

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
Appellate Case No. 2016-001044**

Appeal from the Circuit Court of Lexington County, South Carolina

The Honorable Jocelyn Newman

Case No. 2017-CP-32-03043  
2017-LP-32-745

**RECEIVED**  
NOV 05 2018  
SC Court of Appeals

STEPHENS REMODELING, LLC.....Respondent

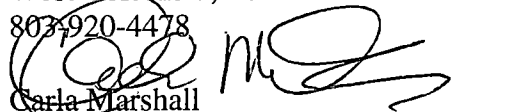
V.

Demetric Hayes and Carla Marshall.....Appellant

**[INITIAL] BRIEF OF APPELLANT**



Demetric Hayes  
P.O. Box 2572  
West Columbia, South Carolina 29171  
803-920-4478



Carla Marshall  
P.O. Box 2572  
West Columbia, South Carolina 29171  
843-260-9068

Counsel of Record for the respondent:  
Moore Taylor Law Firm  
William Edwards  
P.O. Box 5709  
West Columbia, South Carolina 29171

Table of Contents

Cases

Statement of Issues on Appeal

Statement of the Case

Statement of Facts

Argument

1. The trial court erred when it granted the Cancellation of Appellant's Lis Pendens without proof of service under South Carolina Rule 5.
2. The trial court failed to acknowledge the presentment of the Notice of Appeal that was filed in the Swansea Magistrate's court 10 July 2017.
3. The trial court erred because Respondent was not present to be cross-examined by Appellants.
4. The trial court erred by granting Respondent Cancellation of Appellant's Lis Pendens without hearing the Appellants counter-claim action
- 5.

Conclusion

## **Cases**

Roche v. Young Bros., Inc. of Florence, 318 S.C. 207, 209, 456 S.E.2d 897, 899 (1995)

South Carolina Nat'l Bank v. Cook, 291 S.C. 530, 532, 354, S.E. 2d 562,562 (1987)

Shelley Constr., 287 S.C. at 24, 336 S.E. 2d at 491-492

Griggs v. Griggs, 31 S.E.2d 505 (S.C. 1944)

## **State Regulations:**

Rule 5 of the South Carolina Rules of Civil Procedure

### **Statement of issues on Appeal**

1. The lower court erred when it granted the Cancellation of Appellant's Lis Pendens without proof of service under South Carolina Rule 5.
2. The trial court failed to acknowledge the presentment of the Notice of Appeal that was filed in the Swansea Magistrate's court 10 July 2017.
3. The trial court erred because Respondent was not present to be cross-examined by Appellants.
4. The trial court erred by granting Respondent Cancellation of Appellant's Lis Pendens without hearing the Appellants counter-claim action.

### Statement of Case

This case is based on the filing of a Notice to Quit case # 2017cv321101122, filed in the Swansea Magistrate court located in Lexington County, South Carolina. Respondent misrepresented themselves by claiming there was a landlord/ tenant relationship but did not present any contract agreement written or verbal to the magistrate court. In fact, Appellant has never met the Respondent or Respondent's son until the 10 July 2017 hearing. Respondent has presented Fraud Upon the Court with frivolous claims. **Respondent claimed to have purchased the property located at 232 Edinfield Ct. Gaston, South Carolina 29053 by Quick Claim Deed from JP Morgan Chase Bank, N.A. around April 2017 but JP Morgan Chase Bank cannot own property unless it has been foreclosed. This cannot be possible due to the fact that Appellant Hayes had an active Appellate case # 2016-001062 (foreclosure) going on during that time. Appellant Case # 2016-001062 was not closed until, 11 December 2017 due to appellant Hayes fail to file the supplemental record on appeal.**

The Swansea magistrate Judge Whittle ruled against Appellants and granted a Writ of Ejectment to the Respondent. The Appellants filed a Notice of Appeal on 10 July 2017 ruling but the Swansea magistrate court ignored the Appellants Notice of Appeal therefore, denying Appellants **Due Process**. On 22 August 2017, Respondent executed a unlawfully ejectment and had 15-20 Lexington County Deputies and the Lexington County S.W.A.T. team broke into Appellant's home and sit out their belongings. Respondent in turn filed a summons and complaint (Case #2017cp3203043) trespassers, intentional interference with contract, frivolous civil proceeding, abuse of process, malicious prosecution, and civil conspiracy. On 9 September 2017 Appellants filed Case # (2017cp3203043/ 2017LP32745). On 22 September 2017, Appellants moved case to Federal Court. On 5 April 2018 case was remanded back to state court. On 7 May 2018 a Affidavit Rebuttal Response to Lucas Stephens Affidavit on Behalf of Stephens Remolding, LLC was filed. On 11 May 2018 an order of Cancellation of Lis Pendens was filed. On 5 June 2018 Appellants filed a Notice of Appeal to the South Carolina Court of Appeals.

### Statement of Facts

In April 2017 Respondent allegedly purchased Appellants property located at 232 Edinfield Ct. Gaston, South Carolina 29053. Despite the fact Appellants didn't have a verbal or written rental agreement with the Respondent. Despite the fact Appellants does not know or has ever known the Respondent (Philip K. Stephens or his son Lucas Stephens). Despite Appellants property didn't have any liens or mortgages. The Respondent filed a Notice of Quit with the Swansea Magistrate Court. Appellants informed Judge Whittle that they have moved the case to federal

court because of the denial of filing documents into the case file. Judge Whittle ignored this fact and continued to hear the case. Judge Whittle didn't have jurisdiction to hear this case because there was **an active case in the South Carolina Court of Appeals under Appellate case # 2016-001062 which involved this same property**. Special Referee Dooley never gave Judge Scott Whittle a **Writ of Assistance** because he knew that we have always had an ownership interest in the property (see **Griggs v. Griggs, 31 S.E. 2d 505 (S.C. 1944)**). Judge Whittle, Attorney William Edwards, Stephens Remodeling, LLC, Phillip and Lucas Stephens have conspired to deprive us of our property. Appellants filed a Notice of Appeal and were waiting on a hearing date but never received one. On 22 August 2017 the Respondent executed a unlawful and illegal eviction.

### Argument

1. The lower court erred when it granted the Cancellation of Appellant's Lis Pendens without proof of service under South Carolina Rule 5.

Under South Carolina Rule 5 Respondent failed to serve Appellant Notice of Motion to Dismiss the Lis Pendens. Respondent was well aware of the Appellant's current and correct mailing address due to Respondent has used the address in the past to communicate with the Appellants before. Therefore, Appellant was not given the opportunity answer to the motion or had knowledge of the motion being filed. Respondent intentionally failed to notify Appellant in hopes of being granted an uncontested motion.

2. The trial court failed to acknowledge the presentment of the Notice of Appeal that was filed in the Swansea Magistrate's court 10 July 2017.

The lower court ignored the presentment of the Notice of Appeal that was filed in the Swansea Magistrate's court on 10 July 2017 and was entered into case file # 2017-cp-32-03043/ 2017-LP-32-745, on 7 May 2018. This is proof that Appellants attempted to show the lower court that the Respondent's entire claim is the presentment of fraud on the court. Respondents, and Respondent's attorney was well aware of the legal process when an appeal is filed timely. Appellant's was denied due process under the color of law because appellants were waiting on a court date from the Lexington Court of Common Pleas. Respondent and Respondent's attorney completely disregarded the law and moved forward with a unlawful and illegal eviction by use of 15-20 Lexington County Deputies

from the Lexington County Sheriff's Department and the Lexington County S.W.A.T. team.

3. The trial court erred because Respondent was not present to be cross-examined by Appellants.

Appellants filed an Affidavit Rebuttal Response to Lucas Stephens Affidavit on Behalf of Stephens Remolding, LLC. The lower court errored because Respondent was not present to be cross-examined by Appellants. Respondent Lucas Stephens is not the Respondent. He is the son of Philip K. Stephens who is the owner of Stephens Remolding, LLC. Lucas Stephens only became a part of these fraudulent actions when we had to go to court in Swansea magistrate court. The Respondent's attorney was the only one to show up at the hearing. The Appellants have the right to face his/her accuser.

4. The trial court erred by granting Respondent Cancellation of Appellant's Lis Pendens without hearing the Appellants counter-claim action.

The lower court erred because it did not hear the counter-claim action before deciding on the motion to cancel the appellant's Lis Pendens. The counter-claim action brought the Lis Pendens, not the Lis Pendens brought the counter-claim action. The counter-claim evidence would have shown that the Respondent has conspired with Philip and Lucas Stephens of Stephens Remolding, LLC to make false claims and statements to defame Appellants character. Respondent's entire case is frivolous and has brought fraud upon the court. The Respondent cannot be the true or real party of interest and have purchased the property involved when there was an ongoing action in the South Carolina Court of Appeals. The lower court ruling was based on the Respondent having filed a Quick Claim Deed. Appellants have a deed as well.

### **Conclusion**

This Honorable Court should overturn the ruling of the lower court in favor of the Respondent. This case fails on a number of grounds. The first was proof of service under South Carolina Rule 5. Appellants were never served notice of the Respondent's Motion of Cancellation. In addition, the lower court failed to acknowledge that the Appellant filed a Notice of Appeal with the Swansea Magistrate court and never received a court date. Therefore, denying Appellants due process under the law. Also, the Respondent

brought the action of the Motion of Cancellation but failed to appear at the hearing. So, Appellant was not able to cross-examine the Respondent. Lastly, the lower court should have heard the action that brought the counterclaim. The hearing of the counterclaim would have informed and showed the lower court that the Appellants have a lawful and legal interest in the property. Appellants had a legal action on going in the South Carolina Court of Appeals when the Respondents allegedly purchased the property from JP Morgan Chase Bank, N.A. This cannot be possible due to the fact, that banks can't own property unless it has been foreclosed on. It is clear that the Respondent and its attorney, William Edwards has used the court system to commit crimes against the Appellant. Therefore, Appellants prays this Honorable Court will reverse the judgment of the lower court and issue an order of dismissal with prejudice.

Respectfully,

A handwritten signature in black ink, appearing to be "Demetric Hayes and Carla Marshall", written in a cursive style.

Demetric Hayes and Carla Marshall

P.O. Box 2572

West Columbia, South Carolina 29171

Cc:

Moore Taylor Law Firm

William H. Edwards

P.O. Box 5709

West Columbia, South Carolina 29171

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
Appellate Case No. 2016-001062**

Appeal from the Circuit Court of Lexington County, South Carolina

The Honorable Jocelyn Newman

Case No. 2017-CP-32-03043  
2017-LP-32-745

**RECEIVED**  
NOV 05 2018  
SC Court of Appeals

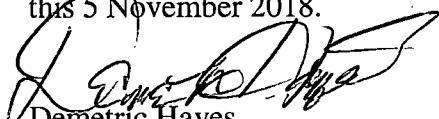
STEPHENS REMODELING, LLC.....Respondent

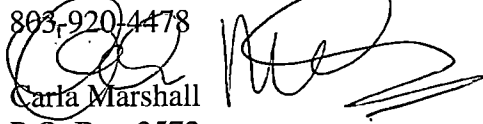
V.

Demetric Hayes and Carla Marshall.....Appellant

**Certificate of Service**

I certify that a copy of the foregoing Initial Brief and Designation of Matter has been served upon the Respondent by placing the same in the U.S. mail addressed to the following as shown this 5 November 2018.

  
Demetric Hayes  
P.O. Box 2572  
West Columbia, South Carolina 29171

803-920-4478  
  
Carla Marshall  
P.O. Box 2572  
West Columbia, South Carolina 29171  
843-260-9068

Cc:  
Counsel of Record for the respondent:  
Moore Taylor Law Firm  
William Edwards  
P.O. Box 5709  
West Columbia, South Carolina 29171