

STATE OF SOUTH CAROLINA
 COUNTY OF CLARENDON
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019 CP-14-263

ALVETTA MASSENBURG

CLARENDON COUNTY, BLACKTOP VENTURES, LLC, ET AL.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Scott F. Talley

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

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. See Page 2 for additional information.
- 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:

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:
 180-00-02-004-00

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
Note: Title abstractors and researchers should refer to the official court order for judgment details.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.

with counsel William H. Johnson. Defendant Blacktop Ventures, LLC was present by member William Epps and counsel Scott F. Talley.

The subject property is a 2.54 acre tract of land located at the intersection of Plowden Mill Road and Robert Rees Durant Road in Clarendon County bearing tax map number 180-00-02-004-00. Plaintiff acquired this property via Deed of Distribution from the Estate of Lillie Mae Frierson, Estate File 84-ES-14-048, recorded in Deed Book 308, Page 49 on January 6, 1997 (County Exhibit 2). From that date through tax year 2015, Plaintiff testified that she had paid the property taxes for the subject property. Each year she received the tax bill at her address. From 1997 to 2012, Plaintiff had moved two times and knew each time to notify the County of her change in mailing address. Plaintiff offered no reason why she did not pay the 2016 taxes. She also offered no reason why she did not reach out to the County regarding this property despite proper notice in 2017 or 2018. She testified that she did receive the notice of overage (Exhibit 13) on May 18, 2019 and that she signed for that notice; it was sent to the same address as all other notices regarding the failure to pay 2016 taxes in this matter. This was Plaintiff's address since 2012, and her lease was entered into evidence (Exhibit 8). Plaintiff did testify that at one point her mail was stopped because her mailbox was too full. She testified that she never reported any mail stolen and checked her mailbox and the address used by Clarendon County at least weekly.

Plaintiff is a college graduate with a degree in mathematics. She worked for the US Census Bureau over 14 years where she was in charge of personnel files and record keeping. Plaintiff did not dispute the admission of the County tax file into evidence, or the testimony of Vanessa Johnson, custodian of the file for Clarendon County, specifically the notice of non-payment sent to the Treasurer (Exhibit 9, dated March 17, 2017); the first notice sent to her by mail at the correct address in April 2017 (Exhibit 10); a certified notice sent to Plaintiff at the correct address (Exhibit

11) which was returned to the County on May 19, 2017; the Notice of Levy placed on the property by Palmetto Posting, as agent for Clarendon County, on July 26, 2017 (Exhibit 12); and the notices sent to Plaintiff after the sale (Exhibit 14). End of Redemption notices were sent to Plaintiff (Exhibits 15 and 16).

Plaintiff's dispute is with Exhibit 12, the original of which was introduced as County Exhibit 3. There is no evidence from Plaintiff that the property was not posted on July 26, 2017 as set forth in Exhibit 12. The coordinates shown on Exhibit 12, when input, appear on the subject property where the star, indicating location of posting, is shown on said Exhibit. Plaintiff did not call Palmetto Posting or present any evidence to contradict the posting. Her issue is with the location of the posting on the property as not being conspicuous. Plaintiff presented several witnesses that live in the vicinity of the property to testify that they were frequently on Robert Rees Durant Road, either walking or by vehicle, and never saw the posting set forth in Exhibit 12. Photos were presented showing both roads that bound the subject property (Exhibits 3, 4, 6 and 7). Testimony was presented by the County, by and through its administrator, David Epperson, that Robert Rees Durant Road, upon which the Exhibit 12 posting was placed, is a well traveled dirt road in Clarendon County. In 2017, the year of the subject property posted, said road was graded by the County ten times, as shown on County Exhibit 4, which was more than normal for dirt roads in the County. This indicated, according to Mr. Everson, a high volume of traffic compared to other dirt roads in the County.

I find that Plaintiff's testimony is inconsistent and not credible. She testified that she did receive the May 18, 2019 notice of overage and then filed this suit on May 30, 2019. However, she also testified that she first got notice that something was going on with her property (trees being cut) on or about January 2, 2019. Testimony was presented by a witness for Plaintiff, her

uncle Frank Frierson, that he was notified by neighbors on or about January 2, 2019 that trees were being cut on Plaintiff's property. He testified that he immediately notified the Plaintiff. In addition, one of Plaintiff's witnesses, Ruth McFaddin Garth, testified that she paid \$3,000 to Blacktop Ventures/William Epps for a portion of the subject property she wishes to continue using as her driveway. Despite notice in January 2019, and her own witness dealing with Blacktop Ventures as owner of the subject property Plaintiff took no action to contact the County, or anyone, regarding her property until May 2019, over 5 months after the trees were cut. Further, Plaintiff admitted that she also had another property go to tax sale for unpaid taxes in 2016, that property being located in Sumter County.

The subject property was sold to the Defendant, Blacktop Ventures, LLC as successful bidder at the tax sale on November 6, 2017. Matt Evans, for Clarendon County, and William Epps, for Blacktop Ventures, testified that Blacktop Ventures, LLC had complied with its bid at the tax sale and paid the property taxes for the years 2017, 2018 and 2019 as of the date of this hearing. A tax deed (Exhibit 18) was issued to Blacktop Ventures, LLC on December 19, 2018, said deed being recorded in Deed Book 1003, Page 5506, Clarendon County Register of Deeds.

Tax sales are conducted pursuant to S.C. Code Ann. 12-51-40 et seq. The issue in this case is whether the required posting, which was done on July 26, 2017, was conspicuous. No evidence was presented by Plaintiff, who bears the burden in this matter, that the notice of levy as indicated in Exhibit 12 was not posed as indicated by Palmetto Posting, Inc. Plaintiff has presented only testimony of family members/neighbors saying "they did not see the posting" – however, this does not establish that it was not completed as indicated by the admitted evidence at this trial. Conspicuous is defined as "clearly visible, obvious or striking to the eye" and "plainly evident, striking, hence remarkable, noteworthy."

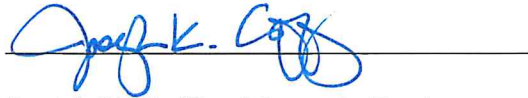
The coordinates of the posting indicate that it was placed along an easement area on the subject property. No structure is on the subject property, so the posted was placed on a tree as indicated on Exhibit 12. A photograph showing that the posting was completed on July 26, 2017 is in evidence before the Court. There is no requirement in law that the County make sure on a daily or weekly basis that the posting required remain intact. I find that the posting on July 26, 2017 as evidenced by Exhibit 12 meets the requirements of South Carolina law for posting property that is being sold for taxes. The Court cannot ignore the fact that Exhibit 12 shows the posting on the property or the fact that Plaintiff, by her own testimony, had notice of the sale from family members on or about January 2, 2019 and still did nothing until filing this lawsuit on May 30, 2019.

I find that the County fully complied with the requirements of S.C. Code Ann. 12-51-40 in conducting the 2017 tax sale for the subject property. I find that the Plaintiff, despite proper notice, failed to redeem the property within the time allotted by law. I find that the Defendant, Blacktop Ventures, LLC, was the successful bidder at the 2017 tax sale for the subject property and complied with its bid. Further, there have been no claims, other than this action by Plaintiff, adverse to Blacktop Ventures, LLC since 2017.

THEREFORE, it is ordered:

1. The 2017 tax sale for the subject property was conducted in compliance with applicable South Carolina law;
2. Blacktop Ventures, LLC is the lawful owner of the subject property and its entitled to quiet enjoyment of same with no adverse claims from Plaintiff or anyone claiming under her.

This is the 3rd day of November, 2020.



Joseph K. Coffey, Master in Equity

Manning, South Carolina