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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM CHARLESTON COUNTY
JENNIFER B. MCCOY, CIRCUIT COURT JUDGE**

Appellate Case No.
2020-001335

GENEVIEVE STRATOS, RESPONDENT,

v.

**CHARLESTON COUNTY SHERIFF'S OFFICE AND
KARMATIC, LLC, DEFENDANTS.**

OF WHICH

KARMATIC, LLC, IS THE APPELLANT.

RESPONDENT'S MOTION TO DISMISS

Respondent Genevieve Stratos (Stratos) hereby moves to dismiss this appeal because any decision would be moot. Nothing the Court decides can change that Karmatic, LLC (Karmatic) cannot collect on a judgment enrolled more than ten years ago. It is well recognized and undisputed that a creditor cannot enforce a

judgment lien more than ten years after its entry and courts cannot extend this time. *Gordon v. Lancaster*, 425 S.C. 386, 823 S.E.2d 173 (2018).

Summary of Case

Appellant Karmatic, LLC (Karmatic) attempted to execute on a judgment against Ms. Stratos entered by Tideland Bank more than 10 years ago. On August 31, 2020, she filed a lawsuit seeking to enjoin the execution of the judgment now held by Karmatic. Stratos alleges Karmatic was created and formed by her former attorney to buy the judgment and seek revenge for a lawsuit she filed against him.

The issue on appeal is whether the trial court erred in deciding the judgment expired. There were two hearings.

Karmatic argued the judgment was “**entered on December 8, 2010**, and, therefore continues to be enforceable...” *See, e.g.*, Karmatic Memo of Law In Opposition to Plaintiff’s Motion for Preliminary Restraining Order and Injunction filed September 3, 2020. (Emphasis added).

Stratos argued the judgment was entered August 16, 2010 and was no longer enforceable as more than 10 years had passed since its entry. Among other evidence, she presented an affidavit from the Charleston County Clerk of Court verifying that the judgment “**was entered on August 16, 2010...**” *See* Armstrong

Affidavit dated September 11, 2020. (Emphasis added) The trial court agreed with Ms. Stratos. Orders were entered September 4, 2020 and September 16, 2020.

Karmatic did not file a motion to reconsider or take any action to have the trial court terminate the injunction so it could seek enforcement of the judgment before the statutory time expired. Instead, Karmatic chose to file this appeal on October 5, 2020 and did not seek to expedite a decision before December 8, 2020, the date even Karmatic contends the judgment would expire.

Appeal Moot

Whether the judgment was entered August 16, 2010 or December 8, 2010, no decision made by this or any other court will change the fact that the judgment sought to be enforced by Karmatic is stale or otherwise extinguished. As the Supreme Court held last week, “A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy.” *S.C. Coastal Conservation League v. Dominion Energy S.C., Inc.*, No. 2018-001165, 2020 WL 7239885, at *3, __ S.C. __ (Dec. 9, 2020).

An appeal does not stay the time for enforcement of the judgment. The Supreme Court made clear that courts cannot extend the time for enforcement of the statutory judgment lien beyond 10 years after its entry.

A judgment lien is purely statutory, its duration as fixed by the legislature may not be prolonged by the courts and


the bringing of an action to enforce the lien will not preserve it beyond the time fixed by the statute, if such time expires before the action is tried.

Gordon v. Lancaster, 425 S.C. 386, 392, 823 S.E.2d 173, 176 (2018), *reh'g denied* (Feb. 20, 2019). The Supreme Court has “consistently held that under the statute, a judgment becomes stale and a judgment lien is extinguished after ten years.” *Gordon v. Lancaster*, citing *Home Port Rentals, Inc. v. Moore*, 369 S.C. 493, 496, 632 S.E.2d 173, 176 (2018) *reh. denied* Feb. 20, 2019 (internal citations omitted). Further, the Court held “we decline to judicially adopt an exception to the bright-line rule that a judgment expires after ten years from its enrollment.” *Id.*

Karmatic seeks to enforce a stale judgment. Whether one uses the date August 16, 2020 (decided by the trial court) or December 8, 2020 (argued by Karmatic), no decision can alter that the judgment expired. This appeal is moot.

WHEREFORE, it is respectfully requested that this Court grant the motion to dismiss the appeal, order that the bond Stratos posted for appeal be released and grant such other and further relief as is deemed just and proper.

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ATTORNEYS FOR RESPONDENT STRATOS

DECEMBER 14, 2020

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IN THE COURT OF APPEALS**

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v.

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PROOF OF SERVICE


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I, Justin S. Kahn, do hereby affirm that on December 14, 2020, I served one copy of Respondent's Motion to Dismiss on the following named individuals by placing a copy in the United States Mail, first class, postage prepaid:

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Justin S. Kahn

CHARLESTON, SC
DECEMBER 14, 2020

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December 14, 2020

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SC Court of Appeals

Hon. Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

**Re: Genevieve Stratos v. Charleston County Sheriff's Office and Karmatic, LLC
Appellate Case No.: 2020-001335**

Dear Ms. Kitchings:

Enclosed for filing is an original and 7 copies of Respondent's Motion to Dismiss, along with Proof of Service. I have also enclosed a check for the filing fee. By copy of this letter I am serving this motion on counsel for Appellant.

Please file the original and six copies, mark the extra copy filed and return it to us in the enclosed, postage-prepaid envelope.

With best regards, I am

Sincerely,



Justin S. Kahn

JSK/pm

Encl.

cc: Elizabeth J. Palmer, Esq.
Edward L. Knisley, Jr., Esq.

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