

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

Rene McMasters, now)
Rene McMasters Ronaghan,)
)
Plaintiff,)
)
-vs-)
)
H. Wayne Charpia, et al.,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS

Case Number: 2009CP1802200

ADMINISTRATIVE
ORDER OF DISMISSAL
ON THE MOTION BY
HOWARD W. CHARPIA TO
RECONSIDER and DISBURSE/
REFUND DEPOSIT

RECEIVED

OCT 08 2021

SC Court of Appeals

On August 9, 2021, Mr. Howard W. Charpia filed a document denominated as a Motion to Reconsider and Disburse/Refund Deposit. The motion is summarily dismissed because there is no construction by which it might be deemed to be timely and it fails to state any available ground for relief on its face.

Mr. Charpia has repeatedly litigated and attempted to re-litigate the return of a deposit of \$6,500 placed with the Clerk of Court on a bid in a foreclosure sale. That is the relief that he is again seeking by this motion. The motion does not clearly state what order Mr. Charpia seeks to have reconsidered. It only refers to an order of The Honorable Edgar W. Dickson that was issued in 2012. The undersigned judge has been designated to have jurisdiction to deal with this case by the Supreme Court of South Carolina because judges that have previously dealt with Mr. Charpia's numerous actions have recused themselves over the course of this extended litigation.

In reviewing this case, the last order entered by a circuit judge was issued by this court on June 2, 2020. That order directed the Clerk to return, unfiled, a proposed motion

submitted without payment of a filing fee wherein Mr. Charpia again attempted to challenge the ruling of The Honorable Roger M. Young, Sr. in a 2002 case (2002-CP-18-00932).

Previously, on October 29, 2018, this court issued an order that included the following determination: "[T]he funds on deposit were placed by Claude Soles and . . . Mr. Charpia has no entitlement to them. In addition, there appears to be no proper claim by Roger Charpia [Mr. Charpia's brother] to the \$6,500 deposit." The Court of Appeals recently remitted Mr. Charpia's latest appeal.

The pending motion is summarily dismissed, without a hearing for the following reasons: (1) the motion cannot possibly be timely based on its wording; (2) this is another in a repeated effort by Mr. Charpia to re-litigate matters that are barred by the doctrine of finality of judgments; and, (3) the court has already ruled in an order dated October 29, 2018 that he has no entitlement to these funds, so that matter is barred from being re-litigated.

As explained in *Price v. City of Georgetown*, 375 S.E.2d 334 (S.C. Ct. App. 1988):

In South Carolina, the doctrine of *collateral estoppel* is usually stated in conjunction with the related doctrine of *res judicata*:

The doctrines of res judicata and collateral estoppel are, of course, two different concepts. A final judgment on the merits in a prior action will conclude the parties and their privies under the doctrine of res judicata in a second action based on the same claim as to issues actually litigated and as to issues which might have been litigated in the first action. Under the doctrine of collateral estoppel, on the other hand, the second action is based upon a different claim and the judgment in the first action precludes relitigation of only those issues 'actually and necessarily litigated and determined in the first suit.' Stewart, Res Judicata and Collateral Estoppel in South Carolina, 28 S.C.L. Rev. 451, 452 (1977). Beall v. Doe, [281] S.C. [363], 315 S.E.2d 186, 189 n. 1 (S.C.App. 1984). The modern trend is to refer to collateral estoppel as issue preclusion and

to *res judicata* as *claim preclusion*. 46 Am. Jur.2d *Judgments* Section 397; *see also*, RESTATEMENT (SECOND) OF JUDGMENTS Section 27 at 250 (1982).

There is no reference in this motion as to which of the Rules of Civil Procedure Mr. Charpia is claiming to be applicable to his effort to obtain relief. Under no construction, however, can this be deemed to be filed within the 10-day period for post-trial motions under Rule 59 or within the reasonable-time or one-year standards of Rule 60. Since the undersigned judge was vested with jurisdiction over this matter due to recusals, the court deems it appropriate to issue this order administratively.

THEREFORE, IT IS ORDERED that the Motion to Reconsider and to Disburse/Refund Deposit is dismissed.

AND IT IS SO ORDERED.

[Electronic signature follows on separate page.]