

The South Carolina Court of Appeals

Rosa Gee Estate, Plaintiff,

v.

Pelican House Apartments, Respondent,

Of Whom Ariel Mack is the Appellant.

Appellate Case No. 2022-001296

RECEIVED

Oct 19 2022

SC Court of Appeals

RESPONDENT'S MOTION TO DISMISS IN THE COURT OF APPEALS

On October 19, 2022, the undersigned was presented the attached Exhibit A which appears to be an e-mail to the Court dated October 17, 2022. In the filing Ms. Mack acknowledges that she was never a party to a lease for the premises in question. "Every person...using or occupying real estate without an agreement, either oral or in writing, shall be deemed a 'tenant at will'" *S.C. Code § 27-33-10*. *S.C. Code § 27-35-40* provides that "When a person enters upon or uses the premises of another without agreement or without the permission of owner or by trespass the owner may at his option waive such tort and treat and deem such person a tenant at will."

At no time since the death of Ms. Gee has the Housing Authority of Florence consented to Ms. Mack's continued occupation of the premises. To the contrary, the Housing Authority has now spent 8 months attempting to remove Ms. Mack from the premises. In the attached Exhibit A, Ms. Mack acknowledges that she has no legal grounds for occupying the property as she was never added to a lease (nor was she eligible to be added to the lease). The Housing Authority never requested that Ms. Mack make rental payments as this was only ordered by the Magistrate during a bond hearing. Mack initiated a Notice of Civil Appeal on March 23, 2022, on behalf of the Estate of Rosa Gee. See attached Exhibit B. On March 24, 2022, the Magistrate Judge issued a Summons to the Estate of Rosa Gee regarding a bond hearing held on April 11, 2022. See attached Exhibit C. On April 13, 2022, the Magistrate Judge issued a

bond to stay execution on appeal indicating that the tenant was the Estate of Rosa Gee. See attached Exhibit D. (The Housing Authority appeared at the bond hearing and did not request a bond rather they asked that Ms. Mack be ordered to leave the premises as she was not on the lease). The Circuit Court's Form 4 Judgment dismissing the appeal was done in the name of Rosa Gee Estate. See attached Exhibit E.

Ms. Mack was never added as a party to this action. The Housing Authority of Florence respectfully requests that this appeal be dismissed.

Respectfully submitted,

WILLCOX, BUYCK & WILLIAMS, P.A

/s/ Mark W. Buyck, III

Mark W. Buyck, III

I.D. No.: 011902

248 West Evans Street

P.O. Box 1909 (29503-1909)

Florence, South Carolina 29501

Telephone: (843) 662-3258

Facsimile: (843) 662-1342

Email: mb3@willcoxlaw.com

ATTORNEY FOR RESPONDENT

October 19, 2022
Florence, South Carolina

RECEIVED

Oct 17 2022

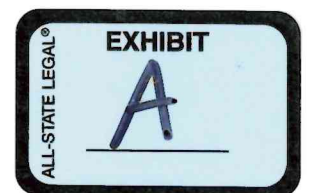
SC Court of Appeals

From: [Ariel Mack](#)
To: [Court Of Appeals Filings](#)
Subject: Court Deficiency Letter Request
Date: Monday, October 17, 2022 4:16:57 PM

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Upon receiving your letter dated 10/06/2022 in the case of Rosa Gee Estate v. Pelican House Apartments case number 2022-001296 the lower courts stated that they will not be able to provide me with any type of documentation showing that I was admitted as a party in this case. The reason being was that I am not and was not added to Rosa Gee's lease at the Pelican House . I Ariel Mack the Appellate in this case is currently residing at the address 300 Conyers Ave Apt 131 Florence SC 29505 in which the eviction process started. I was ordered to continue paying rent each month on or before the 5th of every month by Judge Frank White (Magistrate Court of Florence, 180 N Irby Street Florence SC 29506) . Unfortunately, the only documentation that I can provide is all of the paperwork/documents that I received from the lower courts and my order that was made in April of 2022 by Judge Frank White .

Ariel Mack
843-259-2130



STATE OF SOUTH CAROLINA

FILED

2022 CP 2100593
COMMON PLEAS CASE NUMBER

COUNTY OF The Estate of

2022 MAR 23 PM 3:43

2022CV2110100759
MAGISTRATE CIVIL CASE NUMBER

Rosa Gee, 300 Congress Ave
#131 Florence, SC 29501
843-259-2130
PLAINTIFF(S)

DOUGLAS O'HARA
CCCP & GS
FLORENCE COUNTY, SC
IN THE COURT OF COMMON PLEAS

VS.

NOTICE OF CIVIL APPEAL

Pelican House Apartments
300 Congress Ave
Florence SC 29505
843 679-2628
DEFENDANTS(S)

The plaintiff defendant (circle one), The Estate of Rosa Gee hereby gives notice of appeal from the judgment of the magistrate's court in the above action, to the Circuit Court of Common Pleas, in the county of Florence.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 23 day of March, 2022.

The appellant's exceptions to the judgment of the magistrate are set forth as follows:

My name is Ariel Mack. I was my grandmother's (Rosa Gee) care taker. My grandmother passed away on January 9, 2022. I have been living with my grandma for the last year and a half. I currently do not have any place to live other than the apartment at the Pelican House. Upon judgement of the court I'm asking that I be given more time in which to relocate.



Dated: 3/23/2022

Ariel Mack
Appellant (or attorney)

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Pelican House Apartments
300 Conyers Ave
Florence, SC 29505

MAGISTRATE SUMMONS

You are hereby summoned to be and appear personally in the

Florence Magistrate Court
180 North Irby Street (M S C-W)
Florence, SC

on **April 11, 2022** at **9:00 AM** to serve as a party in a Bond Hearing in the case of:

RE: Pelican House Apartments Vs The Estate Of Rosa Gee

PLAINTIFF(S)

DEFENDANT(S)

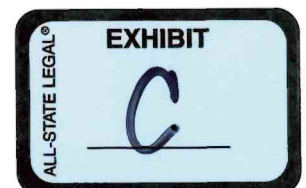
Civil Case Number: **2022CV2110100759, Rule to Vacate \$45.**

**HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN
SUCH CASE MADE AND PROVIDED.**


JUDGE

Florence Magistrate Court
180 North Irby Street (M S C-W)
Florence, SC 29501-3456
Phone: (843) 665-0031
Fax: (843) 661-7800

March 24, 2022



STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

FILED 2022CV2110100759

CIVIL CASE NUMBER

MAGISTRATE'S COURT

2022 APR 14 PM 1:32

DORIS POULOS CHARA
) CCCP & GS
FLORENCE COUNTY, SC

**BOND TO STAY EXECUTION
ON APPEAL**
2022-CP-21-593

Pelican House Apartments
300 Conyers Ave
Florence, SC 29505
(843) 679-2628

LANDLORD

Vs

The Estate Of Rosa Gee
300 Conyers Ave #131
Florence, SC 29501

TENANT(S)

TO: Circuit Court

Now comes the Tenant(s) in the above entitled action and respectfully shows the Court that a Judgment of Execution was issued against the Tenant(s) and for the Landlord on , by the Magistrate. Tenant(s) has appealed the Judgment to the Circuit Court.

Pursuant to the findings of the Magistrate, the Tenant(s) is obligated to pay rent in the amount of \$523.00 due on the 5th day of each month starting May 01, 2022

Tenant(s) hereby undertakes to pay the periodic rent hereinafter due according to the aforesaid findings of the Court and moves the Circuit Court to stay execution on the Judgment for Ejectment until this matter is heard on appeal and decided by the Circuit Court.

Dated on April 13, 2022:

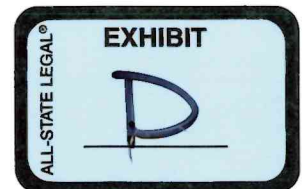
Tenant(s)

Upon execution of the above bond, execution on the Judgment of Ejectment is hereby stayed until the action is heard on appeal and decided by the Circuit Court. If Tenant(s) fails to make any rental payment within five days of the due date, upon application of the Landlord, the stay of execution shall dissolve, the appeal by the Tenant(s) to the Circuit Court on issues dealing with possession must be dismissed and the Sheriff may dispossess the Tenant(s).

Dated on April 13, 2022

Frank White
JUDGE

Florence Magistrate Court
180 North Irby Street (M S C-W)
Florence, SC 29501-3456
Phone: (843) 665-0031
Fax: (843) 661-7800



FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Florence
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP2100593

Rosa Gee Estate
PLAINTIFF(S)

Pelican House Apartments
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other see below

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

The Appellant, Ariel Mack, failed to appear for the hearing. The Appeal is hereby dismissed.

ORDER INFORMATION

This order ends does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/01/2022 .

Rose Gee for Rosa Gee Estate
Rosa Gee Estate for Rose Gee

NAMES OF TRADITIONAL FILERS SERVED BY MAIL



ELECTRONICALLY FILED - 2022 Sep 01 8:51 AM - FLORENCE - COMMON PLEAS - CASE#2022CP2100593

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCF.



Florence Common Pleas

Case Caption: Rosa Gee Estate VS Pelican House Apartments

Case Number: 2022CP2100593

Type: Order/Electronic Form 4

So Ordered

s/ R. Ferrell Cothran, Jr., 2144