

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

**APPEAL FROM HORRY COUNTY  
Court of Common Pleas**

**Judge Cynthia Howe, Master-In-Equity**

**Ralph P. Stroman, Special Referee for Horry County**

**Case No: 2019-001682**

**RECEIVED**

**MAY 21 2020**

**SC Court of Appeals**

**Leticia LLC, Movant,**

**In Re:**

**M&T Bank, Plaintiff,**

**v.**

**Tyrone Davis; Bobby J. Bellamy; BC Fund and Management, LLC d/b/a BC  
Fund, LLC, Defendants,**

**And**

**M&T Bank, Respondent,**

**v.**

**Tyrone Davis, Bobby J. Bellamy, BC Fund and Management, LLC d/b/a BC  
Fund, LLC, Defendants,**

**Of whom 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.**

**APPELLANT'S RESPONSE IN OPPOSITION TO CORRECT RECORD  
ON APPEAL**

The Appellant respond in opposition to the Respondent M&T Bank's Motion to Correct Record on Appeal with written statements by reference to the three issues raised. The Appellant responds with explanation to the Court as to why the Respondent is not entitled to the corrections as follows:

(1) The Record does not include items designated by Respondent in its Designation of Matter Included in the Record on Appeal.

The Respondent M&T Bank filed Initial Brief and Designation of Matter on April 16, 2020. The Respondent designated (10) items to be included in the Record on Appeal, Specifically, items numbered 5,6,7,8,17,20,21,22,34, and 35. On April 23, 2020 the Appellant filed a Reply to the Respondent's Initial Brief with **objection** to Respondent's Designation of Matter. The Respondent's Designation of Matter is riddled with requests for documents that are irrelevant to this appeal because these documents consist of orders and motions filed by South Carolina Appellate Court Case Number 2018-001523 and not presented in the Lower Court pursuant to SCACR Rule 210(c). The Appellate Case Number 2018-001523 was dismissed and return to remittitur for failure of the Appellant to provide transcripts in a timely manner as requested by the Respondent for multiple court dates. *see Respondent's Designation of Matter* number:

- (5) January 24, 2019, Order in Appellate Case Number 2018-001523
- (6) July 1, 2019, Order in Appellate Case Number 2018-001523
- (7) July 15, 2019 Remittitur in Appellate Case Number 2018-001523
- (8) May 30, 2019 Order in Appellate Case Number 2018-001523
- (11) September 17, 2019 Order in Appellate Case Number 2018-001523
- (17) August 17 2018 Notice of Appeal in Appellate Case Number 2018-001523
- (20) December 3, 2018 Motion to Dismiss in Appellate Case Number 2018-001523
- (21) April 8, 2019 Motion to Dismiss in Appellate Case Number 2018-001523
- (22) August 1, 2019 Motion in Appellate Case Number 2018-001523
- (34) August 23, 2018 Letter Ordering Transcript
- (35). November 26, 2019 Affidavit of John Kelchner

(2) The Record on Appeal includes matters not presented to the lower Court.

(a) records of the secretary of State of North Carolina concerning an entity known as BC Fund LLC (Record on Appeal p.98) and (b) unsigned and unrecorded documents concerning the formation of Bellamy and Bellamy, LLC (Record on Appeal pp. 105-121) The Appellant respond in opposition to the Respondent M&T Bank's Motion to omit these important document in Record on Appeal because of the argument in the entire case: Is BC Fund LLC a trade name for BC Fund and Management LLC? The known fact is BC Fund LLC is a separate entity with its own tax ID number. Assimilation is not Association; they were not the same. Portions of these

document was presented in Lower Court but, not each page in its entirety. That should not be grounds for omission of the total documents. The plat was unsigned and unrecorded. All documents concerning the Appellant's Quitclaim deed transfer to BC Fund LLC, the development plan and formation of Bellamy and Bellamy, LLC was unsigned and unrecorded. The name change to BC Fund and Management LLC d/b/a BC Fund LLC was unsigned and unrecorded. Respondent, William Smith, owner of BC Fund and Management LLC acting sole member of BC Fund LLC in Warranty deed to Tyrone Davis was unsigned and unrecorded by the true grantor. The entire contract was incomplete, unsigned and a failure on paper.

The closing attorney Scott Umstead, the attorney that represent M&T Bank, Lenders title insurance and the attorney that represent Tyrone Davis Buyers title insurance all have unclean hands. They should have known Beach property cannot be purchased for \$5.00 with no other consideration. They failed to simply read the deed's reversion clause and proposed plan for development. They failed to perform a professional title search, failed to properly search the LLC and failed to address the motive of the transfer of the Appellant's property to BC Fund LLC. The Final Brief will prove, BC Fund LLC was responsible for formation of Bellamy and Bellamy LLC to build a housing development. The Record on Appeal exhibits will prove M&T Bank was responsible to provide and monitor a **construction loan** for Bellamy and Bellamy LLC. The Record on Appeal exhibits will prove that the proceeds of that loan should have only been released and payable to contractors by M&T Bank upon completion of work performed. Final Brief will prove, instead, the closing attorney Scott Umstead and Respondent William Smith invented BC Fund and Management d/b/a/ BC Fund LLC and allowed William Smith to fraudulently act as sole member of BC Fund LLC. The Record on Appeal exhibits will prove

M&T Bank approved a mortgage to buy the Appellant's property guaranteed by a fraudulent Warranty Deed to Tyrone Davis. The closing attorney, Scott Umstead distributed the proceeds of the mortgage.

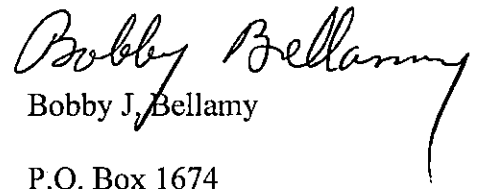
For these reason (a) records of the secretary of State of North Carolina concerning an entity known as BC Fund LLC (Record on Appeal p.98) and (b) unsigned and unrecorded documents concerning the formation of Bellamy and Bellamy, LLC (Record on Appeal pp. 105-121) these document should be allowed in Record on Appeal.

(3) The copy of one of the orders included in the Record on Appeal include editorial comments in the form of underlined and circled words,

The Appellant will provide a copy of the May 4, 2018 Foreclosure Order in an Amended Record on Appeal(pp.12-39) that does not contain editorial comments in the form of underlined and circled words that were not a part of the record before the Lower Court.

The Appellant respectfully requests and Order of this Court to exclude improper records and allow matters that the Respondent seeks to omit.

May 19, 2020

  
Bobby J. Bellamy  
P.O. Box 1674  
Little River, S.C. 29566  
843 457-3625

**THE STATE OF SOUTH CAROLINA**

**In the Court of Appeals**

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**William O. Smith, Respondent.**

**PROOF OF SERVICE**

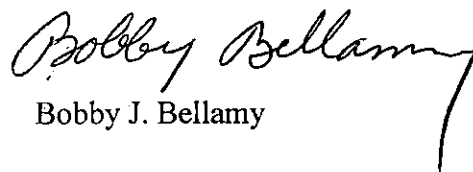
The Undersigned certify that I have served the **APPELLANT'S RESPONSE IN OPPOSITION TO CORRECT RECORD ON APPEAL** on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on May 19, 2020 addressed to his attorney of record, **Cliff Moore, III Adams and Reese LLP, 1501 Main Street 5<sup>th</sup> floor, Columbia, S.C. 29201.**

The Undersigned certify that I have served the **APPELLANT'S RESPONSE IN OPPOSITION TO CORRECT RECORD ON APPEAL** on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on May 19, 2020, 2020 addressed to his attorney of record, **John B. Kelchner, Hutchens Law Firm P.O. Box 8237, Columbia, S.C. 29202**

The Undersigned certify that I have served the **APPELLANT'S RESPONSE IN OPPOSITION TO CORRECT RECORD ON APPEAL** on Tyrone Davis by depositing a copy of it in the United States Mail, postage prepaid, on May 19, 2020 addressed to his attorney of record, **Daniel J. Orvin, Womble Bond Dickson LLP, 5 Exchange St. Charleston, S.C. 29401**

The Undersigned certify that I have served the **APPELLANT'S RESPONSE IN OPPOSITION TO CORRECT RECORD ON APPEAL** on BC Fund and Management LLC D/B/A BC Fund LLC by depositing a copy of it in the United States Mail, postage prepaid, on May 19, 2020 addressed to his attorney of record, **Scott Umstead 4226 Mayfair St. #100 Myrtle Beach, S.C. 29577.**

**May 19, 2020**



Bobby J. Bellamy

P.O. Box 1674

Little River, S.C. 29566

843 457-3625

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

Re: M&T Bank v. Tyrone Davis, et al Appellate Case No. 2019-001682

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Dear Ms. Kitchings:

I have enclosed the Original and a copy of the **APPELLANT'S RESPONSE IN OPPOSITION TO CORRECT RECORD ON APPEAL** and served a copy to the Attorneys listed below by United States mail with Proof of Service, for filing in the above referenced case.

May 19, 2020

Sincerely,

  
Bobby J. Bellamy

cc:

Cliff Moore, III, Esq.

John B. Kelchner Esq.

David Orvin, Esq

Scott Umstead, Esq.

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P.O. Box 1674  
Little River, SC  
29566



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