

**RECEIVED**  
**Dec 16 2022**  
SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM BEAUFORT COUNTY

COURT OF COMMON PLEAS  
HON. MARVIN H. DUKES  
MASTER IN EQUITY

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APPELLATE CASE # 2022-000277

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GEORGIA HARRISON, BARBARA HARRISON,  
JOYCE ELLEN HARRISON, WILLIAM S. HARRISON, III,  
STANLEY ROBERTS AND DIANA MENDHEIM  
INDIVIDUALLY AND AS AGENT AND ATTORNEY IN  
FACT,

RESPONDENTS

vs.

STEPHANIE LORRAINE KIRKLAND,  
GARY LAMONT KIRKLAND,  
KIETA NICOLE WHITE, AND  
CHERYL KIRKLAND,

APPELLANTS

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MOTION FOR *EN BANC* REHEARING

The Appellants, through their undersigned counsel, would move the court pursuant to Rules 240, 241 and 219 SCRAP in the form of a Petition for Rehearing or review *en banc* by the court. This requested rehearing relates to

the order of this court dated November 30, 2020 by a tri panel of justices. The order denied the Appellant's alleged right to a supersedes bond.

First, consideration by the full court is deemed necessary to secure or maintain uniformity of its decisions by this court. There are no published cases within South Carolina jurisprudence involving an appellate court denying an appellant their constitutional right for the court setting a supersedes bond upon an appeal taken from a lower court compelling the sale of real property.

This is a clearly defined duty that must be performed by a court, The appellants have an established right and the court has a corresponding imperative duty created and imposed by law to enforce . Redmond v. Lexington City School District No.4, 314 S.C. 431, 445 S.E,2d 441(1994). The Court of Appeals and the Master in Equity not setting a supersedes bond in this civil action is the equivalent of a Magistrate not holding a bond hearing for a person accused of a misdemeanor.

The act of setting a supersedes bond is ministerial and the law clearly spells out the duty to be performed by the official with sufficient certainty that nothing is left to the exercise of discretion A clear right to relief is shown when the facts and circumstances dictate but one rational decision "under unequivocal, well settled (i.e., from extant statutory, constitutional, or case law sources), and clearly controlling legal principles. In Re Sanford

385 SC 480-3685 SE the 2nd 600 and Porter v. Jedzimiak 334 S.C. 16, 512 S.E. 2d 497. The appellants' petition qualifies under the applicable statutes and court rules established by this court for the issuance of a supersedes bond.

The act required of the Court of Appeals to set a supersedes bond is a ministerial act that is already established and required by law to be granted to all litigants whose appeal to an appellate court fall within the confines of Rule 241(b) (4) SCRAP codified as § 18-9-170 S.C. It is also a right appurtenant to property ownership when, if denied, would be a due process of law violation that comes under the constitutional protections of Article 1 § 3 of the South Carolina Constitution and the 5th and 14<sup>th</sup> Amendment of the Constitution of the United States. The court's constitutional duty is to execute and to enforce a right which has already been established. The SC Supreme Court's ruling in the case of Willamon v. City of Greenville, 243 S.C. 821, 32 S.E.2d 169, adequately reaffirms this established principle followed in other jurisdictions. Bowen v. Carnes, 343 S.W.3d 805 (Tex. Crim. App. 2011).

Second, the proceeding involves a question of exceptional importance to non-partitioning parties proceeding under the Clementa C Pinkney Act to remove the heirs title cloud of title from their property; many of whom are black landowners trying to keep possession of their property by exercising their right of first refusal against and in competition with large developers whose primary

concern is to permanently remove them from off their land through the aid of the8 judicial processes.

The court is respectfully requested and fervently urged to review and reconsider *en banc* the ruling of the tri panel's order denying the appellants a supersedes bond, a ministerial act.

Respectfully submitted,

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December 15, 2022  
Hilton Head Island, SC

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**PROFF OF SERVICE**

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I hereby certify that this law firm represents the Appellants in the above captioned matter and that on the date below at Hilton Head Island South Carolina I served a copy of the foregoing **Motion for En Banc Rehearing** and the **Proof of Service** on the following persons by electronic mail to their AIS email addresses and by US mail, first class postage prepaid, on December 15, 2020

**Documents served:**

**(1) Proof of Service and**

**(2) Motion for En Banc Rehearing**

**Parties Served:**

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And

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**Attorneys for Respondents**

**This 15<sup>th</sup> day of December, 2022**

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