

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CALHOUN COUNTY

Court of Common Pleas

Martin R. Banks, Master-in-Equity

Case No. 2018-002012

Flagstar Bank, FSB.....Respondent,

v.

Ruby E. Pinnex.....Appellant.

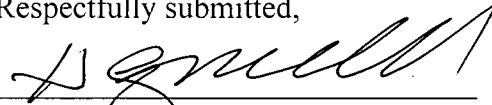
MOTION TO DISMISS APPEAL WITH PREJUDICE

RECEIVED
DEC 07 2018
SC Court of Appeals

H. Guyton Murrell, SC Bar 64134
Scott & Corley, P.A.
2712 Middleburg Dr., Suite 200
Columbia, SC 29204
803-252-3340
Attorneys for Respondent

PLEASE TAKE NOTICE that the Respondent, Flagstar Bank, FSB., (“Respondent”), by and through its undersigned attorney, will move before this Court for an Order with prejudice dismissing the instant appeal with prejudice pursuant to South Carolina Appellate Court Rules 269 and 260 on the grounds that the Appeal is frivolous and taken solely for the purposes of delay, and raises issues not properly preserved for appeal. Respondent would show that this Court dismissed a previous appeal in the same matter by Order filed October 18, 2017 in Appellate Case No. 2017-001493 with a finding that the appeal was moot. Respondent would further show that the previous Order of Dismissal was not appealed and is res judicata.

Respectfully submitted,



H. Guyton Murrell, SC Bar 64134
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Attorneys for Respondent

12/04, 2018
Columbia, South Carolina

The South Carolina Court of Appeals

Flagstar Bank, FSB, Respondent,

v.

Ruby Elaine Pinnex, Appellant.

Appellate Case No. 2017-001493

ORDER

Appellant has filed a notice of appeal from the master-in-equity's writ of assistance. Our review of this matter indicates that Appellant not only failed to appeal the order of foreclosure, but also a subsequent writ of assistance has now been issued. Thus, the parties' rights to the subject property are settled, and this appeal is moot. *See Mathis v. S.C. State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973) ("A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy. This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief."). Accordingly, the appeal is dismissed. *See Byrd v. Irmo High Sch.*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996) ("Before any action can be maintained, there must exist a justiciable controversy."); *id.* at 431, 468 S.E.2d at 864 ("This Court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy."). The remittitur will be sent as provided by Rule 221(b), SCACR.


FOR THE COURT

Columbia, South Carolina

FILED

October 18, 2017

cc:

Ruby Elaine Pinnex

Andrew Michael Wilson, Esquire

Reginald Patrick Corley, Esquire

Jessica S. Corley, Esquire



South Carolina Court of Appeals
 JENNY ABBOTT KITCHINGS, CLERK
 POST OFFICE BOX 11629
 COLUMBIA, SOUTH CAROLINA 29211

REGINALD PATRICK CORLEY
 PO BOX 2065
 COLUMBIA SC 29202

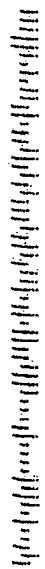
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South Carolina Court of Appeals
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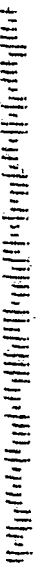


JESSICA S. CORLEY
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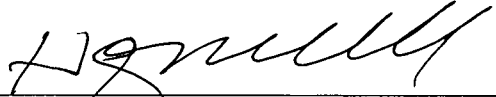
Ruby E. Pinnex.....Appellant.

PROOF OF SERVICE

I certify that I have served the Respondent's Motion to Dismiss Appeal with Prejudice on Ruby E. Pinnex by depositing a copy of it in the United States mail, postage prepaid, on December 4, 2018, at the address indicated below.

Dated: _____

12/04



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January 4, 2018

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: Flagstar Bank, FSB v. Ruby E. Pinnex
Appellate Case No.: 2018-002012

RECEIVED
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SC Court of Appeals

Dear Ms. Kitchings,

Enclosed please find one original and copy of the Motion to Dismiss with Prejudice, along with Proof of Service, in the above referenced matter. Upon filing, kindly return a clocked copy of same to our office in the self-addressed, postpaid envelope provided.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Scott and Corley, P.A.

Caroline Laster
Litigation Paralegal

Enclosed:
Ruby E. Pinnex

THIS IS A COMMUNICATION FROM A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE, EXCEPT AS STATED BELOW IN THE INSTANCE OF BANKRUPTCY PROTECTION.

IF YOU ARE UNDER THE PROTECTION OF THE BANKRUPTCY COURT OR HAVE BEEN DISCHARGED AS A RESULT OF A BANKRUPTCY PROCEEDING, THIS NOTICE IS GIVEN TO YOU PURSUANT TO STATUTORY REQUIREMENT AND FOR INFORMATIONAL PURPOSES AND IS NOT INTENDED AS AN ATTEMPT TO COLLECT A DEBT OR AS AN ACT TO COLLECT, ASSESS, OR RECOVER ALL OR ANY PORTION OF THE DEBT FROM YOU PERSONALLY.