

RECEIVED

Feb 13 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELY COUNTY
Court of Common Pleas
Paula McElvogue, Magistrate
Court Judge

Case No. 2023-001322

The Estate of James F. Murrell, Respondent,
v.
Melissa Freeman, Appellant.

**MOTION TO DISMISS THE APPEAL and
TO EXPEDITE**

Appellant has been living in Respondent's building without paying rent for more than ten months, despite lower court orders that her appeal is contingent her paying a monthly bond. The Court should put an end to this abuse of the legal system by promptly dismissing the appeal.

Background

On June 23, 2021 Respondent filed with the Magistrate Court in Berkely County, South Carolina, an Application for Ejectment of the Respondent. (Ex. 1). At that time, Appellant had not paid rent for April, May, or June. (Ex. 2). A Writ of Ejectment issued on July 31, 2023.

Appellant appealed to the Circuit Court the same day (Ex. 3), but failed to pay the required \$1,200 bond. (Ex. 4, see also Circuit Court order of 8/15/2023 filed by Appellant with Notice of Appeal). The Magistrate accordingly requested the appeal be dismissed. (Ex. 4). The Circuit Court accordingly dismissed the appeal on August 15, 2023. (Circuit Court order of

8/15/2023).

Appellant noticed her appeal to this Court on August 18, 2023. As of this writing, she still has not filed or served the transcript, despite three letters from the Court regarding the failure. (In fact, she has not even perfected her request to allow late filing of her claimed request for a transcript).

Respondent's pro se motion to dismiss the appeal, filed November 22, 2023, was declined by the Court on February 6, 2024, on grounds that Respondent, a non-lawyer, could not represent the Estate of her late father as executor and sole beneficiary. Accordingly, the undersigned filed his Notice of Appearance as attorney for Respondent on February 7.

Through all of this, Appellant has neither paid rent nor paid the required \$1,200 monthly bond ordered by the courts below. (Ex. 5) (showing the bond is monthly).

Argument

Almost five months after Appellant filed notice of appeal, she still has not provided the transcript. She has not even perfected her motion to allow late filing of the transcript. Meanwhile, she has been and continues to live in Respondent's property rent-free, not paying the bond the lower courts ordered as a condition of maintaining her appeal. The appeal should be dismissed.

When she did not pay rent, she was taken to court. When the magistrate court ruled against her, she appealed to the circuit court. When her circuit court appeal was dismissed for her failure to pay rent (as bond), she appealed to this Court. This is an abuse of the legal process, which the Court should not countenance.

Because Respondent should not be compelled to provide Appellant free living quarters, the motion should be acted on expeditiously.

Respectfully submitted,

LAW OFFICE OF BROOKS R. FUDENBERG, LLC
14 Ashe St.
Charleston, SC 29403
Phone: 843-416-2558
Brooks.R.Fudenberg@Fudenberglaw.com

By: s/Brooks R. Fudenberg
Brooks R. Fudenberg (SC Bar # 0072019)
Brooks.R.Fudenberg@Fudenberglaw.com

2/13/2024

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

) 2023CV0810400458
) CIVIL CASE NUMBER

) IN THE MAGISTRATE'S COURT

) APPLICATION FOR
) EJECTMENT

The Estate of James F Murrell and Tammy Brinson, Executor
PLAINTIFF(S)

VS

Melissa Freeman, Wes Carpenter, Joe Martin et al
DEFENDANT(S)

I, The Estate of James F Murrell plaintiff in this action, state that I am the
Landlord/Lessor of the premises within the jurisdiction of **Berkeley County Magistrate**, and
premises is located at 132 Murrells Inlet Lane Moncks Corner, SC 29461
and that a Landlord/Tenant relationship exists between myself and the Tenant(s)/Lessee(s), as
evidenced by the attached Lease or Other written proof.

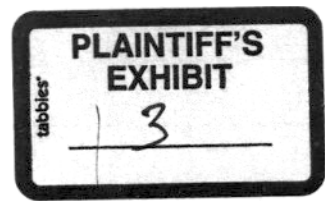
Plaintiff requests by this application that Ejectment Proceedings be initiated against the
Defendant(s)/Tenant(s)/Lessee(s) based on the facts described below:

- Such tenant/lessee has failed or refused to pay rent when due or demanded.
- The term of tenancy or occupancy has ended.
- The terms or conditions of the lease have been violated as follows: _____

Sworn to before me on June 23, 2023
Julie P Weatherford
Judge or Notary Public
My Commission Expires: May 6, 2031

Tammy Brinson
Plaintiff/Attorney
Phone: 843 934 9649
Address: 1802 Canal Drive
Moncks Corner, SC 29461

EXHIBIT
1



Estate of James F Murrell

TAMMY BRINSON

1802 Canal Dr

Moncks Corner, SC 29461

(843) 934-9649 tammystaxes@icloud.com

May 30, 2023

Dear Wes Carpenter & Melissa Freeman,

According to the receipt books I have, your rent was last paid through March 31, 2023. If you have evidence you paid April, please send that to the above correspondence by mail or email.

Regardless, May is currently past due by 15 days. The rent is \$1,200 and the late fees are \$120.00 per day. Please understand I am very serious about termination and removal of all rental residences from the property as soon as possible. If you do not pay your rent with late fee by Monday, June 5 the eviction process will begin.

Thank you

Tammy Brinson
Executor of Estate of James F Murrell

EXHIBIT
2

Melissa Anne Freeman

Plaintiff

VS

The Estate of James Murrells

Defendant

EXHIBIT

3

2023-CP-08-0216

2023 JUL 31 PM 12:47
LEAH GOURT
CLERK OF COURT
BERKELEY COUNTY

I am writing this & requesting a chance to be reheard on this matter because I did not feel comfortable enough to do so when I was in the magistrate court room. My children and I were beyond close to Mr. Murrell and I have been in this home & put forth a lot of money, time, effort & stress into the home prior to Mr. Murrells passing in April. He and I had a verbal agreement that I would fix any issues myself since he had no one to help him do maintenance and I would provide receipts of any materials and keep a log of what times I worked on a project & he would deduct it from the monthly rent amount. When the personal representative started to oversee his estate, she immediately wanted everyone off the property, & even went as far as promising to give me the mobile home in which I live if I agreed to take it & leave the premises with it. I was under the impression that is what we were doing and I was spending my time looking at land & lots to put me in a mobile home instead of actual places to live. The person representative, Tammy Brinson has a personal relationship & acquainted with the staff of the magistrates office & there was no effort made by the Judge for us to come to an agreement of any kind that would keep my children & myself sheltered until the original agree upon date of Oct 15, 2022. There was no request for me to submit the receipts for stuff I have had to handle myself since April since Mrs. Brinson

Ultimately refused to do so. There was no effort made & my children who are 2 & 4 are already going to be traumatized by this situation & for someone to just be ready to throw us on the street with a recent eviction granted, within 10 days of the hearing is in-humane. I lost my job back in June & communicated this with Mrs Brinson & at the time she agreed to send the Navigation Center the requested documents & we discussed the amounts she would receive from the agency & from me and suddenly she stopped communicating & filed for an eviction. I just want to be able to ~~provide~~ provide a roof over my children's head & keep them safe. I just started a new job at IFA Rotorian & haven't even received a paycheck yet. I don't expect to live in the home for free. I am willing to pay rent to the estate during our time there. I am aware we have to move but with an eviction that's recent there's not a lot of options. 10 days isn't enough time to figure it out. I feel as if my children & I have become collateral damage in a situation that's unfortunate. But Mr. Murrell wouldn't have ever done this to us. Thank you.

Melinda

Melissa Anne Freeman
32 Murrells Inlet Lane
Jonks Corner SC 29441
43.809.2552
Melissa.A.Freeman21@icloud.com

STATE OF SOUTH CAROLINA

COUNTY OF Berkeley

Melissa Anne Freeman

APPELLANT(S)

VS.

The Estate of James Murrell

RESPONDENT(S)

2023CP0802116

COMMON PLEAS CASE NUMBER

2023CV0810400468

MAGISTRATE CIVIL CASE NUMBER

IN THE COURT OF COMMON PLEAS

NOTICE OF CIVIL APPEAL

The plaintiff ~~defendant~~ (circle one), Melissa Anne Freeman hereby gives notice of appeal from the judgment of the magistrate's court in the above action, to the Circuit Court of Common Pleas, in the county of Berkeley.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 31 day of July, 2023.

The appellant's exceptions to the judgment of the magistrate are set forth as follows:

Would like to have the opportunity for my case to be heard in another office because of the ruling being in a setting where the plaintiff is acquainted on a personal level with staff. I believe I should have been given the chance to come to an agreement with the plaintiff that allowed me & my 2 small children ages 2 & 4 to remain sheltered until October. There was no effort put forth by the judge to come to an agreement & no repairs were considered in that either. No receipts were asked for. No effort to keep me & my children safe was made at all & now with a granted eviction I can't find a place to go in 10 days. I want to appeal this decision

Dated: 7/31/2023

Melissa Freeman
Appellant (or his attorney)

STATE OF SOUTH CAROLINA

COUNTY OF Berkeley

Melissa Anne Freeman
Plaintiff(s)

vs.

The Estate of James Murrell
Defendant(s)

Submitted By: Melissa Anne Freeman
Address: 132 Murrells Inlet Lane
MONKS CORNER, SC 29461

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2023-CP-08-02116

SC Bar #: _____

Telephone #: 843 809 2567

Fax #: _____

Other: _____

E-mail: Melissa.A.Freeman27@clay

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Certificate Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|--|---|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Fraud/Bad Faith (150) <input type="checkbox"/> Failure to Deliver/Warranty (160) <input type="checkbox"/> Employment Discrim (170) <input type="checkbox"/> Employment (180) <input type="checkbox"/> Other (199) _____ <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) _____ <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) _____ <input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Permanent Restraining Order (680) <input type="checkbox"/> Interpleader (690) | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case #
20 <u>-NI-</u> <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) _____ <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Drv. License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order (850) <input type="checkbox"/> Other (899) _____ | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Assault/Battery (370) <input type="checkbox"/> Slander/Libel (380) <input type="checkbox"/> Other (399) _____ <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Confession of Judgment (770) <input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780) <input type="checkbox"/> Incapacitated Adult Settlement (790) <input type="checkbox"/> Other (799) _____ | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) _____ <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input checked="" type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Public Service Comm. (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) _____ |
|---|---|--|---|

Submitting Party Signature: Melissa

Date: 7/31/2023

CC: MF

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)

2023CV0810400458
CIVIL CASE NUMBER
MAGISTRATE'S COURT
RULE TO VACATE OR SHOW CAUSE (EVICTION)

The Estate Of James F Murrell

Phone:

PLAINTIFF(S)

Vs

Melissa Freeman
132 Murrells Inlet Lane
Moncks Corner, SC 29461

Wes Carpenter

Joe Martin and ETAL

Phone: (843) 809-2557

DEFENDANT(S)

TO Melissa Freeman Wes Carpenter Joe Martin: The Estate Of James F Murrell is asking this Court to evict you from the property located at 132 Murrells Inlet Lane Moncks Corner, SC 29461 because they claim that:

- You have failed to pay rent when due or demanded in the amount of \$.
- The terms of your tenancy or occupancy have ended.
- You have violated the terms or conditions of your lease by:

You the defendant(s) and lessee(s) of the premises listed at the address listed above, and all others, are ordered to vacate the premises immediately pursuant to S.C. Code Ann. §27-37-10 OR contact the:

Moncks Corner Magistrate
223 N. Live Oak Drive
P. O. Box 6122
Moncks Corner, SC 29461
843-719-5043, FAX 8437194528

within ten (10) days of receiving this notice, for the purpose of scheduling a hearing to show why you should not be evicted from these premises.

FAILURE TO VACATE THE PREMISES OR RESPOND WITHIN TEN (10) DAYS MAY RESULT IN THE ISSUANCE OF A WRIT OF EJECTMENT.

Paula McQuigge
Judge, Moncks Corner Magistrate

06/23/2023

Personally appeared before me, the undersigned deponent, being duly sworn, , says s/he is a person over 18 years of age, not a party or attorney in this action and s/he to serve the Rule to Vacate or Show Cause on Melissa Freeman Wes Carpenter Joe Martin on the following dates/times:

DATE	TIME	INITIALS	DATE OF SERVICE	TIME OF SERVICE
1. 6-22-23	1:40pm	Wt	6-30-23	10:30am
2. _____	_____	_____	SETTLED/DATE _____	VACANT/DATE _____
3. _____	_____	_____	_____	_____

PERSON SERVED & RELATIONSHIP IF NOT DEFENDANT

Shump

Sworn to and subscribed before me

This 30 day of June, 2023

Julie P Weatherford
NOTARY PUBLIC OR JUDGE

Leannette W. Dufford
SIGNATURE OF SERVER

ON _____ I DEPOSITED IN THE UNITED STATES MAIL IN AN ENVELOPE ADDRESSED TO THE DEFENDANT(S) ABOVE WITH FIRST CLASS POSTAGE AFFIXED THERETO, A COPY OF THIS DOCUMENT.

MAGISTRATE'S CLERK

Please Call Our Office
Upon Service At:
(843) 719-5043

Common Pleas

Clerk : Leah Guerry Dupree
300 B California Avenue
Moncks Corner, SC 29461

Phone:(843) 719-4400 Fax:(843) 719-4509

Received From: Freeman, Melissa Anne
132 Murrells Inlet Lane
Moncks Corner, SC 29461

Date: 7/31/2023
Receipt #: 6121454
Clerk: c08tcody

Paying for: Self
Transaction Type: Payment

Reference #:

Payment Type: Cash \$150.00

Comment:

Total Paid: \$150.00

Non-Refundable

Total Received: \$150.00

Change Due: \$0.00

You may check the status of your Berkeley case at:

<http://www.sccourts.org/caseSearch/>

<u>Case #</u>	<u>Caption</u>	<u>Previous Balance</u>	<u>Amount Paid</u>	<u>Balance Due</u>
2023CP0802116	Melissa Anne Freeman VS The Estate of James Hurrell	\$150.00	\$150.00	\$0.00



Total Cases: 1 \$150.00 \$150.00 \$0.00

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

IN THE MAGISTRATE'S COURT
CASE NUMBER: **2023CV0810400458**
Common Pleas #: **2023CP0802116**

The Estate of James F Murrell)
)
)
Plaintiff)

vs

REQUEST FOR DISMISSAL

Melissa Freeman, Wes Carpenter and)
Joe Marin)
132 Murrells Inlet Lane)
Moncks Corner, SC 29461)
Defendant)

2023 AUG 15 AM 10:12
LEAH GUERRE
CLERK OF COURT
BERKELEY COUNTY, S.C.

FILED
set

This Court requests that the above stated appeal for eviction be dismissed from Circuit Court. The Defendant has failed to pay the ongoing bond payment of \$1,200.00 on or before August 3, 2023. See attached letter from plaintiff stating this information.

Respectfully submitted,

August 11, 2023
Moncks Corner, South Carolina

Paula McElvogue
Judge Paula McElvogue

EXHIBIT
4

set

Case 2023 CV 0810400458
2023 CP 08-02116

set

FILED

2023 AUG 15 AM 10:14

LEAH GUNAWAN
CLERK OF COURT
BERKELEY COUNTY, SC

August 9, 2023

Melissa Freeman, Wes Carpenter,
nor Joe Martin paid the bond to
stay therefore I request the
appeal for bond to stay be dismissed.

Thanks

Jimmy Brunson
The Estate of James Murrell

RECEIVED
AUG 09 2023
BERKELEY COUNTY
SUMMARY COURT

set

STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)

The Estate of James F Murrell)
LANDLORD(S))

VS.)

Melissa Freeman)
Wes Carpenter)
Joe Marin)
132 Murrells Inlet Lane)
Moncks Corner, SC 29461)
TENANT(S))

2023CV0810400458
2023CP08-02116


CIVIL CASE NUMBER
MAGISTRATE'S COURT

BOND TO STAY EXECUTION
On Appeal

TO: Circuit Court

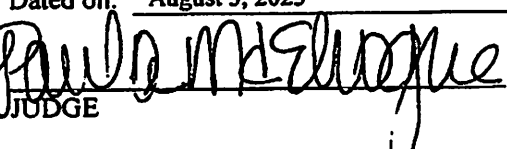
Now comes the Tenant(s) in the above entitled action and respectfully shows the Court that a Judgment of Execution was issued against the Tenant(s) and for the Landlord on 7/20/2023, by the Magistrate. Tenant(s) has appealed the Judgment to the Circuit Court.

Pursuant to the findings of the Magistrate, the Tenant(s) is obligated to pay rent in the amount of \$1,200.00 per month, due on the 3rd of each month, beginning, August 3, 2023. Payments are to be made by cash, cashier's check or money order to Estate of James Murrell, located at 1802 Canal Drive, Moncks Corner, SC 29461. Tenant(s) hereby undertakes to pay the periodic rent hereinafter due according to the aforesaid findings of the Court and moves the Circuit Court to stay execution on the Judgment for Ejectment until this matter is heard on appeal and decided by the Circuit Court.

Dated on: August 3, 2023


Tenant(s)

Upon execution of the above bond, execution on the Judgment of Ejectment is hereby stayed until the action is heard on appeal and decided by the Circuit Court. If Tenant(s) fails to make any rental payment within five (5) days of the due date, upon application of the Landlord, the stay of execution shall dissolve, the appeal by the Tenant(s) to the Circuit Court on issues dealing with possession must be dismissed and the Sheriff may dispossess the Tenant(s).

Dated on: August 3, 2023


JUDGE

RECEIVED

Feb 13 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELY COUNTY
Court of Common Pleas
Paula McElvogue, Magistrate
Court Judge

Case No. 2023-001322

The Estate of James F. Murrell, Respondent,
v.
Melissa Freeman, Appellant.

Proof of Service

I certify that Respondent's Motion to Dismiss the Appeal and to Expedite was served today on Appellant via placing a copy in the U.S. mail, postage pre-paid, addressed to:

Melissa Freeman
132 Murrells Inlet Lane
Moncks Corner SC 29461.

LAW OFFICE OF BROOKS R. FUDENBERG, LLC
14 Ashe St.
Charleston, SC 29403
Phone: 843-416-2558
Brooks.R.Fudenberg@Fudenberglaw.com

By: s/Brooks R. Fudenberg
Brooks R. Fudenberg (SC Bar # 0072019)
Brooks.R.Fudenberg@Fudenberglaw.com

2/13/2024