

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

APR 18 2018

SC Court of Appeals

Gordon G. Cooper, Master-in-Equity

Case No. 2012-CP-42-3027

Appellate Case No. 2017-001238

Deutsche Bank National Trust Company, as Trustee for Argent Securities, Inc.,
Asset-Backed Pas-Through Certificates, Series 2004-W11, Respondent,

v.

Geary Thomas Dooly, Eleanor S. Dooly and United States of America,
Defendants,

Of whom Geary Thomas Dooly is the Appellant.

**RETURN TO APPELLANT'S MOTION FOR LEAVE OF APPEAL
PENDING A VOID JUDGMENT OF ORDER OF
THE LOWERS COURT'S ORDER**

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Attorney for Respondent

Respondent Deutsche Bank National Trust Company, as Trustee for Argent Securities, Inc., Asset-Backed Pas-Through Certificates, Series 2004-W11 (“Deutsche Bank”) submits the following return to Appellant Gary Thomas Dooly’s (“Appellant”) Motion for Leave of Appeal Pending a Void Judgment of Order of the Lower Court’s Order (“Appellant’s Motion”).

ARGUMENT

Since Appellant defaulted on a home mortgage in February 2012, he has been engaging in dilatory tactics to stall foreclosure. Appellant’s Motion is no different and raise previously rejected arguments regarding enforceability of the mortgage and the Trial Court’s jurisdiction. Indeed, Appellant already has a fully briefed appeal pending before this Court in this matter, yet appears to seek leave to file another.¹ *See generally* Appellant’s Mot.

First and foremost, Appellant’s Motion is not a “motion” in the procedural sense before this Court. Appellant’s Motion is also not timely as any appeal deadline has long since expired. *See* Rule 203, SCACR. Additionally, the relief requested by Appellant’s Motion is not relief properly granted by this Court. Appellant is attempting to rely on his *pro se* status to circumvent the Trial Court’s Order and this Court’s previous ruling. While some grace is extended to *pro se* litigants “like all other litigants, [*pro se litigants*] must comply with substantive and procedural courtroom rules” because “self-representation is not a license to ignore ‘relevant rules of procedural and substantive law.’” *United States v. Beckton*, 740 F.3d 303, 306 (4th Cir. 2014) (quoting *Faretta v. California*, 422 U.S. 806, 834 n.46 (1975)). When a litigant decides to proceed

¹ Appellant’s Motion and its requested relief is difficult to discern. However, to the extent Appellant seeks to challenge the Trial Court’s Order through a Rule 60 Motion for Relief from Judgment, this is the same relief Appellant is seeking from this Court on appeal by requesting that the Trial Court’s Order be reversed. Appellant’s Motion is another delay tactic that should be denied.

without counsel “he relinquishes, as a purely factual matter, many of the traditional benefits associated with the right to counsel.” *Faretta*, 422 U.S. at 834–35.

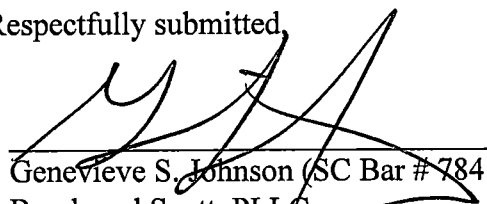
Although Appellant’s Motion is duplicative, to the extent it is an attempt to assert news claims, the Motion must be denied. Appellants is barred from attempting to assert new claims or issues before this Court. “It is an axiomatic rule of law that issues may not be raised for the first time on appeal.” *State ex rel. Wilson v. Ortho-Mcneil-Janssen Pharms.*, 414 S.C. 33, 83 n.33, 777 S.E.2d 176, 202 n.33 (2015) (quoting *Talley v. South Carolina Higher Educ. Tuition Grants Comm.*, 289 S.C. 483, 487, 347 S.E.2d 99, 101 (1986)). Each issue “must have been raised to and ruled upon by the trial court to be preserved.” *Buist v. Buist*, 410 S.C. 569, 574, 766 S.E.2d 381, 383 (2014) (quoting *Pye v. Estate of Fox*, 369 S.C. 555, 564, 633 S.E.2d 505, 510 (2006)). “Prohibiting an appellant from raising an issue for the first time on appeal ensures that the trial court is able ‘to rule properly after it has considered all relevant facts, law, and arguments.’” *State v. Cope*, 405 S.C. 317, 339, 748 S.E.2d 194, 205 (2013) (quoting *Herron v. Century BMW*, 395 S.C. 461, 465, 719 S.E.2d 640, 642 (2012)). As such, Appellant’s Motion is without merit and should be denied.

CONCLUSION

For the foregoing reasons, Deutsche Bank respectfully requests that the Court deny Appellant’s Motion, and that the Court grant it such other relief deemed proper and just.

Dated: April 18, 2018

Respectfully submitted,



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Defendants,

Of whom, Geary Thomas Dooly is the Appellant.

CERTIFICATE OF SERVICE

I, undersigned of the law offices of Brock & Scott, PLLC, attorneys for Respondent, do hereby certify that I have served a true and correct copy of the *RETURN TO APPELLANT'S MOTION TO LEAVE OF APPEAL PENDING A VOID JUDGMENT OF ORDER OF THE LOWER COURT'S ORDER* by first-class, U.S. Mail with postage prepaid upon the following:

Geary Thomas Dooly
Eleanor S. Dooly
P.O. Box 3326
Spartanburg, South Carolina 29304
Pro Se Appellant

This 18th day of April, 2018.



Brittany R. Sloan
Litigation Paralegal
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