

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

-----  
APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Deadra Jefferson  
And  
The Honorable Maite Murphy

**RECEIVED**

JUL 06 2020

SC Court of Appeals

-----  
Case No. 2019-CP-10-00067  
-----

Alan G. Nix, Norma J. Nix, and the Estate of Norma J. Nix

Appellants,

v.

Churchill Park, Churchill Park HOA, Churchill Park Homeowners' Association, Inc., Churchill at Park West Association Inc., Churchill Property Owners Association, Churchill Park Property Owners Association, Churchill Park at Parkwest, Inc., Churchill Park at Park West Association Inc., Churchill Park @ Park West Association, Inc., Southern Community Services, LLC, Park West Development Corp., LPPM, Inc., McCabe, Trotter & Beverly, PC, Dobson Builders, Stephanie Trotter, Ryan McCabe, Jamie McSweeney, Larry Ridlehoover, Mike Hurd, Sheri Cothran, David Brown, Catherine Brown, Stephen Sumner, Richard Riccoboni, Rick Cumberland, Park West Master Association, Inc., Park West Amenity Association, Inc., C. Richard Dobson Builders, Inc., D.R. Horton, Inc., Brian Gardner, Venture Management of South Carolina, Inc., Dodds & Hennessey LLP, Kim Atkeson, Jennifer Williamson, Jessica Turner, Kevin Steelman, Landtech Development LLC., Landtech Incorporated of South Carolina, Land Tech Charleston LLC., Rogers Townsend & Thomas PC, Henry Munn, Charleston County (Christine Smith), Judge Mikell Scarborough, Sandlapper Reporting, LLC, William H. Sloan, Sloan Law Firm, Individual Agents, Assigns, Attorneys, Accountants, Employees, Officers, Directors, Independent Contractors, Investors, Successors Predecessors, Insurers, Representatives, Parents, Sister and Affiliated entities, Partners, Members of all Persona who might be liable

Respondents.

**RECEIVED**

JUL 06 2020

**SC Court of Appeals**

-----  
Appellate Case Number 2019-001951  
-----

**APPELLANT'S MOTION TO REMAND TO LOWER COURT AND CLARIFY ORDER  
DATED 4 JUNE 2020**

-----  
**REMAND CASE TO LOWER COURT**

**BACKGROUND**

This case was filed on 4 January 2019 while appellate case 2018-000056 did not have a valid order filed restoring the case from dismissal without prejudice in April 2018. The case was filed to ensure all / most all parties that should have been joined to case 2014-CP-10-05407 originally were on notice of their pending involvement in case 2014-CP-10-05407, and a sample of the causes of action to be alleged, once case 2014-CP-10-05407 was properly restored to the general docket. The notice at the end of the complaint reads "*This complaint is being filed due to the ongoing pattern of mismanagement of cases 2014-CP-10-05407 and 2017-CP-10-04031 by Charleston County from at least the period starting 23 March 2016 to present, so as to ensure the statute of limitations are preserved for relevant claims which could be construed to run out on 4 Jan 2019. This case should be consolidated with 2014-CP-10-05407 once that case is properly restored.*"

Judge Mikell Scarborough knowingly and willfully entered a fraudulent order in case 2014-CP-10-05407 on 23 March 2016 asserting as fact that the case was dismissed due to Rule 40(j). In general, Rule 40(j) states that all parties must agree in writing to a dismissal of a case under Rule 40(j). Even as of the date of this motion, no written agreement between the parties consenting to a dismissal under Rule 40(j) has ever been produced and/or filed with the Charleston County Clerk of Court. Once this issue was raised with the Charleston County Master in Equity Court in 2017, the explanation from Scarborough was that the agreement had been made on the record on 21 March 2016 between Sloan and Trotter. Hence, the only evidence of anything that even remotely resembles the requirements of Rule 40(j) being adhered

to was an affidavit from Sloan stating he did, somehow nonverbally, agree to the dismissal under Rule 40(j) , Scarborough's multiple assertions thereafter that the agreement had occurred on the record and a transcript from 21 March 2016.

On 7 August 2017, a motion was filed under case 2014-CP-10-05407 requesting the record to be corrected since it had become known shortly before that date that the transcript from 21 March 2016 was substantially defective. The court reporter, another Charleston County employee, after inquiry, disclosed that the first two statements of the three statement transcript were copied from a transcript from 1 December 2015. Hence, the only possible statement properly remaining on the transcript was Scarborough stating "I'll take it". Scarborough, after stating he/they would correct the transcript, dismissed the motion to correct the record on 29 September 2017 via a Form 4 Order without explanation.

### ARGUMENT

It is undisputed that a judge cannot unilaterally dismiss a case under Rule 40(j) .

It is undisputed that case 2014-CP-10-05407 was knowingly and willfully improperly dismissed with fraudulent intent by Mikell Scarborough, who once confronted with the issue, engaged in a pattern of additional knowing and willful misconduct to conceal the previous fraudulent conduct. Likewise, given the knowing and willful actions taken by Scarborough beginning at least with the filing of the fraudulent 40(j) order on 23 March 2016, Scarborough obviously had acquired more than a trivial interest in case 2014-CP-10-05407, as well as any other potentially related case, and knew if he were forthcoming about the true circumstances of the 23 March 2016 40(j) order, he would clearly become, at the very least, a material witness in the case. Hence, Scarborough was required to recuse himself, with or without a motion for recusal from any party to the case, as well as any other related case, for any court proceedings on or after 24 March 2016.

Consequently, the 23 March 2016 2014-5407 40(j) order meets the requirements of voiding a judgement for fraud upon the court. Given the fraud upon the court in this specific instance was by the court, in coordination with, and for the improper legal benefit of, the Plaintiff, Plaintiff's attorneys, employers, agents, associates, third party contractors, master, contractors, Officers, Directors, etc., Scarborough lost all jurisdiction related to these matters at the time he willfully and knowingly filed the fraudulent 40(j) order on 23 March 2016.

Additionally, based on a judicial officer knowingly and willfully committing obstruction of justice in a case, in coordination with both the Plaintiff's attorneys and Defendant's attorney(s), equitable tolling dictates that all causes of action against all proper parties which should have been allowed to have been properly joined to 2014-CP-10-05407 originally, should be allowed to be added once it is properly restored.

It is worth noting that this Court's own pattern of conduct between May 2018 through December 2018 in denying Appellant's multiple requests to file 60(b) motions in cases 2014-CP-10-05407 and 2017-CP-10-04031, could also be construed as engaging in similar conduct and / or aiding and abetting Scarborough's misconduct, via denying Appellant the rightful opportunity to raise these issues in the original case while preserving the rightful opportunity to claim knowing and willful malicious prosecution by "Churchill Park" (incorporated indirectly, and with fraudulent intent, by Southern Community Services, now known as Chuckleover, LLC, on 31 July 2003) and their attorneys, employers, agents, associates, third party contractors, master, contractors, Officers, Directors, etc. Despite this Court's multiple denials in 2018, Appellant did file a 60(b) motion in case 2014-CP-10-05407 on 13 November 2018, which remains unheard or ruled on at the time of this motion.

Perhaps that is because even as of the date of this motion, Scarborough's records still show the apparently related case of 2017-CP-10-04031 as still being on appeal with the Supreme Court/ Ct of Appeals despite the facts that the Supreme Court denied Appellant's Writ of Mandamus via letter from mid January 2020 and Scarborough's Charleston County coworker, Magistrate Thomas Lynn, was joking about the Supreme Court denying the Writ on 17 December 2019. (Note the disposition date below is also highly curious)

<b>Churchill Park VS Alan G Nix , defendant, et al</b>					
Case Number:	2017CP1004031	Court Agency:	Master In Equity	Filed Date:	08/08/2017
Case Type:	Common Pleas	Case Sub Type:	Foreclosure 420	File Type:	Non-Jury
Status:	Appeal	Assigned Judge:	Scarborough, Mikell R.		
Disposition:	Appealed Supreme Court/Ct of Appeals	Disposition Date:	09/05/2018	Disposition Judge:	Scarborough, Mikell R.
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

As the Court can also easily derive from the transcript provided to this court in February 2020, many of these facts were discussed with Judge Jefferson during the hearing for this case on 26 September 2019, including but not limited to the fraudulent actions by Scarborough related to the 23 March 2016 40(j) order. Judge Jefferson's ultimate response to that discussion, and the follow on written exchanges between the parties related to the proposed orders, was not to take the actions required of her as a judge under the Code of Judicial Conduct and the South Carolina Code of Laws, but to take knowing and willful actions in furtherance of the scheme, and in direct coordination with the coconspirators, by stating as fact the easily known falsehood that "*The Court of Appeals affirmed(2) the lower Court ruling....*" via an order cited in the footnotes of the 17 October 2019 order as "*Appellate Case No. 2018-000056, November 13, 2018*". There is no plausible way a judge with Judge Jefferson's tenure as a judge in South Carolina can rationally interpret, or argue they could interpret, the order of 13 November 2018 in appellate case number 2018-000056 as an affirmation of "*the lower Court's ruling*". Given the amount of information Judge Jefferson had before her either from the hearing on 26 September 2019, available in the Public Record, or from follow on written communications post the hearing as related to the proposed orders, it is indisputable, without significant additional heretofore not provided information, that Judge Jefferson, like her long time friend Scarborough, also knowingly and willfully became a party to the matter(s) by taking on more than a trivial interest in case 2019-CP-10-00067, and all the other related cases, as well as a likely becoming a material witness in the case or related cases.

The Appellant also wants to ensure this Court is completely clear that this case does not have a single Order signed by a judge and filed with the Charleston County Clerk of Court which explicitly states the case is closed/ended. Based on information and belief, Charleston County closed this case unilaterally on 17 October 2019 despite knowing that there was still a hearing scheduled for 28 October 2019 for Luzuriaga Mims' motion to dismiss for their apparent clients "Churchill Park" (the same one above related to Southern Community Services in July 2003), Churchill Park at Parkwest, Inc., Churchill Park at Park West Association, Inc and Stephen Sumner. Hence, Appellant was forced to file this appeal in November 2019 not because it was procedurally correct, but out of extreme caution related to ensuring no rights were lost due to expecting Charleston County to conduct court operations properly and according to written policy. One example of this type of ongoing misconduct by Charleston County / Charleston

County Clerk of Court, occurred on the afternoon of 21 October 2019. Appellant attempted to file a motion in this case and Mr. Duncan, Deputy Clerk of Court, refused to accept the motion claiming your attorney's order entitled "*ORDER ENJOINING THE PLAINTIFF FROM RE-FILING THIS MATTER AND IMPOSING SANCTIONS UPON THE PLAINTIFF*" from case number 2018-CP-10-03315 also somehow applied to case number 2019-CP-10-00067. His high level explanation, after being prodded, was that the "Enjoin" Order applied to any case which referenced the name "Churchill". When asked to reduce his claims to writing so I may have a written record of his claims and rationale for refusing the motion, Mr. Duncan repeatedly refused to provide such claims in a written format. This refusal by Charleston County of accepting a motion on 21 October 2019 in case 2019-CP-10-00067 due to the "Enjoining" Order in case 2018-CP-10-03315 clearly created an impossible impediment to the Plaintiff/ Appellant in filing a Rule 59 motion to correct the obvious errors in Judge Murphy's and Judge Jackson's Orders in case 2019-CP-10-00067, operating for all intents and purposes, as extortion of Appellant by the State for more unnecessary court costs.

Regardless, from Appellant's perspective; this appeal was filed in November 2019 not because it was legally and procedurally correct, but out of the exercise of due caution related to long term exposure of Appellant to numerous and escalating corrupt acts by Charleston County and the SC Judiciary in an effort to protect the Developer of the Development known as Park West in Mount Pleasant, SC. (For additional information purposes, the same Developer of Lake Carolina up there in Columbia). On its face, the appeal in November 2019 should be viewed as having been improperly coerced as well as essentially being an improper and unnecessary interlocutory appeal, given no final order ending the case has been filed and a motion hearing originally scheduled for 28 October 2019 still hasn't been held.

Lastly, Appellant, as of the date of this motion, is still waiting on a response from Auto Owners Insurance Company clarifying the name of their insured since it appears their attorneys, Luzuriaga Mims, has gotten very confused once again about the name of their client's insured. Appellant has a pretty high confidence level that Auto Owners insured is either none of the names Luzuriaga Mims has stated are their clients or, potentially more interesting, one of those names and another name that Luzuriaga Mims stated they represented in 2017 before it was suddenly dissolved by the SC Secretary of State's office in late July 2017 for not having a Registered Agent...two days after a subpoena for that entity's financial records were served on

them under case number 2014-CP-10-05407. Regardless, in the name of justice, and to be absolutely sure nothing bad is going on, Auto Owners should be given the opportunity to clarify the name of their insured that they hired Luzuriaga Mims to defend before anything else significant happens with any of these cases. I guess the 30 days I requested for them to clarify the legal name of their insured probably runs out next week.

#### **CLARIFY BASIS FOR ORDER FILED 4 JUNE 2020**

All parties that have filed motions to dismiss this appeal have requested the appeal be dismissed. Ironically, the Appellant filed a Reply to the first two Respondent's motions to dismiss which were supportive of Respondent's motion to dismiss, with the caveat of course that it was not dismissed with prejudice. Many of the reasons Appellant included in the Reply to Respondent's motion to dismiss are restated in this motion.

In mid May 2020, after receiving Appellant's Reply to the first two motions to dismiss, Luzuriaga Mims apparently felt very threatened and filed an additional motion to dismiss that literally wreaks of fraud upon this court as well as potentially other grave infractions of law. Once again, Appellant filed another Reply supportive of Luzuriaga Mims motion to dismiss except, once again, reiterating without prejudice.

Obviously the Respondent's need the appeal to be dismissed with prejudice for other than proper reasons while the Appellant believes it only proper for it to be dismissed without prejudice to allow for case 2014-CP-10-05407 to be properly restored for the reasons cited in this motion, 2019-CP-10-00067 to be consolidated with 2014-CP-10-05407, amend 2014-CP-10-05407 to the state it should have been no later than February 2016, and then properly try the case to conclusion with no other or further acts of Judicial or Public Corruption.

Regardless, it is ultimately undisputed that all parties have requested that, either with prejudice or without prejudice, the appeal be dismissed. Consequently, Appellant requests Judge Williams to clarify why he thought it was proper to enter an order that is the exact opposite ruling than all the parties who have submitted a motion or reply has requested.

Without a proper explanation, beyond Judge William's blanket assertion that his order was based on some type of careful consideration, the Appellant views the denials as acts that could be construed as Abuse of Power and/or Abuse of Discretion, which unfortunately appears

to be a highly similar, both in terms of action and intention, to the same type of conduct in 2018 by this court in cases 2018-000056 and 2018-000174. Eg. Denying multiple requests to remand to the lower court for 60(b) motions to be filed, etc. The obvious similarity suggests the ongoing intention of the Court of Appeals to, at a minimum, protect the circuit court judges from their knowing and willful misconduct in the appealed cases by not allowing the issues to be fully resolved in the lower court before requiring an appeal.

Appeals based on inaccurate and incomplete records are, by default, not in the Public's interest, contrary to the legitimate basis for law based on legal precedent, and thwarts the very basis of building substantial cases of misconduct in office cases against judges for knowingly and willfully engaging in unethical, and most likely worse, conduct. This Court should welcome providing the Public the opportunity to make these types of cases for them since it has become abundantly clear the SC BAR is in no way capable of truly and capably acting as a self governing organization.

WHEREFORE, Appellant Alan Nix respectfully requests this Court:

1. Grant the Appellant's motion to return this case to the lower court, via an Order of dismissal without prejudice, allowing the case to be restored to the Court of Appeals at such time as the Appellant / Plaintiff has had the opportunity to file and argue all necessary motions in the case in the lower court as well as allow Luzuriaga Mims to have their opportunity to present their motions to dismiss on behalf of their apparent clients "Churchill Park" (the same one above related to Southern Community Services in July 2003), Churchill Park at Parkwest, Inc., Churchill Park at Park West Association, Inc and Stephen Sumner and the case to be properly ended by a judge who in no way is involved in conflicts of interest related to these or any related matters.
2. Clarify Judge William's legal basis and logic for the order filed 4 June 2020 which is almost exactly the polar opposite ruling any of the parties requested.
3. Clarify what actions this Court has taken related to any of the acts by judges and attorneys that most likely constitute fraud upon the court or potentially other legal issues.
4. Any other and further relief as the Court deems just, prudent, and proper.

2 July 2020

Respectfully submitted,



---

Alan G. Nix  
1401 Densmore Circle  
Mount Pleasant, SC 29466  
(843) 991-4170

92919

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

-----  
APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

**RECEIVED**

JUL 06 2020

SC Court of Appeals

The Honorable Deadra Jefferson  
And  
The Honorable Maite Murphy

-----  
Case No. 2019-CP-10-00067

-----  
Appellate Case No. 2019-001951  
-----

Alan G. Nix, Norma J. Nix, and the Estate of Norma J. Nix

Appellants,

v.

Churchill Park, Churchill Park HOA, Churchill Park Homeowners' Association, Inc., Churchill at Park West Association Inc., Churchill Property Owners Association, Churchill Park Property Owners Association, Churchill Park at Parkwest, Inc., Churchill Park at Park West Association Inc., Churchill Park @ Park West Association, Inc., Southern Community Services, LLC, Park West Development Corp., LPPM, Inc., McCabe, Trotter & Beverly, PC, Dobson Builders, Stephanie Trotter, Ryan McCabe, Jamie McSweeney, Larry Ridlehoover, Mike Hurd, Sheri Cothran, David Brown, Catherine Brown, Stephen Sumner, Richard Riccoboni, Rick Cumberland, Park West Master Association, Inc., Park West Amenity Association, Inc., C. Richard Dobson Builders, Inc., D.R. Horton, Inc., Brian Gardner, Venture Management of South Carolina, Inc., Dodds & Hennessey LLP, Kim Atkeson, Jennifer Williamson, Jessica Turner, Kevin Steelman, Landtech Development LLC., Landtech Incorporated of South Carolina, Land Tech Charleston LLC., Rogers Townsend & Thomas PC, Henry Munn, Charleston County (Christine Smith), Judge Mikell Scarborough, Sandlapper Reporting, LLC, William H. Sloan, Sloan Law Firm, Individual Agents, Assigns, Attorneys, Accountants, Employees, Officers, Directors, Independent Contractors, Investors, Successors Predecessors, Insurers, Representatives, Parents, Sister and Affiliated entities, Partners, Members of all Persona who might be liable

**Respondents.**

-----  
**PROOF OF SERVICE**  
-----

The undersigned certifies that a copy of the Motion to Remand/ Dismiss without Prejudice and Clarify Order dated 4 June 2020 has been served upon the individuals listed below by mailing a copy of the same, postage prepaid, in the United States Mail, addressed as shown below this 5<sup>th</sup> day of July 2020 to:

Chase McNair  
Lurizaga Mims  
50 Immigration St.  
Charleston, SC 29403

Kevin Mims  
Lurizaga Mims  
50 Immigration St.  
Charleston, SC 29403

Troy Thames  
Wilson, Jones, Carter and Baxley  
421 Wando Park Blvd.  
Mt. Pleasant, SC 29464

Andy Countryman  
Countryman Law Firm  
321 Wingo Way  
Mount Pleasant, SC 29466

Robert Wood  
Rogers, Townsend & Thomas  
1221 Main St.  
Columbia, SC 29201

Judge Jefferson  
100 Broad St.  
Charleston, SC 29401

Julie Armstrong  
Clerk of Court, Chucktown  
100 Broad St.  
Charleston, SC 29401

Alan Wilson  
SC Attorney General  
1000 Assembly St.  
Columbia, SC 29201

Auto Owners Insurance Company  
6101 Anacapi Blvd.  
Lansing, MI 48917

Hood Hargett Associates, Inc.  
500 E. Morehead St., Ste. 325  
Charlotte, NC 28202

Dated: July 2, 2020

Respectfully submitted,

By:  \_\_\_\_\_

Alan G. Nix  
1401 Densmore Circle  
Mount Pleasant, SC 29466  
(843) 991.4170

2 July 2020

Alan Nix  
1401 Densmore Circle  
Mount Pleasant, SC 29466

**RECEIVED**  
JUL 06 2020  
SC Court of Appeals

Ms. Jennie Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1220 Senate St.  
Columbia, SC 29201

RE: Alan Nix v Churchill Park, Churchill Park at Park West Association, Inc., Churchill Park Homeowners Association, Inc., et al. – Appellate case number 2019-001951  
Motion to Clarify Order dated 4 June 2020 / Remand / Dismiss without prejudice

Ms. Abbott Kitchings,

Please find enclosed:

1. Motion to clarify order and Remand / Dismiss without prejudice
2. Check number 1159 drawn on Navy Federal Credit Union in the amount of \$50.00 (which I don't really have to pay the apparently Great State of South Carolina more money to make more judges do their job properly but we will just eat Raman noodles for a couple of weeks rather than let this type of conduct occur again / continue to occur. It is bounces by some chance, let me know soonest so I can try to find a way to come up with the money)
3. Proof of Service of the motion
4. Copies of the motion and proof of service to be returned to me
5. A postage paid and self addressed envelope to return my copies in.

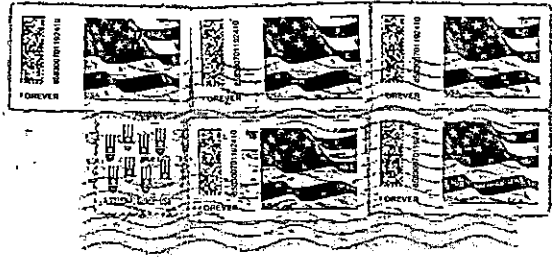
Thank you very much for your assistance and please let me know if you require anything else related to this filing. And don't worry too much, this phase is almost over.

Best regards,



Alan Nix

NK  
1401 DENSMORE CIRCLE  
MT. PLEASANT, SC 29466



RECEIVED

JUL 06 2020  
SC Court of Appeals

CLERK OF COURT, SC COURT OF APPEALS  
ATTN: JENNY ABBOTT - KITCHINGS  
1220 SENATE ST.  
COLUMBIA, SC 29201

