

APPENDIX

APPENDIX

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No.

In THE
SUPREME COURT OF THE UNITED STATES

SHERYL PEREIRA

Petitioner,

v.

TERRIAL O'NEAL

Respondent

APPENDIX 1

Appendix 1. Rockdale Magistrate Court, Case

2021-MAG1892 Final Order Of transfer to Superior

Court, case 2021-CV-1938 August 19, 2021.....1-2

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APPENDIX 1

IN THE MAGISTRATE COURT OF ROCKDALE

COUNTY STATE OF GEORGIA

Sheryl P. Pereira

CIVIL ACTION FILE NO.

Plaintiff

2021-MAG1892

vs

Terrial O'Neal,

Defendant.

**FINAL ORDER OF TRANSFER TO SUPERIOR
COURT**

The above-style action comes before the Court on
the Defendant's Motion for Consolidation and the
Plaintiff's request for an Emergency Dispossession

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Hearing. After consideration of these matters, inspection of the record and applicable law, the Court finds, in favor of the Defendant, good cause to issue this final order of transfer to the Superior Court of Rockdale County, for the purpose of adjudicating all matters relating to the same parties and the same transaction and course of conduct, including the issues in the instant action. Therefore, IT IS ORDERED AND ADJUDGED that the Plaintiff's Request for an Emergency Dispossession Hearing is DENIED, and the Defendant's Motion for Consolidation is GRANTED. Upon the Defendant's payment of taxed court costs, not later than 10 days from the date of this Order, the Clerk is directed to transfer this action to the Superior Court of Rockdale County for *ab initio*

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adjudication on the merits. SO ORDERED this 19th
day of August 2021

“S/ “_____

HONORABLE PHINIA ATEN

CHIEF MAGISTRATE JUDGE

MAGISTRATE COURT OF ROCKDALE COUNTY

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In THE

SUPREME COURT OF THE UNITED STATES

SHERYL PEREIRA

Petitioner,

v.

TERRIAL O'NEAL

Respondent

APPENDIX 2

Appendix 2. Superior Court of Rockdale County,

Order

and Final Judgment, case 2021-CV-1938,

October 20, 2021.....1-7

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APPENDIX 2

IN THE SUPERIOR COURT OF ROCKDALE

COUNTY

STATE OF GEORGIA

TERRIAL O'NEAL

CIVIL ACTION FILE NO

Plaintiff

2021-CV-1938

vs.

SHERYL PEREIRA,

Defendant.

ORDER AND FINAL JUDGMENT

This matter came before this Court on October 13, 2021, for a Properly noticed hearing on the following: On July 9, 2021, Plaintiff Terrial O'Neal ("Plaintiff") filed a Verified Complaint in the above

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styled case, against the Defendant Sheryl Pereira (“Defendant”) including, Breach of Contract, Specific Performance, Breach of Rights to Privacy and Quiet Enjoyment and Attorney Fees and Cost. On July 16, 2021, the Defendant filed an Affidavit and Summons of Dispossessory in the Magistrate Court of Rockdale County, Georgia, Case Number 2021-MAG-1892 (“Eviction”).

On July 19, 2021, Plaintiff filed an Answer, Defenses, Counterclaim and Motion for Consolidation in the Eviction case. On August 19, 2021, the Magistrate Court of Rockdale County, Georgia granted the Plaintiff’s Motion for Consolidation and issued a Final Order of Transfer to the above styled case. On August 20, 2021, the

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Defendant filed a Motion to Expunge the Lis Pendens, Request for an Emergency Hearing to Stop Plaintiff from further Property damages, and Non-Payment of rent.

On August 23, 2021, the Defendant filed a Motion for Emergency Hearing. On August 25, 2021, the Plaintiff filed a Motion for Expedited Injunctive Relief, Motion to Enforce Real Estate Contract and Motion for Attorney Fees and Costs. On August 25, 2021, the Defendant filed a Motion to Dismiss Plaintiff's Verified Complaint, Motion to Award Damages and back rent to Defendant, Motion to Evict Plaintiff from Defendant's property. On August 26, 2021, the Defendant filed a Motion to deny Plaintiff an expedited Injunctive Relief, Motion to deny attorney's fees, and lease agreement Termination. On August 31, 2021, the Plaintiff filed

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a Motion to Dismiss and or Strike Defendant's Answers 1, 2021 the Defendant filed a Motion to Demand Plaintiff to submit evidence. On September 1, 2021, the Defendant filed a verified answer. On September 1, 2021, the Defendant filed a Motion to Dismiss.

On September 3, 2021, the Defendant filed a Verified Answer and Motion to Dismiss Plaintiff's Verified Complaint. On September 10, 2021, the Plaintiff filed an Answer to Defendant's Motion to Dismiss, filed on August 25, 2021, Answer to Defendant's Motion to Dismiss on September 1, 2021, and answer to Defendant's Motion to Dismiss filed on September 1, 2021.

The Court heard oral arguments and testimony of the Plaintiff, Defendant and witnesses, including the testimony of a real estate Appraiser on the pending

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motions on October 13, 2021. Plaintiff appeared through counsel. Defendant appeared Pro S.E. Upon carefully reviewing the record, and considering the arguments presented, the Court orders as follows: 1. The Defendant's Motion that she has not been properly served with the Plaintiff's Verified Complaint is DENIED. The Defendant has made allegations that she was not properly served with Plaintiff's Verified Complaint. The record shows the Defendant waived Service by making a general appearance and by filing pleadings in Above-styled case without raising the defense of insufficiency of service of Service. *Brown v. Foxes Props*, 283 Ga. 231, (2002). A general appearance by a Defendant in an action in a court having Jurisdiction of the

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subject matter amounts to a waiver of the issuance of, or defects in the process served, and confers jurisdiction of his person regardless of facts that process was not served on him or that service may have been defective. Bigley v. Lawrence 149 Ga. App. 249, 250 (1979). 1. The Plaintiff's Complaint for Specific Performance is GRANTED. The Court may grant specific performance pursuant to O.C.G.A.23-130 et seq. The Court hereby grants the Plaintiff specific performance on the following terms that the Court deems just: (a) that the lease agreement between the Plaintiff and, beginning on October 15, 2020, regarding real property at, all that Tract or parcel of land, with house and all other improvements located there on, lying and being

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in Land Lot 212 of the 10th District of Rockdale County, Georgia being Lot 1 of East Irwin Place Subdivision as shown on plat of East Irwin Place Subdivision as shown on plat of East Irwin Subdivision as same as recorded in Plat Book Y, page 6, Rockdale County, Georgia Records. The description of said property as Contained on said plat is hereby incorporated herein and made an essential part hereof by reference, more commonly known as 2501 Old Salem Circle S.E, Conyers, Georgia 30013 ("Property") is a valid lease Purchase Agreement, to be enforced at the sales price of \$305,000.00, (b) the Deposit of \$2,000.00 be credited towards the sales price, (c) \$200.00 Credited towards the sales price for every lease-purchase payment made in the amount of \$2,200.00,

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(d) the lender and or anyone on its behalf is authorized to conduct a real estate appraisal at the Property, (c. the real estate closing date is extended until further Order of the Court because of the Defendant holding up the VA Appraisal and the Defendant's interference with the real estate closing. The Defendant is ordered to corporate with the Plaintiff's lender anyone on behalf of the lender, real estate closing attorney/law firm, attend a real estate closing, execute all documents before, during and after closing, obtain payoff information and all necessary documents and requirements to conduct the real estate closing and transfer title to the Property to Plaintiff. The Defendant is ordered to be ready, able and willing to attend a real estate closing on the Property within three (3) days' notice .2. The Plaintiff's Complaint for Attorney Fees and

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Expenses are GRANTED. The Court may grant attorney's fees and expenses Pursuant to O.C.G.A. 9-15-14. The Court hereby grants attorney's fees in favor of the Plaintiff the amount of \$8,500.00. The Court hereby grants expenses in the amount of \$600.00. The Plaintiff is to be paid the attorney's fees and expenses from the Defendant at the closing on the Property and or within 20 days of the date of this Order, whichever is sooner. A judgment will be entered in the amount of \$9,100.00 including statutory interest and a FIFA will be issued instanter.

3. The Defendant's Affidavit for Summons of Dispossessory, Filed in the Magistrate Court of Rockdale County, Georgia Case Number 2021-MAG-1892, Consolidated with the above-styled Case by

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Final Order of Transfer is DENIED WITH
PREJUDICE.

4. The Defendant's Motions are DENIED WITH
PREJUDICE.

SO ORDERED, this 20th of October 2021.

“s/ “.

Judge Nancy Bill

Rockdale County Superior Court

Presented by:

Schuyler Elliott

Attorney for Plaintiff

Georgia Bar Number 244002

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In THE

SUPREME COURT OF THE UNITED STATES

SHERYL PEREIRA

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Petitioner,

v.

TERRIAL O'NEAL

Respondent

APPENDIX 3

Appendix 3. Court of Appeals of Georgia,

Opinion, case A22A0548 April 13, 2022.....1-8

APPENDIX 3

IN THE COURT OF APPEALS STATE OF

GEORGIA

SHERYL PEREIRA

Appeal Case Number:

Appellant

A22A0548

TERRIAL O'NEAL.

Appellee

SECOND DIVISION

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RICKMAN, C. J., MILLER, P. J., and PIPKIN, J.

NOTICE: Motions for reconsideration must be physically received in our clerk's office within ten days of the date of decision to be deemed timely file.

In the Court of Appeals of Georgia

A22A0548. PEREIRA v. O'NEAL. April 13, 2022

NOT TO BE OFFICIALLY REPORTED

RICKMAN, Chief Judge.

This is a pro se appeal from a judgment entered after a bench trial. The trial court granted plaintiff Terrial O'Neal request for specific performance of the parties' lease-purchase agreement concerning the residential property at issue and awarded O'Neal attorney fees and costs. On appeal, defendant Sheryl Pereira raises arguments including that the trial court lacked jurisdiction, that its judgment was not

supported by the evidence, that it awarded attorney fees without a hearing, and that it failed to complete the appellate record. We find no error and affirm.

Upon appellate review, factual findings made after a bench trial shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. OCGA § 9-11-52(a) . . . [A]n appellate court will not disturb fact findings of a trial court if there is any evidence to sustain them. (Citation omitted.) *Chesser v. Chesser*, 284 Ga. App. 381, 381 (643 SE2d 764) (2007).

Thus, viewed in favor of the trial court's judgment, the record shows that in October 2020, the parties entered into a written lease-purchase agreement under which O'Neal who was renovating a house owned by Pereira, agreed to lease the

property for \$2200 a month (with \$200 of that amount credited towards purchase) until November 2021, by which time O'Neal could buy the property for \$305,000. O'Neal was approved for financing and was ready to proceed with the purchase, but Pereira refused to sell on the grounds that O'Neal had damaged the property. In July 2021, O'Neal filed this action for breach of contract, specific performance, and attorney fees and costs in the superior court. Shortly afterward, Pereira began dispossessory proceedings in the magistrate court. O'Neal answered, counterclaimed for specific performance, and moved to consolidate the cases. The magistrate court granted O'Neal motion and transferred the matter to the superior court. On the following day, Pereira moved for an emergency hearing and an eviction order in the superior court. In October 2021, a bench trial was held at which

both parties appeared, and Pereira testified. The trial court then filed a final order and judgment granting O'Neal specific performance of the lease-purchase agreement and ordering Pereira to assist.

O'Neal lender in preparation for and at closing. The trial court also awarded O'Neal \$8,500 in attorney fees and \$600 in costs and denied Pereira request for a writ of dispossession. Pereira's first notice of appeal from this judgment asked that the trial the court clerk prepare the record and a transcript for the appeal. In an amended notice of appeal, however, Pereira asked that only to be prepared and specified that [a] transcript [was] not to be included. The trial court clerk's certification of the record noted that no transcript of evidence was transmitted to this Court. As a preliminary matter, we note that Pereira's initial brief Contain no citations to any

record, a violation of Court of Appeals Rule 25, which provides that enumerated error shall be supported in the brief by specific reference to the record or transcript. Emphasis supplied.) Id. at (c) (2) (i). In the absence of a specific reference, the Court will not search for and may not consider that enumeration. Id. at (c) (2) (ji). is not the function of this court to cull the records on behalf of a party in search of instances of error. The burden is upon the party alleging error to show it affirmatively in the record (Citation and punctuation omitted.) *Magnolia Court Apts.v. City of Atlanta*, 249 Ga. App. 6, 8 (545 SE2d 643) (2001).

Although Pereira is proceeding pro se, status does not relieve [her] of the obligation to comply with the substantive and procedural requirements of the law, including the rules of this court's (Citation omitted.)

Simon v. City of Atlanta, 287 Ga. App. 199, 120 (1) (650 SE2d 783) (2007). As we explain below, moreover, Pereira's statement in her amended notice of appeal that a transcript would not be

The court improperly consolidated the cases and transferred them to the superior court. We disagree.

(a) As to Pereira dispossession proceeding,

OCGA §44-7-53 (b) provides: If the tenant answers, a trial of the issue shall be in accordance with the procedure prescribed for civil actions in courts of record except that if the action is tried in the magistrate court the trial shall be had in accordance with the procedures prescribed for that court. The magistrate courts of Georgia are not courts of records; Target Nat. Bank v. Luffman, 324 Ga. App. 442, 442 (750 SE2d 750) (2013). Pereira cites OCGA

§9-11- 42 (a) for her assertion that her consent was required to consolidate the cases. See *id.* Actions involving a common question of law or facts are pending before the court, if the parties' consent, the court may order a joint hearing or trial of any or all the matters in issue in the actions; [and] it may order all the actions consolidated. But the provisions of the Civil Practice Act do not apply to proceedings in magistrate courts. *Target Nat. Bank*, 324 Ga. App. at 444, citing OCGA § 15-10-42. In the absence of a transcript of the bench trial, moreover, we must assume that the matter was raised in the superior court and that Pereira consented to consolidation at that time. *Roberts v. Strong*, 293 Ga. App. 466, 467 (2) (667 SE2 632) (2008) (in the absence of a transcript, the appellate court was unable to determine whether consolidation was discussed at a

The present court is an inconvenient forum, and the transfer would not unduly prejudice the opposing party O'Neal might have lost access to the equitable remedy of specific performance had his action been transferred to the magistrate court. See *Mahan v. 5 Watkins*, 256 Ga. App. 260, 261 (568 SE2d 2002) (when magistrate court could not provide an equitable remedy, but plaintiffs brought their action there, plaintiffs were bound by the magistrate court's judgment for purposes of res judicata and could not later ask for that remedy in superior court). Because Pereira was not prejudiced

By the transfer of the dispossessory proceeding to superior court, which was in the interest of justice, there was no error. 2. In a few related assertions, Pereira asserts that the trial. The court's judgment

was not supported by the evidence. In the absence of a transcript of the proceedings below, however, we must assume that the evidence supported that judgment. Britton, 307 Ga. App. at 583 (3) (affirming in dispossessory cases

When no transcript had been filed under the presumption that the judgment was correct) 1. The same presumption applies to Pereira's Assertion that the trial court erred in failing to hold a hearing on attorney fees under OCGA § 9-15-14. In the absence of a transcript, and without any evidence to the contrary in the trial court order, we must assume that the trial court held a proper hearing on this issue. See Leadership Preparatory

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Academy v. Butler, 336 Ga. App. 275, 278 (3) (784 SE2d 109) (2016) (in the absence of a transcript of the hearing held below, and when the trial court's order stated that evidence was presented at the hearing, the appellate court presumed that any service objection to the proceedings on attorney fees under OCGA § 9-15-14 was waived) 2. Finally, Pereira asserts that the trial court erred in not assuring that the transcript of the hearing was transmitted to this Court. As we have previously noted, however, Pereira's amended notice of appeal stated that no transcript would be filed.

There was no error here. Britton, 307 Ga. App. at 583 (3). Judgment affirmed. Miller, P. J., and Pipkin, J., concur.

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In THE

SUPREME COURT OF THE UNITED STATES

SHERYL PEREIRA

Petitioner,

v.

TERRIAL O'NEAL

Respondent

APPENDIX 4

Appendix 4. Court of Appeals of Georgia,
Amended Motion for Reconsideration, case
A22A0548, May 3,
2022.....1

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APPENDIX 4

IN THE COURT OF APPEALS

STATE OF GEORGIA

SHERYL PEREIRA Appeal Case Number:

Appellant

A22A0548

TERRIAL O'NEAL.

Appellee

Court of Appeals of the State of Georgia

ATLANTA, May 03, 2022, The Court of Appeals

hereby passes the following orderA22A0548.

SHERYL PEREIRA v. TERRIAL O'NEAL.

Upon consideration of the APPELLANT'S Amended

Motion for Reconsideration in the above styled case,

it is ordered that the Motion is hereby DENIED

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Court of Appeals of the State of Georgia Clerk's
Office, Atlanta, May 03, 2022.

I certify that the above is a true extract from the
minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said Court
hereto Affixed the day and year last above written.

"S/" Clerk.

COURT OF APPEALS OF THE STATE OF
GEORGIA 1906

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In THE

SUPREME COURT OF THE UNITED STATES

SHERYL PEREIRA

Petitioner,

v.

TERRIAL O'NEAL

Respondent

APPENDIX 5

Appendix 5. Supreme Court of Georgia,

Petition for Writ of Certiorari, case

S22C0984, February 7, 2023.....1-2

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APPENDIX 5

IN THE SUPREME COURT STATE OF GEORGIA

SHERYL PEREIRA

Case Number:

Appellant

S22C0984

TERRIAL O'NEAL.

Appellee

SUPREME COURT OF GEORGIA

Case No. S22C0984

February 07, 2023

The Honorable Supreme Court met pursuant to
adjournment.

The following order was passed:

SHERYL PEREIRA v. TERRIAL O'NEAL.

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The Supreme Court today denied the petition for
certiorari in this case.

All the Justices concur,

Court of Appeals Case No. A22A0548

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the
minutes

of the Supreme Court of Georgia.

Witness my signature and the seal of said court

Herero

affixed the day and year last above written.

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“s/ “., Clerk

In THE

SUPREME COURT OF THE UNITED STATES

SHERYL PEREIRA

Petitioner,

v.

TERRIAL O'NEAL

Respondent

EXHIBIT 6

Appendix 6. Supreme Court of Georgia, Stay of
Remittur,

case S220984 March 7, 2023.....1-2

APPENDIX 6

IN THE SUPREME COURT STATE OF GEORGIA

SHERYL PEREIRA

Case Number:

Appellant

S22C0984

TERRIAL O'NEAL.

Appellee

SUPREME COURT OF GEORGIA

Case No. S22C0984

March 07, 2023

The Honorable Supreme Court met pursuant to
adjournment. The following order was passed:

SHERYL PEREIRA v. TERRIAL O'NEAL.

Upon consideration it is hereby ordered the
petitioner's to Stay Remittitur is DENIED, and all
remaining motions are DENIED as moot.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the
minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court

Hereto affixed the day and year last above written.

“s/ “., Clerk

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In THE

SUPREME COURT OF THE UNITED STATES

SHERYL PEREIRA

Petitioner,

TERRIAL O'NEAL

Respondent

Appendix 7. Supreme Court of Georgia, Motion for

Reconsideration. Case S 22C0984 March 7, 2023

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APPENDIX 7

IN THE SUPREME COURT STATE OF GEORGIA

SHERYL PEREIRA

Case Number:

Appellant

S22C0984

TERRIAL O'NEAL.

Appellee

SUPREME COURT OF GEORGIA

The Honorable Supreme Court met pursuant to
adjournment. The following order was passed:

SHERYL PEREIRA v TERRIAL O'NEAL.

Upon consideration of the Motion for
Reconsideration filed in this case, it is ordered that it
be hereby denied.

All the Justices Concur:

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**SUPREME COURT OF THE STATE OF
GEORGIA**

Clerk's Office, Atlanta

I certify that the above is a
true extract from the minutes of the Supreme Court
of Georgia.

Witness my signature and the seal of said court
Hereto affixed the day and year last above written.

"S/" , Clerk

In THE
SUPREME COURT OF THE UNITED STATES

SHERYL PEREIRA

Petitioner,

v.

TERRIAL O'NEAL

Respondent.

ATTENTION: The United States Supreme Court Clerk

Please see the enclosed documents, booklets and \$300 money order for a Writ of Certiorari with the required changes that was requested to have my case filed. As you can see I have followed the letter send to me and made ALL the necessary changes. I used Century Schoolbook, 12 point with 2 spacing, Top: 1 inch Bottom: 2.85 inches, left 2.2 inches Right: 2.2.inches on standard 8 x 11 inch paper.

If you have any further questions please call me (678) 650-5775.

Sincerely,



SHERYL PEREIRA
Petitioner