

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEALS FROM RICHLAND COUNTY

Joseph M. Strickland, Master-In-Equity

Trial Court Case No.: 2015-CP-40-07210

RECEIVED

DEC 15 2017

SC Court of Appeals

Appellant Case No. 2017-002149

NATIONSTAR MORTGAGE, LLC,Respondent,

vs.

Marcus L. Hall, Rosa C. Hall, and Deer Lake

Homeowners Association, Inc.,Defendants,

APPELLANT INITIAL BRIEF

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STATEMENT OF ISSUES ON APPEAL

After discovering the remedy in the federal rule of Civil Procedure Rule 5.1 Constitutional Challenge and FRCP Rule 24(1a), I filed a Constitutional Challenge immediately challenging the State foreclosure statute including but not limited to The Rule to Show Cause which included the Writ of Assistance. As of to date the filing has not been placed into the case even though I have a stamped copy from the Clerk of Court.

The Master in Equity failed to follow the rules set forth under the Constitutional Challenge Rule 5.1 and FRCP Rule 24 (1a) and did issue a order to evict me from my home.

QUESTIONS ON APPEAL

1. Does the FRCP Rule 5.1 Constitutional Challenge mean exactly what it says?
2. Does the FRCP Rule 24(1a) mean exactly what it?
3. If the answer to question 1 and 2 listed above is yes, does it affirm that the foreclosure procedure was unconstitutional and that the court erred by issuing an order by having me evicted from my house?

STATEMENT OF THE CASE

1. Nationstar Mortgage LLC filed a foreclosure action against me claiming I was in default of a mortgage loan.
2. Master in Equity gave a Summary Judgment in order to sale my home to the Plaintiff without any competent witness
3. As a result of the order that was issued of Summary Judgement and sale, my home was sold the purchaser was Nationstar Mortgage, LLC.
4. Sometime thereafter the sale of my home I discovered a remedy under FRCP Rule 5.1 Constitutional Challenge and FRCP Rule 24(1a). After this discovery I immediately filed the Constitution Challenge into my case challenging the statues for foreclosure including but not limited to the Rule to Show Cause and the Writ of Assistance
5. I did file the Constitutional Challenge but the Clerk did not file it into the case, but I do have a stamped copy from the Clerk of Court.
6. At the hearing of the Rule to Show Cause, Judge Strickland said, “ He did not know what the Constitutional Challenge was all about.”
7. Without hesitating Judge Strickland signed the order for Writ of Assistance to have me evicted from my home.
8. I tried to file an injunction against the Writ of Assistance order under a new case number but Judge Strickland took it and denied it before any Judge was assigned to that case number.

ARGUMENT

COME NOW by Special Appearance, Marcus L. Hall, in this Initial Brief to argue the issue on appeal in order to resolve the issues between me, Plaintiff and the court.

The issues that have arrived is from the fact that I discovered a remedy found in the Constitutional Challenge Rule 5.1 of the FRCP and FRCP Rule 24(1a) as the intervenor.

After my discovery I immediately filed the Constitutional Challenge along with the Intervenor into my foreclosure case. In this Constitutional Challenge I challenged all the statues of the State that governs the foreclosure proceedings including the Rule to Show Cause and the Writ of Assistance. Then I followed the steps to serve everyone that needed to be served including Attorney General Alan Wilson.

After filing the Constitutional Challenge and getting stamped copies to serve I noticed that the Constitutional Challenge was not filed in my case and as of to date it is still not a copy of the Constitutional Challenge filed in my case.

There was hearing for the Rule to Show Cause and at this hearing Judge Strickland indicated that he was not aware of what a Constitutional Challenge was all about, and stated that he was going to move forward. The order for the Writ of Assistance was issued even though the Constitutional Challenge was in place and the court was aware of it.

Now according to Federal Rule 5.1.(c), the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.

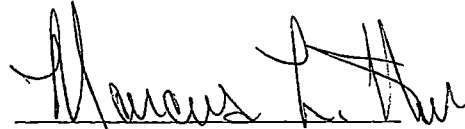
(c) INTERVENTION; FINAL DECISION ON THE MERITS. Unless the court sets a later time, the attorney general may intervene within 60 days after the notice is filed or after the court certifies the challenge, whichever is earlier. Before the time to intervene expires, the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.

At no point in this case has my claim of constitutional challenge has been forfeited pursuant to Federal 5.1.(d).

(d) NO FORFEITURE. A party's failure to file and serve the notice or the court's failure to certify, does not forfeit a constitutional claim or defense that is otherwise timely asserted.

IN CONCLUSION, the fact that I did file the constitutional challenge against statutes for governing foreclosure and the Rule to Show Cause with the Writ of Assistance. The Judge should not have moved forward with signing the Writ of Assistance to evict me from my home, because the time for the Attorney General to intervene had not expired. Now that the time has expired for the Attorney General to intervene into this case, according to the Rule 5.1 these statutes have been affirm as being unconstitutional, therefore the order of the Writ of Assistance and eviction should be overturned so that I may return back to my home and the property placed back into my name because the court erred in moving forward in issuing the Writ of Assistance.

Date 12-15-17



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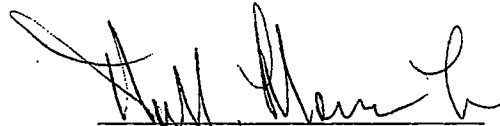
Marcus L. Hall, Rosa C. Hall, and Deer Lake
Homeowners Association, Inc.,Defendants,

Of Whom Marcus L. Hall is the Appellant.

CERTIFICATION OF COUNSEL

The undersigned certified that this Appellant Initial Brief complies with Rule 211(b)

Date 12-15-17



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Of Whom Marcus L. Hall is the Appellant.

CERTIFICATE OF SERVICE

I, Marcus L. Hall certify that I have served the Initial Brief on the party by depositing a copy of it in the United States Mail, postage prepaid, on December ____, 2017 addressed to attorneys of record, FINKEL LAW FIRM LLC, Thomas A. Shook, SC Bar #68340, 4000 Faber Place Drive, Suite 450, North Charleston, South Carolina 29405.

Document(s): INITIAL BRIEF

Party(ies) Served:

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