

9/18/21

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM CLARENDON COUNTY Court of Common Pleas JUN 17 2021

W.B. McCullough, Special Referee

SC Court of Appeals

Case Number: 2018-002199

Wilmington Savings Fund Society, FSB, D/B/A Christina Trust as Owner Trustee of the Residential Credit Opportunities Trust V Respondent,

v.

Leroy Hooks, II and Ford Motor Credit Company, LLC Appellant,

Patrick A Wheeler and Maria D. Williams, Intervenors Respondent.

PETITIONS FOR REHEARING AND ORAL ARGUMENTS

Pursuant to SCACR 2221 the Appellant respectfully requests that the Court rehear this matter to consider the following points that the Court overlooked or misapprehended and allow for oral arguments at the rehearing.

In its opinion the Court writes: "Hooks failed to establish he was incompetent and required the appointment of a GAL when the mortgagee . . . filed its complaint seeking foreclosure in February 2018." The Court relies on Zaragoza v. Zaragoza, 309 S.C. 149, 420 S.E.2d 516 (Ct. App. 1992) for the proposition that "Veterans Affairs (VA), disability does not always equate to incompetence." This reliance on Zaragoza is misplaced, because in that case the Court wrote: "[The Appellant] appears to argue that she is entitled to dismissal based solely on the fact that the husband is on disability retirement." She equates disability with mental incompetency such that the husband's disability

automatically renders him mentally incompetent." (Emphasis added) Id. at 519. In the case at bar it is not argued that VA disability automatically equals incompetence. The Record in the present case contains 130 pages of medical records that show that the Appellant was incompetent due to his schizophrenia and schizoaffective disorder, not just a general reliance on the fact that the Appellant has been determined to be disabled. The Respondents could not offer a single medical record that states that the Appellant is competent.

The opinion states that "we find Hooks failed to prove he was incompetent when the foreclosure action was served and filed on February 2018."¹ This statement places an almost impossible burden on the Appellant to prove disability at the exact time of service of the pleadings. The Record shows that the Appellant was incompetent before and after the service of the pleadings.

R. p. 60-62: 11/6/15 "Inpatient hospitalizations: January 2015 for paranoid thoughts, committed for 5 days. 2009 hospitalized; one-year hospitalization in Monroe, NY over 30 years ago and was diagnosed with schizophrenia at that time. . . Schizophrenia, paranoid type. . . He has not managed his money before and given the history of head injury and memory problems would recommend to continue with a fiduciary for his disability." (Emphasis Added).

R. p. 85: 9/8/18 "Suicidal thoughts and command auditory hallucinations telling him to kill himself."

R. p. 76: 9/8/18 "'I have been feeling depressed and I was hearing voices'. . . He states he has been hearing voices telling him to kill himself and he knew he needed help. . . auditory hallucinations. . . The patient has been diagnosed with schizophrenia and schizoaffective disorder, in the past and is 100% service connected for psychiatric illness. He estimates he has been psychiatrically hospitalized 'about 10 times'."

R. p. 95: 9/12/18 "Does this patient lack the cognitive ability to make relevant decisions? Yes."


¹ The Pleadings were served on the Appellant by publication in March of 2018 pursuant to Order for Service By Publication. See R. p. 18.

These medical records show that the Appellant was incompetent when committed to the hospital in 2009, 2015, and 2018. There is nothing in the Record to show that the Appellant regained competency between the hospitalization in November 2015 and September 2018, the latter being just 6 months after the pleadings were served on the Appellant by publication. The opinion properly states that the standard of proof is 'preponderance of the evidence', but as the Court evaluated the medical evidence it appears that a standard of 'beyond a reasonable doubt' was used.

The Appellant believes that the Court has overlooked the material facts of the numerous and recent hospitalizations that demonstrate the Appellant has continued to be incompetent for many years, including at the time he was served with the pleadings by publication in March of 2018. The Appellant also believes that the Court misinterpreted the principle of law by actually applying a standard of proof akin to beyond a reasonable doubt, when it should have actually applied the proper standard of preponderance of the evidence.

The Appellant requests that the Court allow for a rehearing of this matter with oral arguments.

6/16, 2021


WILLIAM CETH LAND
LAND PARKER WELCH LLC
POST OFFICE BOX 138
MANNING, SOUTH CAROLINA 29102
ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

W.B. McCullough, Special Referee

Case Number: 2018-002199

RECEIVED

JUN 17 2021

SC Court of Appeals

Wilmington Savings Fund Society, FSB, D/B/A Christina Trust as Owner Trustee of the
Residential Credit Opportunities Trust V Respondent,

v.

Leroy Hooks, II and Ford Motor Credit Company, LLC Appellant,

Patrick A Wheeler and Maria D. Williams, Intervenors Respondent.

CERTIFICATE OF SERVICE

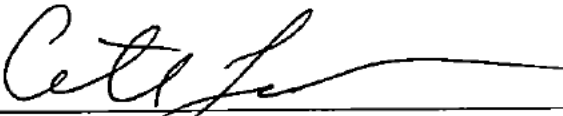
I hereby certify that due and proper service of the documents described below was made on the 16th day of June, 2021, by depositing a true copy of same in the United States mail at Manning, South Carolina, in an envelope with adequate first-class postage duly affixed and return address clearly indicated thereon and addressed to:

Chad W. Burgess, Esquire
3800 Fernandina Road, Suite 110
Columbia, S.C. 29210
Attorney for Respondent Wilmington Savings

Patrick R. Watts, Esquire
PO Box 2046
Summerville, S.C. 29484
Attorney for Respondent Wheeler and Williams

Andrew T. Shepherd
204 Brighton Park Blvd. Suite B
Summerville, SC 29486
Attorney for Respondent Wheeler and Williams

DESCRIPTION OF DOCUMENTS:
Petitions for Rehearing and Oral Arguments



WILLIAM CETH LAND
LAND PARKER WELCH LLC
POST OFFICE BOX 138
MANNING, SOUTH CAROLINA 29102
ATTORNEY FOR RESPONDENT

RECEIVED

JUN 17 2021

SC Court of Appeals

LAND PARKER WELCH LLC
ATTORNEYS AT LAW
POST OFFICE BOX 138
MANNING, SOUTH CAROLINA 29102

JOHN C. LAND, III
NELSON R. PARKER
J. CALHOUN LAND, IV
RICCI LAND WELCH
WILLIAM CETH LAND

29 SOUTH MILL STREET
TELEPHONE: 803-435-8894
FACSIMILE: 803-435-8362
Email: ceth@lpwlawfirm.com

June 16, 2021

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Wilmington Savings Fund Society, FSB, d/b/a Christina Trust as Owner Trustee
of the Residential Credit Opportunities Trust V vs. Leroy Hooks, II and Ford Motor
Credit Co. Inc. and Patrick Wheeler and Maria D. Williams.
Case No: 2018-002199

Dear Ms. Kitchings:

Please find enclosed for filing the following in regards to the above matter:

Appellant's Petitions for Rehearing and Oral Arguments - Original and 6 copies. Along
with the required Fifty Dollar filing fee.

I am by copy of this letter serving the same on: Chad W. Burgess, Esquire, attorney for
Respondent, Wilmington Savings; Patrick R. Watts, Esquire, attorney for Wheeler and
Williams; and Andrew T. Shepherd, Esquire, attorney for Wheeler and Williams.

With warm regards, I am

Sincerely,



William Ceth Land

WCL/sr

Encls.

Cc: Chad W. Burgess, Esquire
Andrew T. Shepherd, Esquire
Patrick R. Watts, Esquire

RECEIVED

JUN 17 2021

SC Court of Appeals

FROM:
WILLIAM CETH LAND, ESQUIRE
LAND PARKER WELCH LLC
29 S. MILL STREET
MANNING SC 29102

\$7.16
CLASS OF
FROM 29102
ZONE 1
NO. OF
COMBINATION
023001001801
06/16/2021



P PRIORITY MAIL 1-DAY™ 0005
US POSTAGE & FEES PAID
B012

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
PO Box 11629
Columbia SC 29211-1629



USPS TRACKING #



9405 5118 9956 0031 3810 86