

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

JUDGE CARMEN MULLEN , FIRST CIRCUIT

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MAR 21 2018
SC Court of Appeals

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

RENE McMASTERS , now known as Rene McMasters Ronaghan...Respondent

v.

H. WAYNE CHARPIA a/k/a HOWARD W. CHARPIA AND JODY E. CHARPIA
Defendants,

of whom H. Wayne Charpia a/k/a HOWARD W. CHARPIA.....is the Appellant

FINAL BRIEF

MOTION FOR DECLARATORY JUDGMENT 15-41-30 (A)(1)

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

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SC Court of Appeals

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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 ?**~~

WITHDRAWN

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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.

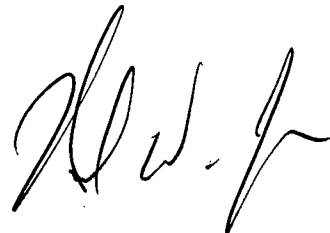
Roger Charpia is a 68 year old mentally retarded man and is disabled. He has resided in the home with the debtor Charpia since 1999 . He draws a SSI check and a \$ 16.00 per month Food Stamp allowance , yes \$ 16.00 dollars .

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 prays that you grant the “dependent of the debtor”, Roger Charpia his rightful and statutory provision of the Homestead Exemption of \$ 59,100.00 pursuant to S.C. Code of Laws 15-41-30 (a)(1) .

A handwritten signature in black ink, appearing to read 'H.W. Charpia', is written above the printed name.

Howard W. Charpia