



The South Carolina Court of Appeals

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January 09, 2024

Michael Munafo
229 Second Street
Santee SC 29142

Kathleen Gabriel
229 Second Street
Santee SC 29142

Mr. Ernst Allen Neumeister, Jr., Esquire
716 F.R. Huff Drive
Saint Matthews SC 29135

Re: Michael Munafo v. David Osteen
Appellate Case No. 2023-000787

Dear Mr. Munafo, Ms. Gabriel, and Counsel:

Enclosed is the decision of the Court. You must update the Court with the status of transcript within ten (10) days of the date of this letter, or the appeal will be dismissed.

Very truly yours,

Catherine Harrison, deputy

CLERK

The South Carolina Court of Appeals

Michael Munafo and Kathleen Gabriel, Appellants,

v.

David Osteen, Respondent.

Appellate Case No. 2023-000787

ORDER

Appellants filed a motion to stay, and this court granted a temporary stay, requested an undertaking in compliance with section 27-40-800(f)(1) of the South Carolina Code (2020), and a return. Respondent did not file a return. Appellants attempted to file an undertaking; however, it does not comply with the statute. *See* S.C. 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 [s]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."). Therefore, we lift the temporary stay and deny Appellants' motion to stay.

Respondent's motion to dismiss this appeal is denied. Appellants' failure to pay the bond/rent as it becomes due prevents the order on appeal from being stayed pending this appeal, but it does not divest this court of jurisdiction over the appeal where the appeal was properly filed and there remains an active controversy. Nothing in this order prevents Respondent from filing a motion to dismiss based on mootness if a writ of ejectment is executed.



FOR THE COURT

Columbia, South Carolina

FILED
Jan 09 2024

cc:

Michael Munafo

Kathleen Gabriel

Ernst Allen Neumeister, Jr., Esquire