appellant Riley file a complaint against Respondent Catoe for negligence in handling Appellant Riley real estate transaction, seeking damages for lost of use of the property, damages that was caused to the property based on the time it took the litigation's to produce a title which still was not clear.

Appellant Riley first complaint was dismissed on failing to file an expert affidavit with complaint on February 5, 2014 Appellant Riley filed an amended complaint on March 4, 2014. The Respondent Dennis Wayne Catoe filed a Motion for Summary Judgment, based on the statute of limitation and it was granted, order issued, filed April 23, 2015. This appeal followed.

### **STATEMENT OF FACTS**

Dennis Wayne Catoe was hired by Willie Riley to perform the title search for a real estate purchase.

Dennis Wayne Catoe gave Willie Riley a clear title report to the purchased real estate property.

Willie Riley relied on the clear title report and purchased the property and did rehab work on the property for nine months.

Willie Riley did not have a clear title to the property he bought and still does not.

Dennis Wayne Catoe is responsible for the damages Willie Riley accrue based on the fact that it was determine the title was not clear at the time Willie Riley purchased the property and Dennis Wayne Catoe stated the title was clear.

Willie Riley was not able to use the property based on the title not being cleared or finish the property based on the mitigation law.

### **ARGUMENT**

- I. Did the judge err in granting Respondent a Summary Judgement, based on the expiring of the statute of limitations?
  - a. Respondent Catoe, told Appellant Riley, he did not have to be concern about the statute of limitations running out because the title insurance was only for \$3800.00 and he would have to file with Respondent Catoe insurance based on the amount of the damages exceeded the title insurance amount.

- b. Appellant had no control over the courts or the judge decisions to continue the case.
  - c. Appellant Riley, believes that the case should have been tolled for a year on the Reverse of the appeal.
  - d. Appellant Riley, believes that the case should have been tolled based on the judge retiring and a new judge had to be appointed which a new hearing of the case had to be held.
- II. Did the judge err in the start date of the running of the statute of limitations?
- a. Mr. William Booth III never took the case and never had the files to determine if there was a case against Respondent Catoe.
  - b. Appellant Riley, never received a letter from Mr. William Booth III as stated by Respondent Catoe which was used to determine Appellant Riley start of running of the statute of limitation.
  - c. Appellant Riley first time seeing those letters from William Booth III was when Appellant Riley ask Respondent Catoe for the case files which was in 2013.

### Conclusion

The judge decision to grant Respondent Catoe a Summary Judgement is not supported by the evidence and the law. This Court should reverse the judge decision and dismiss the Summary Judgment and return the case to be placed back on the docket for trial.

Respectfully submitted,



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5

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Dennis Wayne Catoe, and Does

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PROOF OF SERVICE

I, Willie J. Riley certify that I have served the Final Brief of Appellant on counsel for the Respondent by depositing a copy of them on December 8, 2016, in the United States Mail, postage prepaid to the following address: P. O. Drawer 7788 Columbia, SC 29202 Attn: Leslie A. Cotter., Jr., Esquire, Carmen Vaughn Ganjehsan, Esquire.

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