

90137

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Judge Cynthia Howe. Master-In-Equity

Appellate Case No. 2018-001523

M&T Bank, Respondent,

v.

Tyrone Davis; Bobby J. Bellamy; BC
Fund and Management, LLC d/b/a BC
Fund, LLC and United States of America, Defendants,

Of which Bobby J. Bellamy is the Appellant,

And

Tyrone Davis; BC Fund and Management, LLC d/b/a BC
Fund LLC are Respondents,

And

Bobby J. Bellamy, Appellant,

v.

William O. Smith, Respondent,

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JUL 31 2019

SC Court of Appeals

July 30, 2019

MOTION TO RECALL REMITTER

Now comes Bobby Bellamy to petition the court to Recall Remittitur to
correct and prevent a grave miscarriage of justice.

On August 27, 2018, the Letter ordering transcript from Garber reporting court reporter (**Exhibit 1**). The Appellant requested the entire record.

Garber reported that they were not the transcribers in this trial.

On February 1, 2019, the Letter Ordering Transcript from Prestige Court recording filed on February 1, 2019, the Appellant's attorney reported that the transcribers in this case was Prestige Court Recording. The Letter Ordering Transcript from Prestige Court recording filed on February 1, 2019 (**Exhibit 2**).

On February 6, 2019, the respondent addressed the clerk of court with a letter that reported other trials that were held on multiple dates and Garber was one of the transcribers. The respondent requested advice on this matter (**Exhibit 3**).

On April 4, 2019, the Clerk of Court advised the Appellant that they were in receipt of the copy of the transcript that was filed on February 07, 2019. Further, the copy of the transcript was not needed at this time, therefore the copy was returned to Appellant (**Exhibit 4**).

On April 4, 2019, the Clerk of Court advised the Respondent that he must file a motion in pursuant to rule 240 of the South Carolina Appellate Court Rules if he wished to request relief from the court to request transcripts from additional trials. Otherwise, no further action will be taken on the letter (**Exhibit 5**).

The Respondent failed to take the advice of this honorable court and file a motion in pursuant to Rule 240 of the South Carolina Appellate Court Rules. Now the Respondent calls for transcripts for additional trials after the reports has been ordered from both reporting agencies. The Respondent wishes relief from the court with technicalities and failed to properly serve the Appellate by mail as required by law with all pleadings.

On May 30, the Court Ordered the Appellant to provide proof that he has ordered the transcript from other trials on February and April 2016 without prior requirements of the Respondent being fulfilled (**Exhibit 6**). The requirement for the Respondent to file a Motion is in pursuant to Rule 240 of the South Carolina Appellate Court Rule.

The Appellant did not receive the Order requesting transcripts for additional trials that was filed May 30, 2019 and request the Court to Recall Remitter for further relief for the following:

1. The Respondent caused an illegal foreclosure eviction by a local magistrate to move the Appellant out of his primary residence before the Judge ruled on decision of the foreclosure as required by law. Although, the Appellant checked the mailbox daily, being out of the home, prevented the appellant from having sole access to the appellant's mail.
2. The M&T Bank closing attorney, Scott Umstead, should have had the knowledge and experience to competently handle any case that he takes on. He should have been sufficiently prepared to handle problems that came up in the closing. He made serious mistakes such as failing to perform proper title and LLC searches, failed to reveal discussions with title holder that affected the transfer of tittle, and mishandled M&T Bank's funds. These mistakes ultimately led to the illegal transfer of title and fraud.

I pray that the Court moves to Recall the Remitter and allow the Appellant a stay for transcripts requested for trials in February and April 2016.

Respectfully yours,

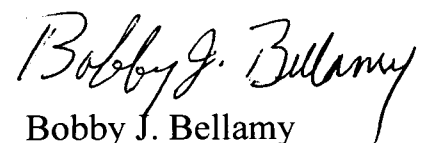

Bobby J. Bellamy

Exhibit 1

LETTER ORDERING TRANSCRIPT FROM COURT REPORTER

August 23, 2018

Gerber Reporting Service
Certified Court Reporters
P.O. Box 12348
Columbia, South Carolina 29211
803 256-4500

RE: M&T Bank vs Tyrone Davis; Bobby J. Bellamy; BC
Fund and Management, LLC d/b/a BC
FUND, LLC; etal.

RECEIVED
AUG 27 2018
SC Court of Appeals

Dear: Transcriber

On July 3, 2018, the above case was tried before the Honorable Cynthia Howe, Master-in-Equity in Horry County. My records indicate that you were the court reporter for this case.

I request that you provide me with a transcript of the proceedings, please transcribe the entire record.

I agree to pay the per page charge for this transcript as provided by rule 607. SCACR.

Sincerely,

Bobby J. Bellamy

Bobby J. Bellamy, **Pro se**
3664 Sea Mountain Highway,
Little River, South Carolina 29566
843 457- 3625

Mary P. Jones, Esquire
S.C. Court Administration
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

August 23, 2018

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

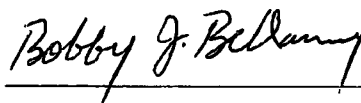
RE: M&T Bank etal, Respondent vs Bobby J. Bellamy, Appellant

RECEIVED
AUG 27 2018
SC Court of Appeals

Dear Ms. Kitchings:

Enclosed for filing is Form 11 Letter Ordering Transcript from Court Reporter.

Sincerely,



Bobby J. Bellamy, **Pro se Appellant**
3664 Sea Mountain Highway,
Little River, South Carolina 29566
843 457- 3625

Attorney for Respondent

Cliff Moore, III Adams and Reese LLP
1501 Main Street 5th Floor
Columbia S.C 29201 803 254-4190

John B. Kelchner
Hutchens Law Firm
P.O. Box 8237
Columbia, SC 29202 803 726-2700

Daniel J Orvin
Womble Bond Dickson LLP
5 exchange Street
Charleston, South Carolina 29401
843 772-3400

Bobby J. Bellamy
3664 Sea Mountain Hwy
Little River, SC
29566



7018 0680 0000 5317 1205

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REQUESTED



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The Honorable Jenny Kitchings
Clerk, SC Court of Appeals
P.O. Box 11629
Columbia, S.C.

AUG 27 2018

SC Court of Appeals

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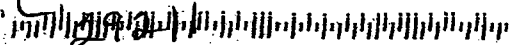


Exhibit 2

LETTER ORDERING TRANSCRIPT FROM COURT REPORTER

Prestige Court Recording, Inc.
413 Paul Street
Conway, SC 29527

RE: M&T Bank vs Tyrone Davis; Bobby J. Bellamy; BC
Fund and Management, LLC d/b/a BC
FUND, LLC; etal.

RECEIVED
FEB 01 2019
SC Court of Appeals

Dear: Ms. Donna Martin

On July 3, 2018, the above case, Motion to reconsider was tried before the Honorable Cynthia Howe, Master-in-Equity in Horry County. Prestige Court Recording, Inc. provided court recording for this hearing. I have been ordered by the S.C. Appeals Court to order the transcript provided by Prestige in this matter. As per conversation on January 10, 2019, notification upon request for the entire transcript of the proceedings on this date. I agree to pay the per page charge as discussed in advance for this transcript as provided by rule 607. SCACR. Please contact me at the 843 457-3625 to arrange payment.

January 31, 2019

Sincerely,

Bobby Bellamy

Bobby J. Bellamy, Pro se
3664 Sea Mountain Highway,
Little River, South Carolina 29566
843 457- 3625

Mary P. Jones, Esquire
S.C. Court Administration
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM HORY COUNTY

Court of Master-In-Equity

Judge Cynthia Howe, Master-In-Equity

Bobby Bellamy,

CA.NO: 2011-CP-26-01809

Appellant

v.

M&T Bank,
Scott Umstead,
Tyrone Davis, William O. Smith,
BC Fund and Management LLC DBA BC FUND, LLC;
Respondent

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FEB 01 2019
SC Court of Appeals

PROOF OF SERVICE

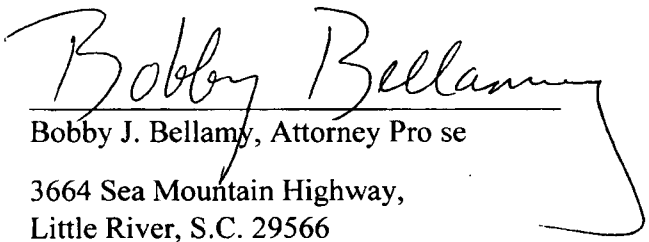
I certify that I have served the Order of Transcript for Motion to Reconsider on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on January 31, 2019 addresses to his attorney of record, Cliff Moore, III Adams and Reese LLP, 1501 Main Street 5th Floor, Columbia, S.C. 29201.

I certify that I have served the Order of Transcript for Motion to Reconsider on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on January 31, 2019 addresses to his attorney of record, John B. Kelchner, Hutchens Law Firm P.O. Box 8237, Columbia, S.C. 29202.

I certify that I have served the Order of Transcript for Motion to Reconsider on Tyrone Davis by depositing a copy of it in the United States Mail, postage prepaid, on January 31, 2019 addresses to his attorney of record, Daniel J. Orvin, Womble Bond Dickson LLP, 5 Exchange St. Charleston, S.C. 29401

I certify that I have served the Order of Transcript for Motion to Reconsider on Scott Umstead, William O. Smith, BC Fund and Management LLC DBA BC Fund LLC. By depositing a copy of it in the United States Mail, postage prepaid, on January 31, 2019 addressed to attorney Scott Umstead 4226 Mayfair St. #100 Myrtle Beach, S.C. 29577.

January 31, 2019


Bobby J. Bellamy, Attorney Pro se
3664 Sea Mountain Highway,
Little River, S.C. 29566

January 31, 2019

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

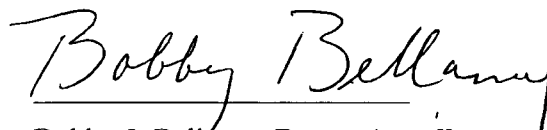
RE: M&T Bank etal, Respondent vs Bobby J. Bellamy, Appellant

RECEIVED
FEB 01 2019
SC Court of Appeals

Dear Ms. Kitchings:

Enclosed for filing is Letter Ordering Transcript from Prestige Court Reporter as per Order dated January 24, 2019 and proof of service.

Sincerely,



Bobby J. Bellamy, Pro se Appellant
3664 Sea Mountain Highway,
Little River, South Carolina 29566
843 457- 3625

Attorney for Respondent

Cliff Moore, III Adams and Reese LLP
1501 Main Street 5th Floor
Columbia S.C 29201 803 254-4190

John B. Kelchner
Hutchens Law Firm
P.O. Box 8237
Columbia, SC 29202 803 726-2700

Daniel J Orvin
Womble Bond Dickson LLP
5 exchange Street
Charleston, South Carolina 29401
843 772-3400

Bobby Bellamy
3664 Sea Mountain Hwy
Little River, SC
29566

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FEB 01 2019
SC Court of Appeals

SC. Court of Appeals
Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, SC 29211

Exhibit 3

ADAMS AND REESE LLP[®]

February 6, 2019

Via Hand Delivery

The Honorable Jenny Abbott Kitchings
Clerk, The South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina

RECEIVED
FEB 06 2019
SC Court of Appeals

Attorneys at Law
Alabama
Florida
Georgia
Louisiana
Mississippi
South Carolina
Tennessee
Texas
Washington, DC

W. Cliff Moore III
Direct: 803.212.4956
E-Fax: 803.343.1248
cliff.moore@arlaw.com

RE: *M&T Bank v. Tyrone Davis, et al.*
Appellate Case No. 2018-001523
A&R File No. 050168-000223

Dear Ms. Kitchings:

Today I received a communication from Prestige Court Reporting Services asking me if I wanted a copy of the transcript that the Appellant ordered. I ordered and received a copy of the transcript and now realize that the transcript ordered was from the hearing on the Motion to Reconsider that was held on July 3, 2018. I note that Mr. Bellamy filed his letter ordering the transcript with the Court on February 1, 2019 and certified that he served a copy on me by mail. I have not received notice of the filing, but was able to secure a copy from the Court's website today. Not receiving filings that have been certified as being served on me has been a recurring problem in this appeal.

The Motion to Reconsider was heard on July 3, 2018. This was not an evidentiary hearing. The Court Reporter for that hearing was with Prestige Court Reporting Services.

The trial was held on February 8 through 11, 2016 and April 11 through 12, 2016. The Court Reporter for the trial was with Garber Reporting Service.

My understanding is that the Court requires that trial transcript. Please advise if I am mistaken.

Sincerely,



W. Cliff Moore, III

WCMIII/jas

cc: *via U.S. Mail*
Mr. Bobby B. Bellamy
John B. Kelchner, Esq.
Daniel Q. Orvin, Esquire & Matthew Tillman, Esq.
George J. Conits, Esquire

1501 Main Street, 5th Floor | Columbia, South Carolina 29201 | 803.254.4190 | Fax 803.779.4749

www.adamsandreeselaw.com

ADAMS AND REESE LLP



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FEB 06 2019
SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, The South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina

Exhibit 4



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

April 04, 2019

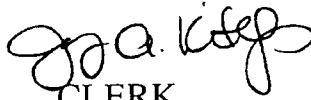
Bobby J. Bellamy
3664 Sea Mountain Highway
Little River SC 29566

Re: M&T Bank v. Tyrone Davis
Appellate Case No. 2018-001523

Dear Mr. Bellamy:

We are in receipt of the copy of the transcript that you filed on February 7, 2019. Please be advised that a copy of the transcript is not needed at this time. Therefore, we are returning it to you.

Very truly yours,


CLERK

cc: W. Cliff Moore, III, Esquire
John Brian Kelchner, Esquire
Daniel Quigley Orvin, Esquire
Matthew Tillman, Esquire
Kirby Darr Shealy, III, Esquire
Scott B. Umstead, Esquire

Exhibit 5



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

April 04, 2019

Mr. W. Cliff Moore, III, Esquire
PO Box 2285
Columbia SC 29202

Re: M&T Bank v. Tyrone Davis
Appellate Case No. 2018-001523

Dear Counsel:

We are in receipt of your correspondence filed on February 6, 2019. Please be advised that you must file a motion pursuant to Rule 240 of the South Carolina Appellate Court Rules if you wish to request relief from the Court. Otherwise, no further action will be taken on this letter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny Abbott Kitchings".

CLERK

cc: Bobby J. Bellamy
John Brian Kelchner, Esquire
Daniel Quigley Orvin, Esquire
Matthew Tillman, Esquire
Kirby Darr Shealy, III, Esquire
Scott B. Umstead, Esquire

Exhibit 6

The South Carolina Court of Appeals

M&T Bank, Respondent,

v.

Tyrone Davis; Bobby J. Bellamy; BC Fund and Management, LLC d/b/a BC Fund, LLC and United States of America, Defendants,

Of which Bobby J. Bellamy is the Appellant,

And

Tyrone Davis and BC Fund and Management, LLC d/b/a BC Fund, LLC are Respondents,

And

Bobby J. Bellamy, Appellant,

v.

William O. Smith, Respondent.

Appellate Case No. 2018-001523

ORDER

Within ten days of the date of this order, Appellant shall provide proof that he has ordered the transcript from the trial of this matter that occurred in February and April 2016. Upon receipt, or the expiration of ten days, this court will consider Respondent's motion to dismiss this appeal.



FOR THE COURT

Columbia, South Carolina

cc:

Bobby J. Bellamy

W. Cliff Moore, III, Esquire

John Brian Kelchner, Esquire

Daniel Quigley Orvin, Esquire

Matthew Tillman, Esquire

Kirby Darr Shealy, III, Esquire

Scott B. Umstead, Esquire

FILED

May 30, 2019

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Judge Cynthia Howe. Master-In-Equity

Appellate Case No. 2018-001523

M&T Bank, Respondent,

v.

Tyrone Davis; Bobby J. Bellamy; BC
Fund and Management, LLC d/b/a BC
Fund, LLC and United States of America, Defendants,

Of which Bobby J. Bellamy is the Appellant,

And

Tyrone Davis; BC Fund and Management, LLC d/b/a BC
Fund LLC are Respondents,

And

Bobby J. Bellamy, Appellant,

v.

William O. Smith, Respondent,

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JUL 31 2019
SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Appellant's Motion to recall Remitter on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid on July 30, 2019 addressed to the his attorney of record, Cliff Moore, III Adams and Reese LLP, 1501 Main Street 5th Floor , Columbia, S.C. 29201.

I further certify that I have served the Appellant's Motion to recall Remitter on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid on July 30, 2019 addressed to the attorney of record as follows:

John Brian Kelchner, Esq.
Hutchens Law Firm
P.O. Box 8237
Columbia, SC 29202

George J. Conits, Esq
US Attorney's Office
55 Beattie Place, Suite 700
Greenville, S.C. 29601

Daniel Q. Orvin, Esq.
Matthew Tillman, Esq,
Womble Bond Dickinson (US) LLP
5 Exchange Street
Charleston, SC 29401

Bobby J. Bellamy
3664 Sea Mountain Highway
Little River, SC 29566
843 457-3625

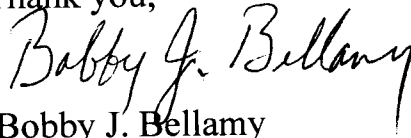
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina

RE: M&T Bank v. Bobby J. Bellamy, et al
Appellate Case No. 2018-001523

Dear Ms. Kitchings:

I have enclosed a check in the amount of \$50.00 processing fee and the original of Motion to recall Remitter and Proof of Service for filing.

Thank you,



Bobby J. Bellamy

cc: Cliff Moore, III
John B. Kelchner, Esq
Daniel Q. Orvin, Esq
Matthew Tillman, Esq.
George J. Conits, Esq.

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JUL 31 2019

SC Court of Appeals

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