

The South Carolina Court of Appeals

Danny L. Ivester, Sr., Appellant,

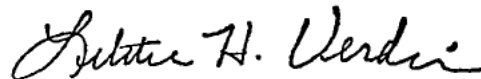
v.

EYZC RE, LLC, Respondent.

Appellate Case No. 2023-000045

ORDER

Respondent's motion to dismiss this appeal is denied. The circuit court's order dissolving Appellant's appeal from the magistrate's order, based on Appellant's failure to pay the monthly \$1700 appeal bond, does not divest this court of jurisdiction over this appeal of the circuit court's January 4, 2023 order affirming the magistrate's writ of ejectment, where the appeal was properly filed and there remains an active controversy. Appellant's failure to pay the bond/rent as it becomes due, however, does prevent the order on appeal from being stayed pending this appeal. *See* South Carolina Code § 27-40-800(f)(1) (2020) ("Upon appeal . . . 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."). To the extent Respondent seeks another writ of ejectment, it must do so at the magistrate court. Nothing in this order prevents Respondent from filing a motion to dismiss based on mootness once the writ of ejectment has been executed.



FOR THE COURT

Columbia, South Carolina

cc:

Danny Ivester

M. Stokely Holder, Esquire

Edward Hood Dawson, III, Esquire

FILED
Nov 20 2023