

RECEIVED

Jan 05 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No.: 2022-000622
Circuit Case No.: 2022-CP-10-03684

RUSSELL CRAWFORD,

Respondent,

v.

RAYMOND BABICH,

Appellant.

RESPONDENT'S RETURN IN OPPOSITION TO MOTION TO DISMISS EVICTION

COMES NOW, the Respondent, Raymond Babich ("Babich"), by his undersigned attorney of record, hereby files Babich's Return in Opposition to the Motion filed by Appellant to Dismiss the July 12, 2022 Order for Eviction from Charleston Magistrate Mikell. For the following reasons, it is respectfully submitted that the Appellant's Motion must be denied.

Argument

On or about December 21, 2022, Appellant filed a Motion to Dismiss the Order of Eviction dated July 12, 2022. This is same Order which Appellant has challenged in the

instant Notice of Appeal, after said Order was affirmed by Order of Circuit Judge R. Markley Dennis. The parties in the process of preparing Final Briefs¹.

Respondent respectfully submits that the proper procedure to challenged the July 12, 2022 Order of Eviction from Magistrate Mikell is to undergo the briefing process set forth under the S.C. Rules of Appellate Procedure. Counsel for Respondent Babich is unaware of any procedure which allows an appellate to bypass the briefing process of an order on appeal in favor of obtaining substantive relief vacating the order on appeal by motion practice under S.C. Appellate Court Rule 224, governing motion practice before the Court of Appeals.

Conclusion

For the foregoing reasons, Babich respectfully requests that Appellant's Motion to Dismiss Eviction be denied.

Dated: January 5, 2022

Respectfully submitted,

s/William B. Jung

William B. Jung, Esq. (#68788)
1156 Bowman Road, Ste. 200
Mount Pleasant, S.C. 29464
(843) 576-4200
bradjung@msn.com

Attorney for the Respondent

¹ Respondent has filed a Motion to compel Appellant to include the actual July 12, 2022 Order of Magistrate Mikell in the Record on Appeal, as opposed to the incomplete and partial format of that Order which Appellant chose to include in the Record on Appeal. After this Motion was filed, an Notice issued from the Court that proceedings were stayed until a resolution of this Motion to Compel.

RECEIVED

Jan 05 2023

SC Court of Appeals

PROOF OF SERVICE

I, William B. Jung, Esq., certify under penalty of perjury that on January 5, 2023, I served a copy of the Respondent's Return to the Motion to Dismiss Eviction by emailing and mailing a true and complete copy thereof the Appellant:

Raymond T. Crawford
4683 W. Montague Ave., Lot 3
North Charleston, S.C. 29418
russellcrawfordsc@gmx.com.

Dated: January 4, 2023

s/William B. Jung

William B. Jung, Esq. (#0068788)
Attorney for the Respondent