

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
DOCKET NO. 2018-CP-14-00044

2018 NOV 29 AM 11:31
Beulah Roberts, Clerk-Clarendon S.C.

Wilmington Savings Fund Society, FSB,)
D/B/A Christiana Trust as Owner Trustee)
of the Residential Credit Opportunities)
Trust V,)
Plaintiff,)

Leroy Hooks, II; Ford Motor Credit)
Company, LLC,)
Defendants,)

Patricia A. Wheeler and Maria D. Williams,)
Intervenors.)

ORDER DENYING MOTION

RECEIVED

DEC 13 2018

SC Court of Appeals

This matter comes before the undersigned Special Referee on the MOTION FOR A NEW TRIAL OR FOR RELIEF FROM ORDER filed by the defendant, Leroy Hooks, II, by and through his attorney. A hearing was held in my office at which time I was attended by William Ceth Land, Esquire, attorney for Leroy Hooks, II, (HOOKS); Caroline Glenn, Esquire, attorney for the Plaintiff; and, Patrick R. Watts, Esquire, attorney for the intervenors.

The motion is based upon the grounds that Hooks is an incompetent person. Rule 17(c) requires the Court/Special Referee to appoint a Guardian ad litem to protect the interest of an incompetent person before his property can be divested. It is also argued that in this action the Court lacked personal jurisdiction over Hooks, thereby rendering the Judgment of Foreclosure and Sale void.

The Intervenors, being the purchasers at the sale of the property subject of the said Order, are parties to this action, and should be allowed to intervene.

Delphine Howard alleges to be the sister of Hooks. At the hearing her affidavit, and attachments, were submitted to the Court by Mr. Land. The attachments are marked as follows:

Exhibit 1: an unsigned form letter from the VA regional office stating Hooks was rated 100 percent, service-connected, permanent and totally disabled effective 5/19/1989. Also two unsigned form letters mailed to Hooks, at his request, confirming his VA disabilities.

Exhibit 2: an unsigned form letter dated 04/09/2018 from the Social Security office addressed to Kayia Davis of Tampa Florida, attaching her unsigned application to be representative payee for Hooks

Exhibit 3: unsigned medical records progress notes dated 09/12/2018. Hooks is noted as stating he had a cough that started a couple weeks ago and was on antibiotics, that he did not understand why the VA would not pull his tooth, and that his niece became his payee two months earlier. He appeared alert and oriented with moderately impaired insight and judgment. He appeared at interviews alone, and without assistance. He stated he wanted to handle his own money. His MENTAL STATUS EXAM reported him to be well groomed, with no abnormal behavior, normal speech, cooperative and attentive, normal affect, and with "linear, goal directed" thought process without auditory or visual hallucinations. Paranoia was noted that his family was taking his possessions. Concentration and attention fully intact. Short and long term memory also intact.

Exhibit 4: is an unsigned portion of a CHASE statement.

The Delphine Howard affidavit mainly recites cherry picked statements from the attached VA medical records and concludes the schizophrenia causes many problems and Hooks is unable to handle his own legal and financial needs.

A list of documents and an index were submitted at the hearing, a full copy of which may be filed by Mr. Land, if he so desires, and the Clerk of Court for Clarendon County permits such a filing.

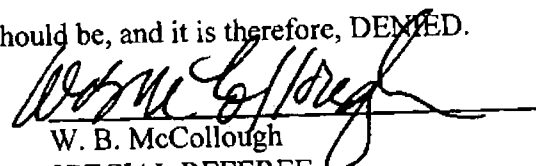
Debra Williams, a Social Worker with the VA, appeared at the hearing, solely for the purpose of authenticating the VA medical records attached to the said affidavit were from the VA office.

No expert testimony was presented at the hearing relating to Hooks' mental incompetence.

There was no evidence that a general guardian had ever been appointed for Hooks since the diagnosis, or certification, made by the VA in 1989.

No motion or application for the appointment of a Guardian ad litem was made during the pendency of this action.

I therefore find that Mr. Hooks' motion should be, and it is therefore, DENIED.


W. B. McCollough
SPECIAL REFEREE

Kingstree, South Carolina
November 16, 2018