

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas
The Honorable John C. Hayes, III
Case No. 2012-CP-29-498

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SC Court of Appeals

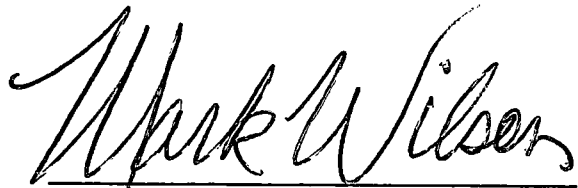
Appellate Case No. 2017-002223

Mark Wilson.....Appellant,

v.

Keith Jayma.....Respondent.

REPLY BRIEF



Mark Wilson, Pro Se
2506 Kings Farm Way
Indian Trail, NC 28079
Appellant

August 3, 2018

Respondent's Initial Brief and the Order Granting Summary Judgment, both of which were obviously prepared by Attorney Martens, miss the point. The Title to Real Estate, on which Appellant (as signor) is the *bound party*¹ (according to Lyons v. Fidelity Nat'l Title Ins. Co., 415 S.C. 115, 781 S.E.2d 126 (Ct.App. 2015), and it is a sealed instrument (also according to Lyons and the various cases cited therein). One of those cases, Treadaway v. Smith, 325 S.C. 367, 479 S.E.2d 849 (Ct.App. 1996), makes it clear that a "non-sealed" instrument may be shown to be intended to be a "sealed instrument." In Treadaway, the Court concluded that the language included in the agreement "manifested the parties' intent to create a seal instrument." That language was the standard attestation clause: "In WITNESS WHEREOF, the parties have hereunto set their respective Hands and Seals" along with the following standard language: "SIGNED SEALED AND DELIVERED IN THE PRESENCE OF." ("Seals" or Sealed" mentioned twice).

In comparison, the said Title to Real Estate in this case mentions "Seal" and "Sealed" three (3) times: "WITNESS our Hand and Seal this 4th day of November, 2005;" "Signed, Sealed and Delivered in the Presence of;" and "Personally appeared before me the undersigned and made oath that (s)he saw the within Grantor(s) sign, seal and as their act and deed deliver the written-written Deed"

Based upon legal precedent, the subject Title to Real Estate is a "sealed instrument;" and this suit to construe the validity thereof should be determined on the merits. Judge Hayes' Order denies the opportunity to have the parties' interests under the Title to Real Estate properly evaluated and determined.

There are significant issues surrounding the execution of the Title to Real Estate, but Appellant's argument that the legal description was attached after the execution of the instrument should be most troubling to the Court. Judge Hayes was troubled by this issue. In his Order, he referred to the deeded property as the "Disputed Tract." This terminology is interesting in light of the decision being made on a Motion for Summary Judgment, which Motions are ordinarily denied upon a showing of the existence of a genuine issue of material fact in dispute.

Also, this Title to Real Estate was, from all appearances, neither a gift nor a conveyance for a fair consideration. The purpose of the deed was to allow Respondent to obtain additional financing in furtherance of the parties' partnership. The "Disputed Tract" was mortgaged and financing to pay partnership expenses was obtained. The mortgage to SunTrust Bank was subsequently marked satisfied, leaving the "Disputed Tract" unencumbered. It would be fraud for Respondent to continue to maintain ownership of Appellant's property under the circumstances. As the Title to Real Estate is a "sealed instrument," the 20-year statute of limitations is applicable; and Appellant is entitled to have the issues surrounding the Title to Real Estate fully adjudicated.

¹ Interestingly, Judge Hayes' Order found that "Jayma is not the 'bound party' of "the deed to the Disputed Tract. Of course, he is not a bound party. He didn't sign the deed. Appellant signed the deed as the sole grantor (sole bound party).

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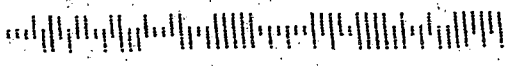
CERTIFICATE OF MAILING

I, Mark Wilson, Appellant, hereby certify that I have this 3rd day of August, 2018, served a copy of the Reply Brief upon W. Keith Martens, Esquire, attorney for Respondent, Keith Jayma, by mailing a copy thereof, postage prepaid, to the address indicated below:

W Keith Martens, Esquire
Hamilton Martens, LLC
P.O. Box 10940
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Mark Wilson



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