

Commonwealth of Kentucky

Court of Appeals

NO. 2006-CA-000867-MR

CHARLES WES COLLINS

APPELLANT

v. APPEAL FROM MADISON CIRCUIT COURT
HONORABLE JULIA HYLTON, ADAMS, JUDGE
ACTION NO. 04-CI-00470

FEDERAL NATIONAL MORTGAGE
ASSOCIATION; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; and
GMAC MORTGAGE CORPORATION

APPELLEES

OPINION
AFFIRMING

** ** * ** * ** *

BEFORE: ACREE, AND NICKELL, JUDGES; GUIDUGLI,¹ SENIOR JUDGE.

NICKELL, JUDGE: Charles Wes Collins (hereinafter “Collins”), *pro se*, has appealed from the April 21, 2006, order of the Madison Circuit Court denying his motion to alter,

¹ Senior Judge Daniel T. Guidugli sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

amend, or vacate the March 16, 2006, order confirming report of sale, delivery of deed, and distribution of costs of sale in a foreclosure action. We affirm.

In April 2004, the appellees filed a complaint for foreclosure of a mortgage secured by real property owned by Collins and his ex-spouse. The record reveals Collins filed an answer to the complaint on May 18, 2004. His ex-spouse and the other named defendants in the complaint failed to make appearances in the action. On July 15, 2004, the appellees filed motions for summary judgment against Collins, for default judgment against the remaining defendants, and for an order of sale. The trial court granted all of these motions by order entered on September 7, 2004. Sale of the property was postponed for a protracted amount of time due to numerous filings for protection under the United States Bankruptcy Code by Collins and independently by his ex-spouse. Eventually, after the conclusion of proceedings in the bankruptcy courts, on March 1, 2006, a master commissioner exposed the property for sale to the highest bidder. The appellee, Mortgage Electronic Registration Systems, Inc. (hereinafter "MERS"), as nominee for GMAC Mortgage Corporation (hereinafter "GMAC"), became the successful bidder and subsequently assigned its bid to Federal National Mortgage Association (hereinafter "FNMA"). MERS filed a motion to confirm the sale on March 6, 2006. Collins filed a "motion to set aside sale and vacate order of sale" on March 14, 2006. Collins' motion was denied and the sale was confirmed on March 16, 2006. On March 20, 2006, Collins filed a motion to alter, vacate, or amend the March 16, 2006,

order confirming the sale, which motion was denied on April 21, 2006.² This appeal followed.

Collins has filed a *pro se* “brief” with this Court.³ The brief fails to clearly set out any arguments on appeal, and does not include any citation to the record on appeal. Furthermore, Collins has failed to cite to any case or statute in his brief. His singular citation to a rule relates only to his request for an oral argument. We are unable to discern the issues on appeal and are further unable to discern the law in support of his arguments. Therefore, we are compelled to affirm the circuit court's denial of Collins' motion to alter, vacate, or amend the March 16, 2006, order. *See Milby v. Mears*, 580 S.W.2d 724 (Ky.App. 1979).

For the foregoing reasons, the orders of the Madison Circuit Court are affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Charles Wes Collins
Pro se
Richmond, Kentucky

BRIEF FOR APPELLEES:

Patricia Lynn Johnson
Nielson & Sherry, PSC
Newport, Kentucky

² Collins continued to file motions in the trial court subsequent to this denial. However, none of those motions are before us on appeal.

³ Although titled as a response to show cause and motion for discretionary review, a panel of this Court ordered Collins' filing to be treated as his brief.