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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY

Court of Common Pleas

William B. Jackson, Jr., Master-In-Equity

Case No. 2018-001303

Wells Fargo Bank, N.A., Respondent,

v.

Dorothy Sistrunk, Appellant.

APPELLANT'S MOTION TO REMAND

February 22, 2019

Dorothy Sistrunk – *Pro Se*
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Comes now the Appellant, Dorothy Sistrunk, to file her Motion to Remand, i.e., Wells Fargo Bank, N. A., Respondent v. Dorothy Sistrunk, Appellant - Case 2018-001303. See pg 3 for Appellant's Motion to Remand based upon the following grounds and reasons.

I. A REVIEW OF RULE 240, SCACR

1. Rule 240, SCACR does not state with specificity or particularity the grounds or guidelines upon which a Motion to Remand can or must be based. In Powers v. City of Aiken, 255 S.C. 115, 117, 177 S.E. (2nd) 370, 371 (1970), the Supreme Court of South Carolina stated; "[t]he purpose of appeal under our procedure is "to determine if the lower court did something that it should not have done, or omitted doing something it should have done. Accordingly, a trial judge will not be reversed for failing to act on a matter that was not submitted to him."

2. Rule 240(a), SCACR states in pertinent parts; "[T]his Rule governs all motions or petitions filed in the appellate court, including but not limited to: motions for extension of time, motions to reinstate, petitions for rehearing, motions to be relieved as counsel or for substitution of counsel, petitions for supersedeas, **motions to remand** or dismiss and petitions for hearing *en banc*." {**Boldness** and Underlining for emphasis}

3 Rule 240(c), SCACR, states the following in pertinent parts; "[A]ll motions or petitions filed in an appellate court shall be in writing, shall state the grounds thereof, and shall comply with the requirements of Rule 267. The pages of the motion or petition and all supporting documents shall be consecutively numbered. Each motion or petition shall include the following:

(1) "[A] certificate or affidavit of service reflecting the date of service upon all parties. The original certificate or affidavit of service must be filed with the original motion or petition."

(2) "[A] memorandum with citation of authorities in support of the motion."

(3) “[W]here the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the parties shall file affidavits and other documents in support of their positions.”

4. Rule 240(d), SCACR states in pertinent parts; “[A]n original and six (6) copies of the motion shall be filed with the clerk of the appellate court, and a copy shall be served upon each party. The copies filed with the appellate court shall be accompanied by the filing fee set by order of the Supreme Court.” Re: \$50.00

State v. Foster, 277 S.C. 211, 212, 284 S.E.2d 780, 780 (1981) (“Taken literally, the word ‘shall’ is mandatory.”)

II. APPELLANT'S MOTION TO REMAND

5. Now that the Internet is a witness for the Appellant from the addresses that were provided in the Appellant’s *Reply Brief* that is dated February 4, 2019, any judge, Appellate or otherwise, can access the Internet for proof, as well as, Wells Fargo’s own legal department and Wells Fargo’s hired attorneys and based upon the above stated **Rules** and **Case Law** reference, the Appellant moves the Appellate Court to **Remand** this case back to the Court of Common Pleas in Orangeburg, South Carolina, in the First Judicial Circuit; where it was originally filed for the following reasons:

(a) To put a permanent end to Thomas Jacobs’ “**Home Improvement And Mortgage Fraud**”, the **Document Fraud** of the Player Law Firm, i.e., Debra C. Galloway’s and Stephanie Hammond’s **False Certification of a Mortgage**, Debra C. Galloway’s **Concealment of Material Facts**, violation of *24 CFR Part 35 – Subpart A*, the **Document Fraud, Concealment of Material Facts, Unauthorized Use of A Credit Report and Forgeries** by the so called Broker, i.e., Golden Gate Mortgage / David Terrell, the **Document Fraud, Concealment of Material Facts, Unauthorized Use of a Credit Report, Forgery and False Accusations** by Wells Fargo’s own employees, most notably Wells Fargo’s underwriter(s) and Janet Frotscher at Wells Fargo Home Mortgage, the **Misrepresented Material Facts, Massive Filing Fraud** and the **Outright Lies** of Wells Fargo’s hired lawyers from Nelson Mullins Riley & Scarborough, LLP; i.e., Elizabeth Scott Moise, James H. Burns and Brian A. Calub and finally, the **Appraisal Fraud** and **Forgery by Substitution** by Jim H. Austin, III.

(b) To end an unjust foreclosure proceedings that is no longer a legal proceeding but rather the infliction of cruel and unusual punishment on a victim of a well executed scheme to defraud Wells Fargo out of \$75,000. Wells Fargo's hired lawyers from Nelson Mullins Riley & Scarborough, LLP, Rogers Townsend & Thomas, PC and Womble Bond Dickson, LLP, are complicit and willing participants in the concealment of material facts and inflicting cruel and unusual punishment on the Appellant that is a victim of a scheme. These actions by the Court and Wells Fargo's hired lawyers violate *Article I, § 15* of South Carolina's Constitution.

(c) To dismiss this case with prejudice. Mortgage Frauds are cancelled not foreclosed.

(d) To pay for restitution to the Appellant for the emotional scarring that has occurred because of the inflicted emotional stress caused by Wells Fargo's personnel and by Wells Fargo's hired law firms that are identified in ¶¶ (a) and (b) that is in fact a cruel punishment and not justice.

6. The cruel and unusual punishments clause is also a clause in the United States; and as stated, in South Carolina's Constitution that prohibit imposing cruel and unusual punishments. A cruel and unusual punishment refers to punishments that are clearly inhumane or that violate basic human dignity. This clause was added in the U.S. Constitution in the eighth amendment. Demanding and seeking court approval for a Mortgage Fraud so that the innocent victim of the fraud can pay \$159,220.00 for a \$15,000.00 house is not only cruel it is also unconscionable. The information that is now available on the Internet proves clearly and convincingly that 423 Bayne Street is a Mortgage Fraud by statutory definition and by the nine step rule that South Carolina courts use to determine a fraud. Wells Fargo paid \$75,000.00 for nothing of equal value.

(a) *State v. Pittman*, 647 SE 2d 144 (2007) "[T]he Eighth Amendment to the United States Constitution provides, 'Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.' As this Court has recognized, what constitutes cruel and unusual punishment, and thus, what violates the Eighth Amendment, is determined by 'evolving standards of decency that mark the progress of a maturing society.'" *State v. Standard*, 351 S.C. 199, 204, 569 S.E.2d 325, 328 (2002)."

"[T]he United States Supreme Court has instructed that 'the clearest and most reliable objective evidence of contemporary values is the legislation

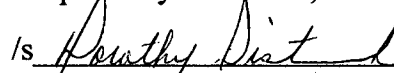
enacted by the country's legislatures." *Atkins*, 536 U.S. at 313, 122 S.Ct. 2242 (quoting *Penry v. Lynaugh*, 492 U.S. 302, 331, 109 S.Ct. 2934, 106 L.Ed.2d 256 (1989)). The court has additionally stated that the Constitution requires the court's own judgment to be brought to bear on the issue by "asking whether there is reason to disagree with the judgment reached by the citizenry and its legislators." *Id.* at 313, 109 S.Ct. 2934."

(b) Article I, § 15 of South Carolina's Constitution states the following; "[A]ll persons shall be, before conviction, bailable by sufficient sureties, but bail may be denied to persons charged with capital offenses or offenses punishable by life imprisonment, or with violent offenses defined by the General Assembly, giving due weight to the evidence and to the nature and circumstances of the event. Excessive bail shall not be required, nor shall excessive fines be imposed, nor shall cruel, nor corporal, nor unusual punishment be inflicted, nor shall witnesses be unreasonably detained. (1998 Act No. 259, Section 2, eff February 17, 1998.)"

7. Based upon the above stated Rules, Case Law References, Constitutional Citations and in the Interest of Justice, the Appellate Court to should *Remand* this case back to the Court of Common Pleas in Orangeburg, South Carolina, in the First Judicial Circuit to end it; for Wells Fargo's benefit as well. *Remand* and closure will allow Wells Fargo to pursue the perpetrators of the fraud and sue its hired law firms for allowing this fraud to continue for over 10 years. In addition; relative to the issue and/or issues raised and the grounds thereof that are identified in this Motion to Remand and shall be set forth in the accompanying Memorandum With Citations To Authorities and because statements have been made and shall be made with specificity and particularity, the accompanying Memorandum will be verified. Affidavits, Exhibits and the necessary documentation of the fraud will be attached hereto pursuant to Rule 240(c)(3), SCACR.

February 22, 2019

Respectfully submitted,

/s/ 
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Motion To Remand

March 1, 2019

The Honorable Jenny Abbot Kitchings Clerk of Court
& Deputy Clerk of Court V. Claire Allen
South Carolina Court of Appeals
POB 11629
Columbia, SC 29211

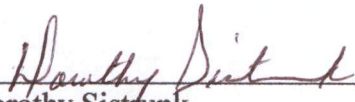
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RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk
Civil Action Case #2008-CP-38-1024
Appellate Case #2018-001303

Ms. Kitchings and/or Ms. V. Claire Allen

I delivered my "**Motion to Remand, Proof of Service, My Memorandum with Citations to Authorities**" and with documentation compiled pursuant to *Rule 267(b)-(d) SCACR* to support my "**Motion to Remand**" and paid the \$50.00 fee. In accordance with *Rule 240(e), SCACR*, I delivered an original and six (6) copies of my *Motion* and supporting documents; paper clipped and not stapled, and I have also served a copy of same on all parties listed below.

Thank you.

/s/ 
Dorothy Sistrunk

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