

IN THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court Of Common Pleas

Edgar W. Dickson, Circuit Court Judge

Case No. 2018CP3801339
Appellate Case No. 2020-000451

RECEIVED

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SC Court of Appeals

Rufus Rivers and Merle Rivers,
pro se

Appellants

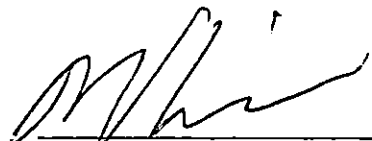
VS.

James Smith, Jr.,

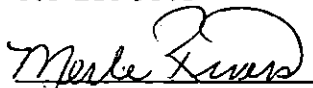
Respondent

October 29, 2020

RECORD ON APPEAL



Rufus Rivers
1429 Legrand Smoak Street
Cordova, South Carolina 29039
803-218-9573



Merle Rivers
1429 Legrand Smoak Street
Cordova, South Carolina 29039
803-218-9573

APPELLANTS, PRO SE

Kathleen McDaniel, Esq.
P.O Box 1929
Columbia, South Carolina 29202

ATTORNEY FOR RESPONDENT

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Certificate of Appellants

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

October 29, 2020

Rufus Rivers, pro se

Merle Rivers, pro se
1429 Legrand Smoak Street

Rufus Rivers et al
PLAINTIFF(S)

James Smith, Jr.
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

After careful consideration of this appeal, the Court DENIES the Appellant's motion for reconsideration and opposition to Judge's order. Based on the Court's previous ruling and order, this case is DISMISSED and REMANDED to the Magistrate's court for compliance with the Magistrate's order.

ORDER INFORMATION

This order ends does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/21/2020 .

Rufus Rivers for Rufus Rivers
James Smith for James Smith, Jr.
James Smith, Jr. for James Smith
Rufus Rivers for Rufus Rivers
Merle Rivers

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.



Orangeburg Common Pleas

Case Caption: Rufus Rivers , plaintiff, et al VS James Smith Jr.

Case Number: 2018CP3801339

Type: Order/Electronic Form 4

So Ordered

s/ Edgar W. Dickson #2153

Electronically signed on 2020-02-21 10:14:29 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF ORANGEBURG	)	FOR THE FIRST JUDICIAL CIRCUIT
)	
Rufus Rivers and Merle Rivers,	)	C/A No.: 2018-CP-38-01339
)	
Appellants,)	
)	
v.	)	ORDER ON APPEAL
)	
James Smith, Jr.,)	
)	
Respondent.)	
_____)	

This appeal came before the court on October 18, 2019, for a hearing on Rufus and Merle Rivers' appeal from an Eviction Order of the Orangeburg County Magistrate's Court. Present at the hearing were Kathleen McDaniel, Esq., counsel for Respondent, and Appellant Rufus Rivers. This case concerns an eviction from the property located at 1429 LeGrand Smoak Street in the County of Orangeburg, South Carolina. For the reasons set forth below, I affirm the decision of the Magistrate's Court.

STATEMENT OF THE CASE

On July 2, 2018, James Smith, Jr. wrote to Rufus and Merle Rivers giving them 30 days to vacate the real property located at 1429 LeGrand Smoak Street, Cordova, South Carolina (the "Property").

On August 6, 2018, the Rivers initiated a separate civil action by filing a Complaint in the Orangeburg County Court of Common Pleas, challenging Smith's ownership of the Property and alleging causes of action for constructive fraud, negligence, conversion, unjust enrichment, and invalid owner.

On August 8, 2018, Smith filed a Rule to Vacate or Show Cause for Eviction in Orangeburg County Central Region Magistrate's Court.



On August 17, 2018, the Rivers filed an Amended Complaint in the Court of Common Pleas, alleging that Smith used an invalid Power of Attorney to convey the Property from his mother Jessie Mae Smith, the previous owner of the Property, to himself. The Rivers also alleged in the Amended Complaint that Ms. Smith, at some point during her life, had orally given or promised the Property to the Rivers. The case was referred to the Master in Equity.

At the eviction hearing on September 18, 2018, the Magistrate's Court ruled that Smith is the current and lawful owner of the Property and that the Rivers were unlawfully occupying the premises. The Rivers objected to this ruling by way of a Motion for Reconsideration filed on October 1, 2018. Following a hearing on October 16, 2018, the Magistrate's Court denied the Rivers' Motion for Reconsideration and authorized the issuance of a Writ of Ejectment.

On October 17, 2018, the Rivers filed a Notice of Intent to Appeal and a Corrected Notice of Appeal on October 18, 2018.

On November 2, 2018, a hearing was held in the Magistrate's Court on the issue of rental payments required to be paid by the Rivers during the pendency of this appeal. The Magistrate's Court determined appropriate rent to be \$700.00, to be paid into the Court each month as bond.

The Rivers appealed the imposition of rental payments, and on April 8, 2019, a hearing was held in this Court on the issue of whether the monthly rent amount to be paid by the Rivers into court was proper. This Court issued its ruling on April 18, 2019, affirming the amount of bond set by the Magistrate's Court.



On May 20, 2019, a hearing was held on the appealed Magistrate's Court eviction action. The Rivers contended that title to the property was still in question because of their pending lawsuit. On May 21, 2019, Judge Gibbons issued an Order continuing the hearing on this appeal until such time as the Master in Equity could rule on the issues raised in the Rivers' Amended Complaint.

On August 28, 2019, following a hearing, Judge James B. Jackson, Jr., Master in Equity for Orangeburg County, dismissed the Rivers' Amended Complaint for failure to state a cause of action upon which relief could be granted. The Rivers did not appeal that decision.

On October 14, 2019, this Court took up again the Rivers' appeal from the Magistrate's Court's eviction decision.

STANDARD OF REVIEW

The standard of review to be applied by a Circuit Court in an appeal of a magistrate's judgment is that "[u]pon hearing the appeal the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits." S.C. Code Ann. § 18-7-170. In giving judgment the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact. *Hadfield v. Gilchrist*, 343 S.C. 88, 92, 538 S.E.2d 268, 270 (Ct. App. 2000).

DISCUSSION

The Rivers state three grounds for this appeal:

1. That the Rivers had filed an Amended Complaint in Circuit Court regarding ownership of the property.



2. That the Rivers provided a written reply to Rule to Show Cause that was not entered into the record as evidence.
3. That there was no landlord-tenant relationship between the parties.

I. Pending Circuit Court Case

The Rivers contended in their Corrected Notice of Appeal that this appeal should not proceed while there was pending before the Master in Equity a case that the Rivers claimed brought into doubt the ownership of the Property. On August 28, 2019, the Master in Equity dismissed the Rivers' Amended Complaint pending before him for the Rivers' failure to state a claim. The Rivers did not appeal that decision. Thus, that matter is no longer pending before the Master in Equity or any other court.

II. Reply to Rule to Show Cause

The Rivers contend in their Corrected Notice of Appeal that they provided a written reply to the Rule to Show Cause that was not "entered into the record as evidence." The Rivers provided no explanation to this Court how this fact, if true, would show that the Magistrate's Court erred in its ruling on the issues in this case. Therefore, I find no error on the part of the Magistrate's Court in regard to this ground for appeal.

III. Landlord-Tenant Relationship

The Rivers contend in their Corrected Notice of Appeal that there was no landlord-tenant relationship between them and Respondent Smith. Under South Carolina law, a "landlord" is defined as "the owner, lessor, or sublessor of the premises." S.C. Code Ann. § 27-40-210(6). An "owner" is defined as "one or more persons, jointly or severally, in whom is vested (i) all or part of the legal title to property or (ii) all or part of the beneficial ownership and a right to present use and enjoyment of the premises." S.C. Code Ann. § 27-0-210(8). A "tenant" is defined as "a person entitled under a rental agreement to

IT IS SO ORDERED.

The Honorable Edgar W. Dickson.
Presiding Judge

_____, South Carolina
December ____, 2019





Orangeburg Common Pleas

Case Caption: Rufus Rivers , plaintiff, et al VS James Smith Jr.

Case Number: 2018CP3801339

Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153

Electronically signed on 2020-01-06 12:40:28 page 7 of 7

STATE OF SOUTH CAROLINA.

COUNTY OF ORANGEBURG

JFUS RIVERS AND MERLE RIVERS
APPELLANTS

VS.

MES SMITH, JR
APPELLEE

IN THE COURT OF COMMON PLEAS
THE FIRST JUDICIAL CIRCUIT

CASE NUMBER 2018-CP-38-01339

APPELLANTS MOTION FOR
RECONSIDERATION AND
APPELLANTS' OPPOSITION TO
JUDGE'S ORDER

FILED IN RECORD
CLERK
2020 JAN 19 AM 9:34
ORANGEBURG, SC

Appellants, pro se, hereby opposes Judge Dickson's order and moves this court for a reconsideration hearing pursuant SCRCP 59(e), as soon as reasonably possible. The judge's order lacks merits as they relate to Appellant's appeal and fails to explicitly address issues of the appeal. The order misrepresents the facts in this matter and are outlined explicitly for the purpose of being eligible for review upon appeal as follows:

This initial improper eviction hearing was held on 10/18/2018 in magistrate's court and now before the Circuit Court on Appeal. This matter was barred from adjudication by the magistrate's court pursuant to SCRCP 22-3-20, "no magistrate shall have cognizance of any civil action where question to title property shall come in to question except as provided in Article 11 of this same chapter." The magistrate's court lacked subject matter jurisdiction in this matter and violated this rule blatantly after being reminded on numerous occasions. See Brown v. Brown 2012-UP-300, "We hold the magistrate's court did not lack subject matter jurisdiction. See S.C Code Ann 22-3-20(2)(2007) (No magistrate shall have cognizance of a civil action...[w]hen the title to real property shall come in question..."). The magistrate's order did not include a finding of who holds title to any real property. Accordingly, the magistrate's court did not violate section 22-3-20(2)". The magistrate court in this matter did make a finding of who owns real property. Aside from being barred by SCRCP, the Judicial Branch, (B)(1) jurisdiction Magistrate's law in civil actions regarding 22-3-20 is clear that this can not be consented to by the parties or waived by a higher court and yet it has been waived. It was the magistrate's obligation

and duty to refuse to hear the matter as laid out by 22-3-1110, but the court refused to follow its own rules by staying with summary ejection and not over reaching into circuit court matters by determining who owns real property. It was clear that legal action was pending alleging Mr. Smith's fraudulent transfer of real property to himself and evidenced by documents filed August 6, 2018 and certified receipts on August 14, 2018. The case number and package tracking number were also texted to Mr. Smith immediately after filing. Once the issue was raised, it was the court's duty to follow procedure as outlined in the SCRCPC 22-3-1110 through 22-3-1180 which was totally ignored. This violated Appellants' rights to due process. Appellee filed their eviction papers with the magistrate on August 20, 2018, after Mr. Smith had been served the initial summons and complaint by certified mail which opposing counsel contends was never served, one of a number of inconsistencies in opposing counsel's filings that needs to be examined more closely due to their exculpatory value to the entire proceedings.

II. The reply to the to Rule to Show Cause was Appellants' remedy provided by law and the magistrate disregarded it as insignificant. The magistrate kept on file every other document the appellants provided except the document that mattered. The magistrate placed her finger on the scales and created this unlawful situation deliberately. Overall, opposing counsel presented issues in her proposed order that were not explicitly addressed at the hearing, while they were outlined in the appeal. Appellants, ask this court to dismiss this matter and allow appellee to pursue whatever remedies provided him by law, and release Appellants' funds being absconded and guised as an alleged rental payment bond. On April 8, 2018 this court made a ruling upholding the magistrate's court decision to demand rental payments and Appellants filed a motion for reconsideration promptly on April 11, 2019 with no response from the court which has been a pattern. Appellants made a motion for dismissal on May 17, 2019 with this court which was never ruled upon, which addressed numerous

issues that needed thorough examination. Opposing counsel wants to emphasize all of her prevailings, Appellants can also reflect on August 6, 2018, when Appellants initiated their summons and complaint with Motion for injunctive relief inside, that was never ruled upon or, at the very least, addressed.

Opposing counsel stated that she had been advised by the court that no summons and complaint ever existed, and now acknowledges and contend that the case should no longer be addressed since it has now been dismissed.

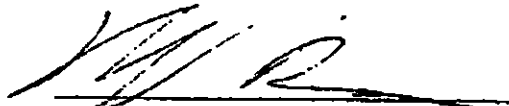
III. The court then added insult to injury by ordering rental payments when there was no established landlord-tenant relationship other than opposing counsel stating that Appellants were tenants-at-will, which is absurd because that is not a landlord-tenant relationship. Tenants-at-will means what it always meant, a tenant whose term has terminated and there is no written or oral agreement. In other words, you can't take a term and make it fit your scenario as a landlord-tenant relationship. Therefore, when the magistrate adjudicated the matter the entire case became tainted. The magistrate failed to make a finding that a landlord-tenant relationship existed. Pursuant to the Judicial Branch's Magistrate Law in Civil Actions, it provides over 14 areas of civil jurisdiction and adjudicating real property cases is not included. The Appellants were blind-sided by the magistrate's court decision to impose a rental bond instead of accepting a bond undertaking as outlined in SCRCF 22-3-1110 through 22-3-1180. Unfortunately, the appellee would be rewarded with rental payments without renting out the property. If this is not an injustice, then, what is?

Appellants argued that the magistrate court case should not have proceeded until civil case number 2018-CP-38-01016 had been decided, and not allow the eviction hearing to proceed improperly. This only allowed the magistrate's decision to stand until the summons and complaint was dismissed. The eviction matter should not have ever begun until the circuit court case was decided. In this case the eviction case was heard and determined before the circuit court case was heard, and then

the appeal was placed on hold until the circuit court was decided or dismissed, thus, leaving the appeal case to be determined without due process and the appellee not filing his own summons and complaint as he should.

In Summary, opposing counsel got it wrong. The only issue the magistrate court judge could properly address was what the SCRCF allowed, and this matter was not allowed. The magistrate's court Judge did not have jurisdiction over this real property matter, therefore, any testimony, decisions and documents provided by Appellee is fruit from the "poisonous tree" and this case should be dismissed and appellants' money returned.

January 12, 2020


Rufus Rivers, pro se


Merle Rivers, pro se

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
THE FIRST JUDICIAL CIRCUIT

RUFUS AND MERLE RIVEIRS
Plaintiffs

SUMMONS

vs.

Case # 2018-CP-38-01010

JAMES SMITH, JR.
Defendant

TO THE DEFENDANT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you,

and serve a copy of your answer to this Petition upon the subscriber, at the address shown below, within 30 days after

service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgement by default will be rendered against you for the relief demanded in the petition

Orangeburg, South Carolina

1429 Legrand Smoak Street

Cordova, SC 29039

Dated:


Rufus Rivers, PRO SE


Merle Rivers, PRO SE

FILED FOR RECORD
BY: MERRA B. CLARK

STATE OF SOUTH CAROLINA	]	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	]	THE FIRST JUDICIAL CIRCUIT
]	
RUFUS RIVERS	]	CASE # 2018-LR 38-01014
MERLE RIVERS	]	BREACH OF FIDUCIARY DUTY
Plaintiffs]	
VS.	]	EXPEDITED INJUNCTIVE RELIEF
]	
JAMES SMITH, JR	]	COMPLAINT
Defendant]	

CLERK FOR RECORD
 CHRISTOPHER B. CLARK

CAUSE OF ACTION

(breach of fiduciary duty)

(Jurisdiction)

1. Plaintiffs, are and at all times herein mentioned, domiciled in and a citizen of the State of South Carolina. Defendant, James Smith, Jr., is and was at all times herein mentioned, domiciled and a citizen of the State of New York.
2. Plaintiffs allege that on/or about July 1, 2013, in the State of New York defendant executed an invalid Power-of-Attorney(POA). Defendant used that very POA to execute an invalid quitclaim deed to himself one year later on September 19, 2014 transferring property that was gifted to plaintiffs but not recorded with the County of Orangeburg.
3. Defendant through a real estate attorney in Charleston, South Carolina, then recorded the documents with the Orangeburg County Register of Deeds on October 10, 2014.
4. The property at 1425 Legrand Smoak Street in Cordova, South Carolina was gifted to plaintiffs by Jessie Mae Smith, the principal. The defendant was well aware of the transaction.

16

Plaintif and defendant had discussed the matter during the latter part of 2012.

5. Plaintiffs had no reason to believe or reasonably believe that defendant would take the Bizarre steps taken to intervene and steal the gift from plaintiffs.

6. The principal, Jessie Mae Smith, now deceased, resided with plaintiffs for a period of time before being taken to New York with defendant in March, 2013, at which time Jessie Mae did not appear to be lucid enough to make that kind of decision, as the defendant himself indicated during our discussion.

7. During the principal's stay with plaintiffs, plaintiffs learned much about her financial and medical affairs from accompanying her to the financial institution and medical facilities.

8. The acts and omissions of the defendant, James Smith, Jr. , as alleged above, constitutes intentional breaches of his fiduciary duties to Jessie Mae Smith, the principal and eminent loss to plaintiffs.

9. Defendants leaves to question why principal could not have transferred the property to him directly if that was her intention, rather than employ an attorney in another county and handle the transactions by mail or courier in another state. An agent's duties should be in the best interest of the principal and her wishes and not the agent's.

10. Defendant's breach of his fiduciary duties were willful, malicious, oppressive, and in conscious disregard of the principal's plaintiffs' rights, accordingly, plaintiffs' request the quitclaim deed be revoked and rendered void.

FIRST CAUSE OF ACTION

(Constructive Fraud)

11. Defendant intentionally kept principal, Jessie Mae Smith out of contact with plaintiffs while carrying out the above-referenced actions. Defendant avoided the appropriate method of transferring the property by leaving the jurisdiction of the property and using an extraordinary means which is suspicious. If the principal had intended for defendant to own



the property, plaintiffs believes she would have signed it over to the defendant rather than having documents prepared in another state and having them mailed to her in New York to be executed when she was already in the appropriate jurisdiction. This type of transaction creates suspicion and allows for mischief. This is the perfect scenario for unauthorized self-dealing. Defendant was well aware of the gift, and never once chose to bring it up in the presence of Jessie Mae Smith, whom could have cleared up the issue. In hind-sight, plaintiffs desire not to create confusion was their mistake. Plaintiffs' understanding was any part of an agreement performed makes it a contract. Plaintiffs also, alleges that the signatures on the POA does not match Jessie Mae Smith's signatures.

SECOND CAUSE OF ACTION

(Negligence)

12. Defendant breached duty of care, and breach was the actual and proximate cause of plaintiffs' eminent injury and not advising plaintiffs of his actions when transferring property to himself while knowing that Jessie Mae Smith gifted property to plaintiffs.

THIRD CAUSE OF ACTION

(Conversion)

13. Defendant did not act in the best interest of principal or carry out principal's wishes allowing plaintiffs to take rightful ownership of the gifted property, when he used his authority through Power-of-Attorney to acquire property that was intended for plaintiffs.

FOURTH CAUSE OF ACTION

(Unjust Enrichment)

14. Defendant used Power-of-Attorney to benefit himself through self-dealing.

FIFTH CAUSE OF ACTION

(Invalid Owner)

15. Defendant is an Invalid owner and plaintiffs incorporate all allegations and causes of action.

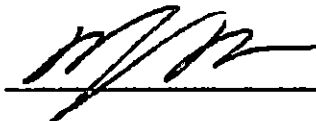
Wherefore, plaintiffs pray for judgment against defendant as follows:

On the causes of actions:

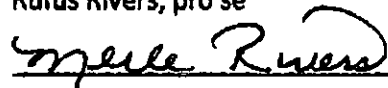
1. For judgment by voiding quitclaim deed.
2. For cost of this action.
3. For such other relief as the court deems just.
4. For the court to undo transactions conducted by the Power-of-Attorney.

We declare under penalty of perjury under the laws of the State of South Carolina that the foregoing is true and correct.

Executed this 6th day of August 2018, at Orangeburg, South Carolina.



Rufus Rivers, pro se



Merle Rivers, pro se

THE STATE OF SOUTH CAROLINA

COUNTY OF ORANGIEBURG

RUFUS RIVERS
MERLE RIVERS
Plaintiffs

vs.

JAMES SMITH, JR.
Defendant

IN THE COURT COMMONPLEAS

THE FIRST JUDICIAL CIRCUIT

Case # 2018-CP-36-01016

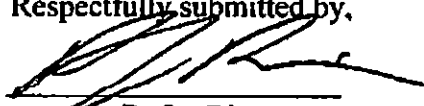
MOTION FOR INJUNCTIVE RELIEF
EXPEDITED REVIEW REQUESTED

FILED FOR RECORD
WINNIFER B. CLARK
APR 6 2018
CLERK

Plaintiffs, Rufus and Merle Rivers, moves this court for Injunction pursuant to Rule 65 of the South Carolina Rules of Civil Procedure staying in further action by defendant in the above-referenced matter. The reasons supporting this motion are set forth in the attached memorandum.

Dated: 8-6-2018

Respectfully submitted by,


Rufus Rivers, pro se


Merle Rivers, pro se

4. By granting petitioners expedited injunctive relief, no third party will be harmed.

8-6-2018
Date


RUFUS RIVERS, pro se

8-6-2018
Date


MERLE RIVERS, pro se

1 TO: RUFUS RIVERS
2 1429 LEGRAND SMOAK STREET
3 CORDOVA, SC 29039
4
5

6 IN RE: RIVERS VS. SMITH
7 CASE NO: 2018-CP-38-1339
8 CASE HEARD: OCTOBER 18, 2019
9

10 17 Pages @ 4.25 ORIGINAL. . . . \$72.25
11 Pages @ 1.00 COPY. . . . \$

12 DEPOSIT AMOUNT: \$89.25
13 OTHER: Postage \$10.00
14 TOTAL DUE: \$82.25
15 AMOUNT REFUNDED: ~~\$87.00~~

Thanko!!

MAY 22, 2020
KATHERINE A. SPIRES, RPR
P.O. BOX 1286
SWANSEA, SC 29160

20 NOTE: Pursuant to ~~Rule 607(h)(1)(B), SCACR, A COURT~~
21 ~~REPORTER SHALL RECEIVE THE FEE OF \$.75 PER PAGE FOR~~
22 ~~FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT."~~

23 All requests for copies of the attached transcript from
24 opposing party or non-parties should be sent to me at
25 the above address. Thank you.

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF
COUNTY OF ORANGEBURG) COMMON PLEAS

RUFUS RIVERS,)
Plaintiff,)
Vs) CASE NO. 2018-CP-38-1339
JAMES R. SMITH JR,)
Defendant)

OCTOBER 18, 2019
ORANGEBURG, SOUTH CAROLINA

HONORABLE EDGAR W. DICKSON, JUDGE

A P P E A R A N C E S:

The Plaintiff appeared pro se
BY: KATHLEEN M. MCDANIEL, ESQUIRE
Attorney for the Defendant

KATHERINE A. SPIRES
REGISTERED PROFESSIONAL REPORTER

1 THE COURT: This is Case Number 2018-CP-38-01339.
2 Rufus Rivers and Merle Rivers, Appellants verses James
3 R. Smith, Appellee.

4 Mr. Rivers, you are representing yourself on this?

5 MR. RIVERS: Yes, sir.

6 THE COURT: Okay. And, Mr. Rivers, I have your
7 memorandum in support of motion --

8 MR. RIVERS: Yes, sir.

9 THE COURT: -- of your motion? And you oppose --
10 and we're dealing with -- let me just make sure.

11 Ms. McDaniel, did you file a Motion to Dismiss this
12 appeal?

13 MS. MCDANIEL: Your Honor, the procedural matter is
14 a little bit complicated. If I may give -- do that for
15 a minute.

16 THE COURT: Okay. And, Mr. Rivers, she's going to
17 tell me just the procedural outline. If she tells me
18 something that's incorrect, I'm going to let you correct
19 it. Okay?

20 MR. RIVERS: Thank you, sir.

21 THE COURT: All right.

22 MS. MCDANIEL: So, Your Honor, this was -- is an
23 appeal from an eviction matter. We had the eviction
24 started. And Mr. Rivers, he and his wife, filed
25 contemporaneously either just before or just after the

1 eviction was noticed, filed a lawsuit in the Court of
2 Common Pleas contending that they actually own the
3 property that my client is trying to evict them from.

4 We went forward with the eviction proceeding. The
5 magistrate granted the eviction. And we -- Mr. Rivers
6 then appealed that to this court, so that's the appeal
7 that we're on now. We had a hearing on that appeal
8 several months ago. And at the time the matter in the
9 Court of Common Pleas, which had been transferred to the
10 Master-In-Equity, was still pending. And the judge who
11 heard it continued this appeal until after the
12 Master-In-Equity had made his determination on
13 Mr. Rivers's lawsuit.

14 That lawsuit has now been dismissed. The purpose of
15 that lawsuit was, Mr. Rivers claimed that they owned the
16 property. That lawsuit has been dismissed. Now we can
17 proceed with this appeal.

18 THE COURT: Okay. And you said you already had the
19 eviction hearing and Mr. Rivers appealed the eviction
20 hearing?

21 MS. MCDANIEL: Yes, Your Honor. This is his appeal
22 from the eviction.

23 THE COURT: Okay. And, Mr. Rivers, let me make
24 sure, I need for you to stand up if you don't mind,
25 please, sir.

1 MR. RIVERS: Yes, sir.

2 THE COURT: That's okay. Let me just make sure. I
3 guess Mr. Smith filed an eviction notice against you and
4 your wife?

5 MR. RIVERS: Yes, sir.

6 THE COURT: Okay.

7 MR. RIVERS: But -- excuse me. May I finish?

8 THE COURT: Go ahead.

9 MR. RIVERS: It was not in the manner in which she
10 states.

11 THE COURT: Okay. Well, that's what I'm going over
12 -- that's what I'm trying to go over with you right now
13 just make sure I get it straight.

14 MR. RIVERS: Yes, sir.

15 THE COURT: Okay. And around the same time you
16 filed the eviction, you and your wife filed a lawsuit in
17 Common Pleas --

18 MR. RIVERS: We filed a lawsuit in Common Pleas
19 prior to them filing the eviction.

20 THE COURT: Okay. But, nevertheless, you filed
21 saying that you and your wife own this property; is that
22 correct?

23 MR. RIVERS: I didn't say that we owned it. We
24 filed alleging that Mr. Smith fraudulently did a Power
25 of Attorney and transferred the property to himself

1 after the property was -- we were granted possession by
2 his mother. And we had been there since 2009.

3 THE COURT: Okay. All right. And the magistrate
4 went ahead and ordered an eviction; is that correct?

5 MR. RIVERS: Yes, sir.

6 THE COURT: And then you appealed the eviction?

7 MR. RIVERS: Yes, sir.

8 THE COURT: Okay. Then you had the hearing in front
9 of the Master-In-Equity?

10 MR. RIVERS: Yes, sir.

11 THE COURT: Okay. And you and your wife appeared at
12 that hearing?

13 MR. RIVERS: Yes, sir. The second one.

14 THE COURT: Okay. The second one. And were you --
15 you and your wife able to testify at that hearing?

16 MR. RIVERS: Yes, sir.

17 THE COURT: Okay. Now, it's my understanding the
18 Master-In-Equity determined that the property was
19 Mr. Smith's?

20 MR. RIVERS: No, sir, he didn't determine that.
21 Matter of fact, he dismissed it. Saying that we didn't
22 have any legal standing.

23 THE COURT: He dismissed your lawsuit?

24 MR. RIVERS: Yes, sir.

25 THE COURT: Saying that you didn't have any legal

1 standing?

2 MR. RIVERS: Yes, sir.

3 THE COURT: Okay. All right. And so now we're here
4 on the eviction?

5 MR. RIVERS: The eviction.

6 THE COURT: Yes, sir.

7 MR. RIVERS: And my thing is that the eviction
8 shouldn't have never taken place in the first place.
9 And how it turned out, why it ended up being, is that
10 when the eviction was done, it should not have been held
11 pursuant to magistrate's jurisdiction and procedures.
12 Because there were pending action in Circuit Court at
13 the time of that eviction.

14 THE COURT: Okay. All right. So what you're saying
15 is the eviction hearing should have taken place after
16 the master had his hearing?

17 MR. RIVERS: After the Circuit Court's hearing; yes,
18 sir.

19 THE COURT: Right. Is there anything else that the
20 magistrate did wrong legally from your prospective?

21 MR. RIVERS: Yes.

22 THE COURT: What was that?

23 MR. RIVERS: The main thing there was no never a
24 landlord/tenant relationship. She didn't find there was
25 existence of a landlord/tenant relationship. Which

1 actually should have, you know. The magistrate lacked
2 subject matter of jurisdiction for number one.

3 THE COURT: Okay. Now tell me why the magistrate
4 lacked subject matter jurisdiction to determine an
5 eviction.

6 MR. RIVERS: I'm just going by the South Carolina --
7 I mean, jurisdiction and procedures of the magistrate,
8 the things they can and cannot do. And the thing is,
9 based on Chapter 22-3-20, and no matter should have
10 cognizance of any civil action when title to real estate
11 should come into question. And it doesn't say that, you
12 know, the magistrate determines who -- whether the title
13 is in question or not. It says that under no
14 circumstances should she be able to adjudicate a case
15 pertaining to realty -- real property.

16 And we're saying at that particular time the case
17 should have been discontinued.

18 THE COURT: It should have been continued until
19 after the Circuit Court decided -- until after the
20 master made his decision.

21 MR. RIVERS: No, sir. I'm not saying that.

22 THE COURT: Okay. What are you saying?

23 MR. RIVERS: Is that what you're saying?

24 THE COURT: Well, that's what I'm saying. I was
25 trying to find out what you were saying.

1 MR. RIVERS: What I'm saying is that the master -- I
2 mean, the Circuit Court decision should have been made
3 before they even held the eviction is what I'm saying.

4 THE COURT: Okay.

5 MR. RIVERS: She didn't have jurisdiction over the
6 matter at the time that she adjudicated the case; is
7 what I'm saying.

8 THE COURT: Okay. Yeah, that was the first thing
9 you said too and we're just getting back to that again.

10 MR. RIVERS: Yes, sir.

11 THE COURT: Okay. Well, let me ask you a question,
12 now that the master has heard the case, okay?

13 MR. RIVERS: Yes, sir.

14 THE COURT: Is there anything different that would
15 be presented to the magistrate regarding the eviction?

16 MR. RIVERS: Just the fact that she adjudicated a
17 case that she should not have.

18 THE COURT: Right.

19 MR. RIVERS: Just saying, there was no
20 landlord/tenant relationship.

21 THE COURT: Well, now, have you -- since you have
22 appealed this, are you still on the property?

23 MR. RIVERS: Yes, sir.

24 THE COURT: Okay. Because you filed an appellate
25 bond?

1 MR. RIVERS: Yes, sir.

2 THE COURT: Okay. Anything other than the fact that
3 the magistrate should have waited until after the
4 Master-In-Equity ruled to go forward with the eviction?
5 Anything else?

6 MR. RIVERS: I'm trying to be clear on what you're
7 asking me.

8 THE COURT: Well, what -- okay. Your first argument
9 is -- or the main argument, I'm taking it, is that the
10 magistrate should have not addressed the eviction until
11 after the Master-In-Equity ruled on the ownership of
12 your lawsuit? Until they ruled on your lawsuit; is that
13 correct?

14 MR. RIVERS: Partially, yes, sir.

15 THE COURT: Okay. What's the other part?

16 MR. RIVERS: I'm saying that the magistrate should
17 not have ruled on the eviction period not until a
18 Master-In-Equity ruled. Because at the time we didn't
19 know that the Master-In-Equity would be handled until
20 the Circuit Court had, had a chance to show whose
21 ownership. Because the magistrate court doesn't have
22 jurisdiction to determine who owns the property.

23 THE COURT: Right. Okay.

24 MR. RIVERS: I'm just going by what the procedures
25 say.

1 THE COURT: No, I understand exactly what you're
2 saying. Just out of curiosity, Mr. Rivers, do you have
3 any -- have you ever worked in law before?

4 MR. RIVERS: I took a few courses. No, sir.

5 THE COURT: You prepared your memorandum and like
6 that yourself?

7 MR. RIVERS: Yes, sir.

8 THE COURT: Okay. You did good work.

9 MR. RIVERS: Thank you.

10 THE COURT: All right. Anything else you want to
11 tell me?

12 MR. RIVERS: Other than I request the Court to
13 dismiss the action and let the Plaintiff -- I mean,
14 Mr. Smith, proceed in the manner that it was designed to
15 proceed. Him filing his own Summons and Complaint.

16 THE COURT: Okay. All right. Thank you, sir.

17 MR. RIVERS: Yes, sir.

18 THE COURT: All right. Ms. McDaniel?

19 MS. MCDANIEL: Yes, Your Honor. Your Honor, the
20 eviction proceedings certainly proceeded properly.
21 Mr. Rivers brought up the question of ownership at the
22 magistrate's hearing on the eviction. And at that time,
23 in the record that has been returned to this court,
24 you'll see that we presented to the magistrate a copy of
25 the deed, deeding the property from Ms. Smith to James

1 Mr. McDaniel [verbatim] file his lawsuit over the
2 ownership issue with Mr. Smith prior to the eviction?

3 MS. MCDANIEL: Your Honor, it's my understanding
4 that it was after. We filed the eviction -- we send the
5 eviction notice -- let's see, we filed the Rule to
6 Vacate or Show Cause on August 8, 2018.

7 THE COURT: August 8, 2018, was your eviction?

8 MS. MCDANIEL: That's correct, Your Honor. And
9 let's see if I have the -- I may not have the
10 Master-In-Equity pleadings with me in this notebook.

11 THE COURT: Just for the record, the
12 Master-In-Equity proceedings appear to be
13 2018-CP-38-01016.

14 MS. MCDANIEL: I believe that's correct, Your Honor.

15 MR. RIVERS: Yes, sir.

16 THE COURT: And that hearing before the master was
17 on April 17, 2019?

18 MS. MCDANIEL: That's correct, Your Honor.

19 THE COURT: Okay.

20 MS. MCDANIEL: And I do have a copy of the Master's
21 order if you would like that.

22 THE COURT: No, I've got a copy of the Master's
23 report. I was just trying to find when Mr. Rivers'
24 Complaint was filed.

25 MR. RIVERS: I have it right here if you need a copy

1 MS. MCDANIEL: Yes, Your Honor. In the magistrate's
2 order, return of the civil appeal, you will note that it
3 says on August 8th respondent James R. Smith filed the
4 rule to vacate or show cause for eviction.

5 MR. RIVERS: And I was served on August 23rd and my
6 document showed August 20th is when the magistrate judge
7 signed the document.

8 THE COURT: Okay.

9 MS. MCDANIEL: Your Honor, I don't really see how
10 that matters.

11 THE COURT: I understand. I was just -- all right.
12 Ms. McDaniel, anything else you want to tell me?

13 MS. MCDANIEL: Your Honor, the timing of when the
14 eviction verses the lawsuit was filed, really has no
15 bearing on this case. The eviction and the lawsuit are
16 two separate proceedings. The magistrate had the deed,
17 had the Power of Attorney in front of her that showed --
18 confirmed the ownership in Mr. Smith at the time that
19 she made the decision. There was no cloud on the title.
20 There was no evidence presented that would have called
21 the title into question.

22 The Rivers' certainly, you know, fought hard and
23 filed a separate lawsuit. But that case has been
24 dismissed, so there is no question but that Mr. Smith
25 owns the property and owned it at the time that the

CERTIFICATE OF REPORTER

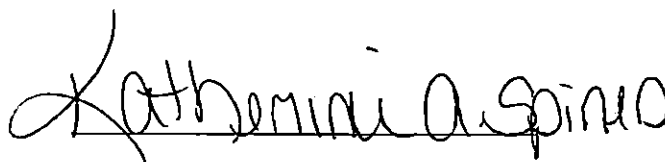
STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

I, KATHERINE A. SPIRES, Registered Professional Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Orangeburg County, South Carolina, on the 18th of October, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

May 22, 2020



Katherine A. Spires

Registered Professional Reporter

EX



STATE OF SOUTH CAROLINA

]

IN THE MAGISTRATES COURT

COUNTY OF ORANGEBURG

]

CASE NO. 2018CV1810702780

JAMES SMITH, JR.

]

REPLY: TO RULE TO SHOW CAUSE

Plaintiff

]

REQUEST TO INCORPORATE CASES IN

VS

]

COURT OF COMMON PLEAS

RUFUS RIVERS RUFUS AND MERLE RIVERS

]

Defendants

]

*Case to magistrates
She gave it back
opposing attorney has copy of it*

2018 APR 10 PM 4:40
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CLARK
ORANGEBURG, SC

Now comes the defendants replying and denying any and all allegations:

1. Defendants were never a part of any valid lease or rental agreement with plaintiff.
2. Defendants never resided at 1428 Legrand Smoak Street, Cordova, South Carolina, 29039

Defendants have a pending Complaint with Motion for Injunction filed with the Court Of Common Pleas, in the First Judicial Circuit Orangeburg, South Carolina, dated and filed August 6, 2018 With proof of mailing bearing the same date.

Defendants are requesting this court's actions be dismissed and defendants be permitted to incorporate this matter and proceed in the Court Of Common Pleas case #2018-CP-38-01016, where defendants will also be seeking damages for retaliation. The plaintiff and his attorney knew or should have known about the pending action regarding the validity of plaintiff's ownership of said property. Instead, plaintiff through his attorney, attempted unethical behavior while using this court to facilitate an unlawful eviction. In addition, defendants request a restraining order against plaintiff. Due to defendant's pending action in circuit court and plaintiff's attempt to use this court to facilitate an unlawful eviction, defendants see no need for any bond.

Dated: 09/17/2018

[Signature]
Rufus Rivers, pro se

To: Plaintiff Attorney: Kathleen M. McDaniel

TRUE COPY
FILED FOR CLERK
CLARK
ORANGEBURG, SC

Office Box 1929

Columbia, SC 29202

Merle Rivers



Merle Rivers

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WINNIPPA B. CLARK
2019 APR 10 PM 4:40
CLERK OF COURT
ORANGEBURG, SC

THIS IS THE COPY
OF THE ORIGINAL
CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA	]	COMMON PLEAS NO. 2018-CP-38-01339
COUNTY OF ORANGEBURG]	
RUFUS RIVERS AND MERLE RIVERS	]	MAGISTRATE COURT NO. 2018CV3810702780
APPELLANTS, PRO SE]	
VS.	]	NOTICE OF INTENT TO APPEAL
JAMES SMITH, JR.	]	TO CIRCUIT COURT(CORRECTED)
RESPONDENT]	

The Defendant's Rufus Rivers and Merle Rivers hereby gives notice of appeal from the judgment of the magistrate's court in the above action, to the Circuit Court of Common Pleas in the County of Orangeburg.

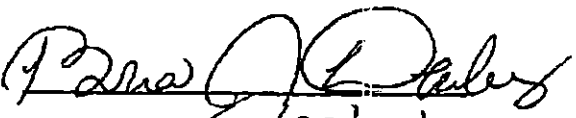
This notice of appeal is made subsequent to personal notice of the judgment which was received on 17th day of October, 2018.

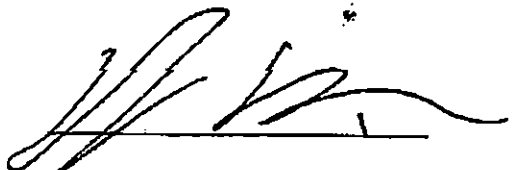
The appellants exceptions to the judgment of the magistrate are set forth as follows: Pursuant Title 22 Chapter 3 section 20, Jurisdiction and Procedure in Magistrates' Court, and 22-3-1120, defense to questionable title in defendants' answer. Defendants believe the court erred when proceeding in deciding the case and rendering judgment in favor of Plaintiff because;

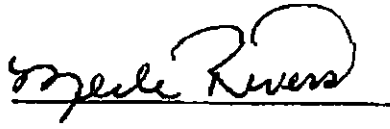
1. There no was no Landlord-Tenant relationship
2. Defendants provided in writing to the court and Plaintiffs' attorney a written reply to Rule to Show Cause and it given back to the Defendants without being entered into the record as evidence.
3. Defendants had already filed a summons and complaint in Circuit Court regarding ownership of the property as of August 6, 2018, and that was provided in court as well.

The magistrate's court lacked subject matter jurisdiction in the matter and the matter should have been dismissed.

Sworn before me this ^{18th} day of October 2018


 NOTARY PUBLIC 09/19/2024


 Rufus Rivers, pro se


 Merle Rivers, pro se

FILED FOR RECORD
 WINNIFER B. CLARK
 CLERK OF COURT
 ORANGEBURG SC
 2018 OCT 18 PM 2:04



The South Carolina Court of Appeals

Rufus Rivers

03/12/2020

RECEIPT #92409

Fee Type: Case Initiation Fee Filed After 10-15-18
Amount: \$250.00
Payment Type: Cash
Reference No:
Check/Money Order Date: 03/12/2020
Comments:

2020 MAR 12 PM 12:42

CLERK

ATTEST: TRUE COPY
Winnaja B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

44

92409

FORM 1
NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals
[The Supreme Court]

APPEAL FROM ORANGEBURG COUNTY
Court Of Common Pleas
Edgar W. Dickson, Circuit Court Judge

RECEIVED
MAR 12 2020
SC Court of Appeals

Case No. 2018-CP-38-01339

Rufus Rivers and Merle Rivers
pro se

Appellants

V.

James Smith, Jr.

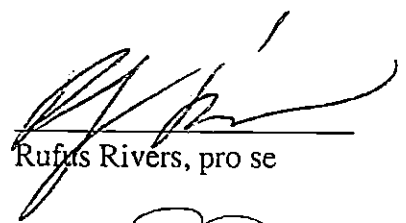
Respondent

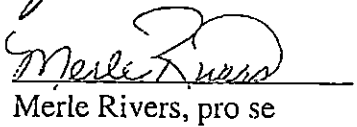
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RECORD

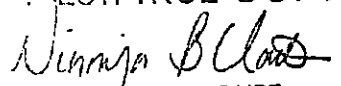
NOTICE OF APPEAL

Rufus Rivers and Merle Rivers appeals the order[judgment] of the honorable Edgar W. Dickson dated February 21, 2020. Appellants received written notice of entry of this order [judgment] on February 24, 2020.

3-2-2020
Dated


Rufus Rivers, pro se


Merle Rivers, pro se

BEST: TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SC

1429 Legrand Smoak Street
Cordova, SC 29039
803-218-9573

45

FORM 7
PROOF OF SERVICE OF NOTICE OF APPEAL

IN THE STATE OF SOUTH CAROLINA
In Thr Court Of Appeals
[In The Supreme Court]

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Edgar W. Dickson, Administrative Judge

Case No. 2018-CP-01339

RECEIVED
MAR 12 2020
SC Court of Appeals

2020 MAR 12 PM 12:42
CLERK OF COURT

Rufus Rivers and Merle Rivers
pro se

Appellants

VS.

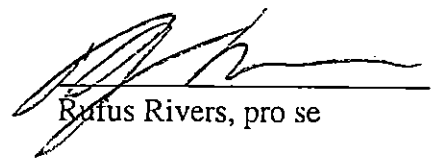
James Smith, Jr.

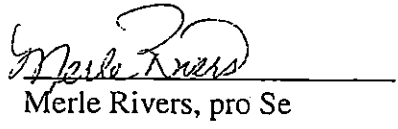
Appellee

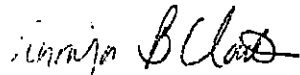
PROOF OF SERVICE

We certify that we have served the Notice of Appeal on James Smith, Jr. by depositing a copy of it in the United States mail, postage paid, on March 2, 2020, addressed to his attorney of record, Kathleen McDaniel, P.O. Box 1929, Columbia, South Carolina 29202 [by emailing to his attorney of record, Kathleen McDaniel at twolfe@burnetteshutte.law on March 2, 2020.

March 2, 2020


Rufus Rivers, pro se


Merle Rivers, pro Se

TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SC

Rufus Rivers et al
PLAINTIFF(S)

James Smith, Jr.
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

After careful consideration of this appeal, the Court DENIES the Appellant's motion for reconsideration and opposition to Judge's order. Based on the Court's previous ruling and order, this case is DISMISSED and REMANDED to the Magistrate's court for compliance with the Magistrate's order.

ORDER INFORMATION

This order ends does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/21/2020 .

Rufus Rivers for Rufus Rivers
James Smith for James Smith, Jr.
James Smith, Jr. for James Smith
Rufus Rivers for Rufus Rivers
Merle Rivers

NAMES OF TRADITIONAL FILERS SERVED BY MAIL COPY

Winnaja B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

47

RECEIVED
MAR 12 2020
SC COURT OF APPEALS

2020 MAR 12 PM 12:00
RECORDED

ELECTRONICALLY FILED - 2020 Feb 21 10:24 AM - ORANGEBURG - COMMON PLEAS - CASE#2018CP3801339

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

48



Orangeburg Common Pleas

Case Caption: Rufus Rivers , plaintiff, et al VS James Smith Jr.
Case Number: 2018CP3801339
Type: Order/Electronic Form 4

So Ordered

s/ Edgar W. Dickson #2153

Electronically signed on 2020-02-21 10:14:29 page 3 of 3

ELECTRONICALLY FILED - 2020 Feb 21 10:24 AM - ORANGEBURG - COMMON PLEAS - CASE#2018CP3801339

49

JUL 15 2020

SC Court of Appeals

Avail To The Court Of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

undersigned, RUFUS AND MERLE RIVERS, being duly sworn, hereby depose and says:

1. We are over the age of 18 and are residents of the State of South Carolina. We have personal knowledge of the facts herein, and, if called as a witness, could testify completely thereon.

We suffer no legal disabilities and have personal knowledge of the facts set forth below.

3. We currently have an appeal pending in the Court of Appeals with an appeal bond of \$700.00 per month being paid in to escrow.

The appeal alleges the Magistrate lacked subject matter jurisdiction because there was legal _____ pending in circuit court when the plaintiff filed eviction papers and had already been served on August 14, 2018. (see attached)

Magistrate Grant also ordered us to pay rental payments of \$700.00 per month when there was a landlord-tenant agreement and the plaintiff did not ask for rental payments. (see attached).

6. Magistrate Grant's staff refused our payment when we visited the office to provide a notice of appeal on March 2, 2020 without any valid explanation other than the notice did not state a reason for appeal.

It is our belief that we are being treated unfairly and that the magistrate and her staff has taken this matter personally because of the appeal.

March 11, 2020 the sheriff came to evict us and allowed us to remain to another date.

7. We personally visited the Court of appeals on March 12, 2020 and paid the filing fee and obtained a filed copy and provided it to the magistrate's office and was told they would get back with us. We received a call from the magistrate's office, allowing us until March 18, 2020 to make initial payment.

8. On March 17, 2020, after obtaining a copy of Judge Beatty's order, we emailed the magistrate's court a correspondence requesting an extension. (see attached)

We received a reply from Sylvia Edwards stating that our request was denied. (See attached) so received a reply from Lisa Proveaux explaining when the payments were due. (See attached)

12. On May 1, 2020, we visited the magistrate's office to bring the payments current in the amount

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MAY 22 AM 10:04
CLERK OF COURT
ORANGEBURG SC

of \$1400.00 and again the staff told us that they were instructed not to accept the payment by Judge Grant and to return on May 4, 2020 without any reason for returning. (see attached)

On May 4, 2020, we visited the magistrate's office as instructed. After being told to have a Rufus Rivers waited for almost 30 minutes. He then approached the receptionist to ask how much longer and was told they could not accept the payment and to contact his lawyer knowing we are pro se litigants.

We have come to believe that we are being treated differently than anyone else. This is nothing than retaliation for appealing a matter that should not have been decided by the magistrate in the first place. We certainly have the right to pay what was past due while the evictions were halted.

because of the magistrate's actions, Rufus Rivers had to take temporary work to make certain could take on the added expense of the rental payments. The temporary work ended March 31, 2020.

16. We believe the magistrate's office is acting in bad faith as agents for the Plaintiff and his self against us senior citizens with chronic medical issues.

I declare that, to the best of our knowledge and belief, the information herein is true, correct, and complete.

dated this 18th day of May, 2020.

Rufus and Merle Rivers
Rufus and Merle Rivers

NOTARY ACKNOWLEDGMENT

STATE OF SOUTH CAROLINA, COUNTY OF ORANGEBURG, ss:

The foregoing Affidavit was acknowledged before me this 18th day of May, 2020, by Rufus and Merle Rivers, who, being first duly sworn on oath according to law, deposes and says that he/she has read the foregoing Affidavit subscribed by her, and that the matters stated herein are true to the best of his/her information, knowledge and belief.

Karen Williams
Notary Public
SOUTH CAROLINA



Search mail

8 of 377

to me, twolfe@burnnetteshutt.law

ment of \$700.00 is due on today, 3-18-2020 and thereafter \$700.00 payments are to be made by 2nd of each month.

From: Rufus Rivers: [mailto:rivers788@gmail.com]

Sent: Wednesday, March 18, 2020 10:23 AM

To: Lisa Proveaux

Athleen M. McDaniel

act: Eviction- Rufus & Merle Rivers

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WINNIEFA B. CLARK
2020 MAY 22 AM 10:11
CLERK OF COURTS
ORANGEBURG

As of today, we are requesting that our appeal bond payments be extended, pursuant to the attached Supreme Court order issued 03/17/2020. Please see attached. We are placing a hard copy in the mail.

Rufus Rivers <rivers788@gmail.com>
to Lisa, twolfe@burnnetteshutt.law

Wed, Mar 18, 5:22 PM (22 hours ago)

2020-03-17-02

The Supreme Court of South Carolina

Statewide Evictions

ORDER

relevant to provisions of Article V, Section 4 of the South Carolina Constitution,

IT IS ORDERED that all evictions currently ordered and scheduled statewide from March 17, 2020, through March 31, 2020, shall be rescheduled for a date not earlier than May 1, 2020. However, case-specific exceptions for evictions may be made for matters that involve essential services and/or habitation on or property.

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WINNIFRA B. CLARK
2020 MAY 22 2 54 PM '20
CLERK OF COURT
ORANGEBURG

s/Donald W.
Beatty

J.

FOR THE COURT

Orangeburg, South Carolina
March 17, 2020

53



Search mail



4 of 377

-Rufus Rivers - Eviction Inbox x

Sylvia Edwards <sedwards@orangeburgcounty.org>

12:13 PM (3 hours ago)

to me

d afternoon,

request for extension is denied and payment of \$700.00 was due on March 18, 2020 and thereafter payments of \$700.00 are due by 2nd of each month and are to be made in full as previously ordered.

Will do, thank you.

Paid.

Thank you for informing me.

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WINNIE L. CLARK
2020 MAY 22 AM 10:05
CLERK OF COURT
ORANGEBURG, SC

Reply

Forward

54



Search mail



83 of 452

-RE: Eviction- Rufus & Merle Rivers Inbox x

Lisa Proveaux

Wed, Mar 18, 3:38 PM

Payment of \$700.00 is due on today, 3-18-2020 and thereafter \$700.00 payments are to be made by

us Rivers <rivers788@gmail.com>

Wed, Mar 18, 6:22 PM

isa, twolfe@burnetteshutt.law

Received, thank you.

Reply

Reply all

Forward

cf:

=====

FILED FOR RECORD
WINNIEFA B. CLARK
2020 MAY 22 AM 10:05
CLERK OF COURT
ORANGE COUNTY

55



**ORANGEBURG COUNTY
CENTRAL REGION
MAGISTRATE COURT**



1540 Ellis Avenue
P.O. Box 9000
Orangeburg, South Carolina 29116
Phone: (803) 533-5843
Fax: (803) 516-4011

May 18, 2020

VIA ELECTRONIC DELIVERY: rivers788@gmail.com

Rufus and Merle Rivers
29 Legrand Smoak Street
Cordova, South Carolina 29031

**RE: Defendant's Appeal on Eviction
James Smith vs Rufus and Merle Rivers
Magistrate Case No.: 2018CV3810702780**

FILED FOR RECORD
WINNIFRA B. CLARK
2020 MAY 22 AM 10:05
CLERK OF COURT
ORANGEBURG, SC

Dear Mr. Rivers:

Our records reflect that your monthly rent payment was not made to our office in March or April by the specified due date as required.

Future due payments and future payment arrangements may be coordinated directly with the plaintiff's attorney if accepted.

A physical copy of this letter will follow via today's U.S. Mail.

County of Orangeburg
Central Region Magistrate Office

VIA ELECTRONIC DELIVERY:

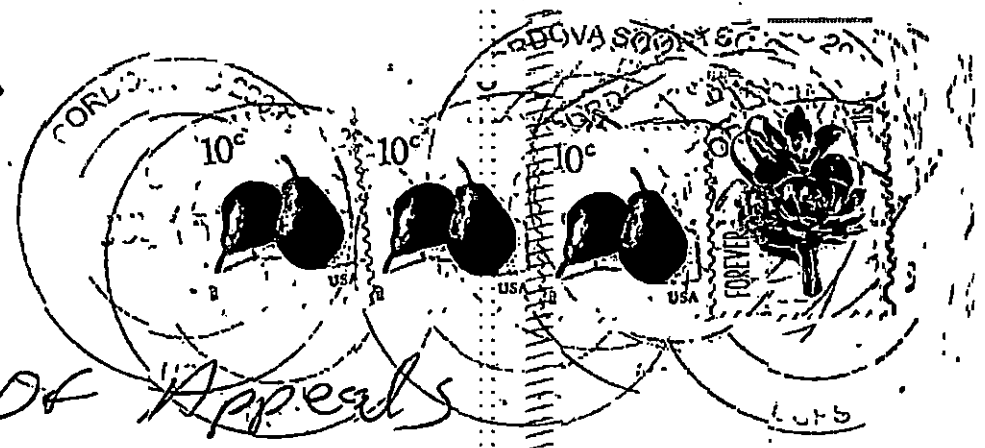
KMedaniel@BurnetteSmithLaw
TWolfe@burnettesmithlaw
Kathleen M. McDaniel, Esquire
Attorney for James F. Smith, Jr.
Office Box 1929
Columbia, South Carolina 29202

Terry Leverette, Court Administration – by U.S. Mail and Electronic Delivery

56

Ken and Nancy Klare
1429 Leonard Smeek Street
Cordova, SC 29039

RECEIVED
JUL 15 2020
SC Court of Appeals



Court of Appeals
POST OFFICE BOX 11629
Columbia, SC 29211

58

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

THE SPACE COMPANY

Plaintiff,

vs.

ANDREW SINDALL, ET AL

Defendant(s).

IN THE COURT OF COMMON PLEAS

2018-CP-10-2909

COMMON PLEAS CASE NUMBER

2018CV00859

MAGISTRATE CIVIL CASE NUMBER

BOND TO STAY EXECUTION ON APPEAL TO CIRCUIT COURT

FILED
2018 JUN 21 AM 11:15
JULIA S. HARRIS, CLERK
CIRCUIT COURT

Now comes the tenant in the above entitled action and respectfully shows the court that a judgment of ejection was issued against the tenant and for the landlord on June 7, 2018 by the presiding magistrate. Tenant has appealed the judgment to the circuit court.

Pursuant to the findings of the magistrate, the tenant is obligated to pay rent in the amount of \$2100.00 per month due on the 1st day of each month.

Tenant hereby undertakes to pay the periodic rent hereinafter due according to the aforesaid findings of the court and moves the circuit court to stay execution on the judgment for ejection until this matter is heard on appeal and decided by the circuit court.

Date: 6/9/18

[Signature]
Tenant

Upon execution of the above bond, execution on the judgment of ejection is hereby stayed until the action is heard on appeal and decided by the circuit court. If Tenant fails to make any rental payment within five days of the due date, upon application of the landlord, the stay of execution shall dissolve, the appeal by the tenant to the circuit court on issued dealing with possession must be dismissed, and the sheriff may dispossess the tenant.

Date: _____

Judge or Clerk

Ex. C

2018 CV 38107D2780
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

STATE OF SOUTH CAROLINA
COUNTY OF Orangeburg

James Smith, Jr.
PLAINTIFF(S)

VS.

Ruth and Marie Rivers
DEFENDANT(S)

BOND UNDERTAKING
AND ORDER

FILED FOR RECORD
SHERIFF S. CLARK
2019 APR 10 PM 4:40
CLERK OF COURT
ORANGEBURG, SC

Ruth Rivers and Marie Rivers plaintiff/defendant (circle one) desires to give an undertaking for the purpose of:

Covering costs incurred if defendants don't prevail in the appeal.

as provided by Section 22-3-1120, Code of Laws (1976), in the amount of \$2000.00

We, the undersigned sureties, do hereby obligate ourselves, jointly and severally as follows:

Name	_____	Name	_____
Business Address	_____	Business Address	_____
Amount	<u>\$2,000.00</u>	Amount	_____

3

I declare under penalty of perjury that the foregoing is true and correct.

FILED FOR RECORD
WYNNE A. B. CLARK
2019 APR 10 PM 4:40
CLERK OF COURT
ORANGEBURG, SC

(Signature of Surety)

(Signature of Surety)

ORDER

The above undertaking by surety(ies) is hereby approved by this court.

Dated: _____

MAGISTRATE