

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )  
 )  
NATIONSTAR MORTGAGE, LLC )  
d/b/a MR. COOPER, )  
 )  
Respondent, )  
 )  
vs. )  
 )  
BARBARA A. GIBBS, MELVIN E. )  
GIBBS, )  
Appellants. )  
\_\_\_\_\_ )

IN THE COURT OF APPEALS  
OF SOUTH CAROLINA

CASE No: 2019-000486

**RECEIVED**  
MAY 24 2019  
SC Court of Appeals

**APPELLANTS' MOTION FOR RECONSIDERATION**

**I. PRELIMINARY STATEMENT**

1. Respondent filed this illegal foreclosure as retaliation against Respondents for exercising this right to have their mortgage modified at 2% rather than its current 6.25%. Appellants were victims of Bank of America having defrauded 2 million homeowners of \$25 billion. Bank of America refused to modify mortgages under HAMP as required by the Treasury Department – Bank of America received loans of \$45 billion and hundreds of billions of dollars in guarantees.

2. Prior to the foreclosure Appellants had not missed a single mortgage payment. In fact: Respondent foreclosure filing claimed Appellants defaulted August 2013. However, Respondent cashed Appellants' mortgage payments for August and September 2013.

**II. STATEMENT**

3. This appeal affects Appellant Barbara Gibbs' bankruptcy case and litigation under RICO Appellant Melvin Gibbs is preparing to file in the Eastern District of California.

a. The illegal foreclosure is the sole reason Appellant Barbara Gibbs was forced to file for bankruptcy. This Court has an obligation to rule on the merits of this case; Appellant

Barbara Gibbs has a right to file Respondent's illegal conduct for consideration of the bankruptcy court.

b. Appellant Melvin Gibbs is not a party to the mortgage note Barbara Gibbs executed with Bank of America – Respondent Nationstar Mortgage may or may not own said mortgage note. Nor is Appellant Melvin Gibbs a party in the bankruptcy case.

(1) Appellants were forced to file suit against Referees in the Federal Districts of Colorado and Maryland to protect their rights, to wit: Right to trial by jury, and objection to this case being transferred to Referees which voided Appellants' right to a jury trial.

(2) The US Court of Appeals for the 10<sup>th</sup> Circuit reversed the case upon which Appellants' case [District of Colorado] was based. That Court ruled Bank of America was in fact pleaded properly as a corrupt organization.

### **III. STATEMENT OF FACTS**

4. Appellant Melvin Gibbs seeks to file his RICO suit in the Federal District Court for the Eastern District of California without any connection to this litigation. The lower court in refusing to dismiss this illegal suit and joining with Respondent has destroyed the normal rights of Appellants to the quiet enjoyment of their home and a normal life.

5. This Court has an obligation to mitigate the lower court's damages by placing this case back on the active docket and ending this illegal suit. Appellant has researched civil RICO extensively as to the 4<sup>th</sup>, 10<sup>th</sup> and 9<sup>th</sup> US Circuit Courts of Appeals. Appellant has no desire to continue any research [US 9<sup>th</sup> Circuit Court of Appeals] as to acts of the lower; Appellant respectfully request this Court end this illegal action.

#### **IV. STATEMENT OF THE CASE**

6. Attorney Murrell had Respondent submit affidavits of debt claiming Appellants did not pay their mortgage, in relevant part, for the months of July and August 2013. In fact, Respondent's foreclosure is based solely on their allegation Appellants defaulted August 2013.

7. Appellants, by affidavit, submitted bank records that certified Appellants paid and Received and cashed payments for July and August 2013, inter alia, January 2013 thru December 2013.

8. During the proceeding in the lower court, Respondent did not challenge or raise objection to Appellants' certified bank records – and cannot make a challenge to said bank records in this Court.

a. Attorney Murrell has suborned perjury! Now, forced to file a proof of claim in the federal bankruptcy court, Attorney Murrell seek to have this Court “save” him from conflicting claims being filed in two different courts.

9. Appellant M. Eugene Gibbs has a right to prosecute this appeal to be able to sell his home and recover the more than \$350,000 he invested in their home or take any other action M. Gibbs deems just and proper in regards to his home.

#### **V. MEMORANDUM OF AUTHORITY**

15. This Honorable Court did not provide any authority for holding this case in abeyance. Therefore, Appellant cannot provide any authority as to his legal position as to why this Court should reverse its ruling.

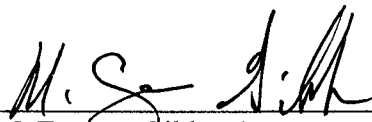
16. Appellant filed an opposition on May 3, 2019 which was returned due to Appellant having reversed the first two numbers in the address of the Court: said opposition is attached hereto as Exhibit 1.

**VI. CONCLUSION**

There is no legal authority to support this case being held in abeyance. Therefore, Appellant respectfully request this case be placed on the active docket and ruled on.

**WHEREFORE**, Appellant prays this Honorable Court restore this case to the active docket, and grant such other and further relief, at law and equity, general or special, to which Plaintiff has shown himself justly entitled.

Respectfully submitted,

  
\_\_\_\_\_  
M. Eugene Gibbs, Pro-se  
3108 Hidden Falls Drive  
Buford, Georgia 30519  
mgibbs70@aol.com  
(843) 610-0674

# **EXHIBIT - 1**

1

\$1.00 US POSTAGE  
1 OZ FIRST-CLASS FLATS RATE

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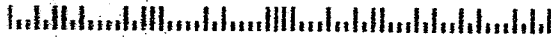
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MELVIN E. GIBBS  
3108 Hidden Falls Drive  
Buford GA 30519

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SHIP TO: Clerk  
SC Court of Appeals  
2120 Senate Street  
Columbia SC 29205-1080



*J.A.  
5-6-09*

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**APPELLANTS' OPPOSITION TO RESPONDENT'S STAY**

1. The bankruptcy case filed in the US Bankruptcy Court, Northern District of Georgia only stays the foreclosure and doesn't affect this appeal. AND, Respondent does not, in their 30 page exhibit, identify a section that prevents this Court from moving forward and/or requires this appeal be stayed.

2. This Court denied Appellants' motion to stay the lower court's order; having determined although Appellants make application for a stay to the lower court, the lower court had not ruled on the motion. Therefore a stay was not proper before this Court.

a. Attorney Murrell had Respondent submit affidavits of debt claiming Appellants did not pay their mortgage, in relevant part, for the months of July and August 2013. In fact, Respondent's foreclosure is based solely on their allegation Appellants defaulted August 2013.

b. Appellants, by affidavit, submitted bank records that certified Appellants paid and Received and cashed payments for July and August 2013, inter alia, January 2013 thru December 2013.

c. During the proceeding in the lower court, Respondent did not challenge or raise objection to Appellants' certified bank records – and cannot make a challenge to said bank records in this Court.

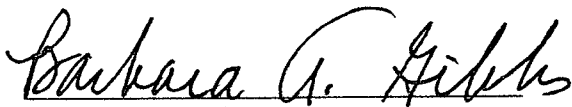
(1) Attorney Murrell has suborned perjury! Now, forced to file a proof of claim in the federal bankruptcy court, Attorney Murrell seek to have this Court “save” him from conflicting claims being filed in two different courts.

3. A stay is improper in that Appellant M. Eugene Gibbs is not a party to the bankruptcy case. AND, Appellant M. Eugene Gibbs is not a party to the mortgage contract signed between Barbara A. Gibbs and Bank of America, at issue in the foreclosure.

4. Appellant M. Eugene Gibbs has a right to prosecute this appeal to be able to sell his home and recover the more than \$350,000 he invested in their home or take any other action M. Gibbs deems just and proper in regards to his home.



M. Eugene Gibbs, Pro-se  
3108 Hidden Falls Drive  
Buford, Georgia 30519  
mgibbs70@aol.com  
(843) 610-0674



Barbara A. Gibbs, Pro-se  
3108 Hidden Falls Drive  
Buford, Georgia 30519

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**CERTIFICATE OF SERVICE**

I, Melvin E. Gibbs, hereby certify that a copy of Appellant's Motion for Reconsideration was placed with USPS, postage prepaid, the 22<sup>nd</sup> day of May 2019, addressed to:

H. Guyton Murrell, Esq.  
SCOTT AND CORLEY, P.A.  
2712 Middleburg Drive, Suite 200  
Columbia, SC 29204, and

  
\_\_\_\_\_  
M. Eugene Gibbs, Pro-se  
3108 Hidden Falls Drive  
Buford, Georgia 30519  
mgibbs70@aol.com  
(843) 610-0674

**P**

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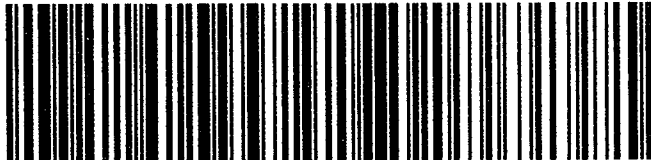
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Columbia SC 29201-3769



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