

The South Carolina Court of Appeals

Bank of America, NA, Respondent,

v.

The Estate of Mary Westbrooks a/k/a Mary Y. Westbrooks, and John Doe and Richard Roe, as Representatives of all heirs and devisees of Mary Westbrooks a/k/a Mary Y. Westbrooks, deceased, and all persons entitled to claim under or through them; also, all other persons, corporations or entities unknown claiming any right, title interest in or lien upon the subject real estate described herein, any unknown adults, whose true names are unknown, being a class designated as John Doe, and any unknown infants, persons under disability, or person in the Military Service of the United States of America whose true names are unknown, being a class designated as Richard Roe, Aubrey Schultz, Kadeem Gaddist, The United States of America acting by and through its agent the Secretary of Housing and Urban Development, South Carolina Department of Motor Vehicles, CIT Group Consumer Finance, N/K/A CIT Loan Corporation, Defendants,

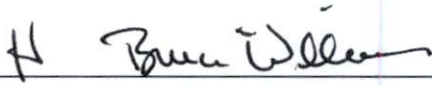
Of Whom Audrey Schultz and Kadeem Gaddist are the Appellants.

Appellate Case No. 2023-001509

ORDER

Appellants filed a petition to stay the circuit court's September 18, 2023 writ of assistance, which authorized the Sheriff of Berkeley County or his deputies to enter specific real property and remove the occupants and their possessions if all occupants of the real property had not vacated by October 16, 2023. The writ

provided that "[a]ll valid tenant rights pursuant to Protecting Tenants at Foreclosure Act of 2009 shall be protected." However, in the motion to stay, Appellants stated they had written lease agreements, which were not being honored. After careful consideration, the petition to stay is temporarily granted pending (1) this court's receipt and review of a return to the petition, and (2) this court's receipt and review of a signed undertaking pursuant to section 27-40-800 of the South Carolina Code. *See* S.C. Code Ann. § 27-40-800(f)(1) (2007) ("Upon appeal to the Supreme Court or to the court of appeals, it is sufficient to stay execution of a judgment for ejectment that the tenant sign an undertaking that he will pay to the landlord the amount of rent, determined by order of the judge of the circuit court, as it becomes due periodically after judgment was entered. The judge of the court having jurisdiction shall order stay of execution upon the undertaking."). Respondent's return and Appellant's signed undertaking shall be served and filed within ten days of the date of this order.


_____ C.J.
FOR THE COURT

Columbia, South Carolina

FILED
Oct 16 2023

cc:

Kadeem Gaddist

Aubrey Schultz

Kelly M. Barco, Esquire

Chad Wilson Burgess, Esquire

Brook Dangerfield, Esquire

James Martin Page, Esquire