

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

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**APPEAL FROM DORCHESTER COUNTY  
COURT OF COMMON PLEAS**

**JUDGE CARMEN MULLEN , FIRST CIRCUIT**

**RECEIVED**

AUG 24 2017

SC Court of Appeals

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**Case # 2009-CP-18-2200  
APPELLATE CASE # 2017-000834**

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**RENE McMASTERS.....Respondent  
vs.  
HOWARD W. CHARPIA , et al.....Appellant**

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**INITIAL BRIEF**

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**MOTION FOR DECLARATORY JUDGMENT 15-41-30 (a)(1)**

**Howard W. Charpia , et al  
717 Old Trolley Road Suite 6  
# 360  
Summerville , SC 29485**

**843-925-7134**

**cc: Attorney Frank M. Cisa  
Green Wave Alum LLC**

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- 1. Did the Court err in not awarding a Homestead Exemption to Roger D. Charpia , “dependent of the debtor “ and / or being a multiple owner of said property ; pursuant to 15-41-30 (a)(1) ?**
  
- 2. Is a Form 4 sufficient to withstand the “due process” clause for the Court and the Appellant ?**

**Conclusion.....6**

## **TABLE OF AUTHORITIES**

**Scholtec v. Estate of Reeves , 327 S.C. 551 (1997)**

**Holden v. Cribb , 561 S.E. 2d 634 (SC Court of Appeals 2002 )**

**Cerny v. Salter , 311 S.C. 430 1993**

**American Service Corp . v. Hickle , 312 S.C. 520 1993**

## **STATEMENT OF THE ISSUES**

- 1. The Court erred in not awarding the “dependent of the debtor “ and / or “multiple owner “ his Homestead Exemption pursuant to S.C. Code 15-41-30 (a)(1) . The “dependent of the debtor” is Roger D. Charpia in this Appeal .**
- 2. Judge Early’s Form 4 Order dated May 9 , 2017 is a fraudulent order and does not cite any “conclusions of law “ nor any “findings of facts”.**
- 3. Does Attorney Frank M. Cisa have standing in this Appeal since the said property has been assigned to Green Wave Alum LLC on August 1 , 2017 .**

## **STATEMENT OF THE CASE**

**A judgment was rendered against Howard W. Charpia and Charpia Residentials LLC , case # 2002-CP-18-932 on August 5 , 2004 ; Dorchester County for \$ 191,600 .00 . This judgment lost it's active energy on August 5, 2014 pursuant to S.C Code 15-39-30 et al . Cisa initiated a non-statutory action in case # 2009-CP-18-2200 , McMasters v. Charpia and Jody E. Charpia ; “foreclosure of a judgment lien” .**

**Charpia filed a “Motion for Declaratory Judgment” on Feb. 2 , 2017 . Case # 2009-CP-18-2200 was assigned to Judge Doyet Early on March 15, 2017 for “administrative purposes “ by Judge Donald Beatty.**

**Judge Carmen Mullen heard Charpia’s “Motion for Declaratory Judgment” on March 24 , 2017 in Dorchester County, i.e after this case was assigned to Judge Early .**

## **FACTS**

**Roger D. Charpia is the brother of Charpia . He is a 68 year old mentally retarded person that has been in Charpia's care for 50 + years. Charpia is 66 years of age. Roger Charpia draws a monthly SSI Check of \$ 735.00 per month . Roger Charpia draws a Food Stamp allowance of \$ 16.00 per month . Roger Charpia resided at 1450 Jahnz Ave. in the town of Summerville since 1999 with his brother Charpia. Roger Charpia owns ½ interest in said property . Roger Charpia paid the County taxes on the said property .**

**Roger Charpia is statutorily defined as a “charmed circle” or “favored class” . Dependent of the debtor is the current statute's term to define a “charmed circle “ or “favored class” . ( Scholtec v. Estate of Reeves . )**

**Said judgment was never entered nor indexed pursuant to S.C Codes 15-35-510 , 15-35-520 , 15-35-540 et al .**

**The rationale for Homestead Exemptions is well established : to protect from creditors a certain portion of the debtor's and the dependent of the debtor's property . (Cerny v. Salter , 311 S.C. 430 1993 )**

**And to prevent citizens from becoming dependent on the State for support . ( American Service Corp . v. Hickle , 312 S.C. 520 1993 )**

**Roger Charpia is mentally retarded and disabled .**

**Homestead laws shelter the family , permit it to "live beyond the reach of financial misfortune , to protect the family from destitution , and in general , to promote the stability of the welfare of the State .**

**In Holden v. Cribb , Appellate case # 3462 (2002) ; Holden's children would be entitled to claim the Homestead Exemption if they had lived in the home .**

**The Homestead interest depends entirely upon constitutional and statutory provisions . ( Id. At 554 , 490 S.E. 2d at 604 )**

## **ARGUMENTS**

**Pursuant to S.C. Code 15-41-30 (a)(1) , “dependent of the debtor” uses as a residence . If there are multiple owners of such a living unit exempt as a “homestead” , the value of the exemption of “each” individual owner may not exceed his fractional portion of one hundred thousand dollars.**

**Roger Charpia is a 68 year old mentally retarded man and is disabled. He has resided in the home with the debtor Charpia since 1999 . He draws a SSI check and a \$ 16.00 per month Food Stamp allowance , yes \$ 16.00 dollars .**

**Roger Charpia owns ½ interest in said property and pays the County yearly taxes on said property .**

## **CONCLUSION**

**WHEREFORE , Howard W. Charpia prays that this Court take careful consideration in this matter and Appeal . Charpia finds no previous precedence on a mentally retarded and disabled person that shall be entitled to a Homestead Exemption pursuant to S.C. Code 15-41-30 (a)(1) , et al .**

**Addressing the Form 4 signed by Judge Early , this Form 4 states that this action came to trial or hearing ; there was no hearing or trial held on this action .**

**This Form 4 cites no conclusions of law or findings of fact and does exhort \$ 6,500.00 from the highest bidder.**

**Charpia prays that you grant the “dependent of the debtor” , Roger Charpia his rightful and statutory provision of the Homestead Exemption of \$ 59,100.00 .**

**And grant a refund of \$ 6,500.00 to Claude I. Soles , Jr.**

**Howard W. Charpia**

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**I , Howard W. Charpia , hereby certify that I mailed the INITIAL  
BRIEF to :**

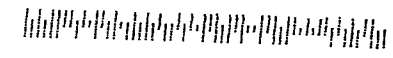
**South Carolina Court of Appeals  
1220 Senate Street  
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**Attorney Frank Cisa  
858 Lowcountry Blvd.  
Suite 101  
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**Date mailed August 22 , 2017**

  
**Howard W. Charpia**

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