

RECEIVED

Feb 06 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Appellate Case No.: 2023-001341

Lodges at Lake WylieRespondent

v.

Dia Curry.Appellant.

MOTION TO DISMISS

Respondent, by and through its undersigned counsel, moves this Court for an Order dismissing the instant action as moot would show as follows:

That on December 7, 2023, an Order Setting Appeal Bond was filed in the instant action following a hearing in the York County Court of Common Pleas.

That Appellant failed to comply with said Order and that on January 17, 2024, an Order Lifting the Stay and Reinstating the Writ of Ejectment was filed.

That pursuant to said Order Lifting the Stay and Reinstating the Writ of Ejectment, the eviction of Appellant has been completed and that neither Appellant herself nor any personal property of Appellant’s remain upon the subject premises. An Affidavit attesting to the completed eviction is enclosed here as Motion Exhibit ‘A’ and made a part hereof by reference.

That “[a] case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court.” *Wachesaw Plantation E. Cmty. Servs. Ass’n v. Alexander*, 414 S.C. 355, 359, 778 S.E.2d 898, 900 (2015). In the present case, the completed eviction of Appellant renders any grant of effectual relief impossible for the Court.

Wherefore, Respondent Lodges at Lake Wylie petitions this Court for an Order dismissing the instant action as moot.

WE SO MOVE

RESPECTFULLY SUBMITTED

CRAWFORD & VON KELLER, LLC

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and loops around the text below it.

Jason M. Hunter S.C. Bar No.101501

Post Office Box 4216

Columbia, South Carolina 29204

Telephone 803-790-2626

ATTORNEYS FOR THE PLAINTIFF

Motion

Exhibit 'A'

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Appellate Case No.: 2023-001341

Lodges at Lake Wylie Respondent

v.

Dia Curry. Appellant.

AFFIDAVIT OF RESPONDENT

STATE OF NORTH CAROLINA

COUNTY OF _____

Mary Liz Cameron, being first duly sworn, deposes and says as follows:

PERSONALLY APPEARED BEFORE ME _____, who, being duly sworn, states as follows:

1. I am employed by Southwood Realty Company, beneficial owner of Respondent Lodges at Lake Wylie (hereinafter "Respondent"), as Associate General Counsel. I am over the age of eighteen years, and I am authorized to make the representations contained in this affidavit on behalf of the Respondent. I have personal knowledge of the below events through my review of business records that are kept by Respondent in the normal course of business, including the records related to the Appellant.

2. On January 17, 2024, an Order Lifting the Stay and Reinstating the Writ was filed in the instant case. *See Exhibit '1'*. Acting pursuant to said Order, the York County Magistrate reinstated the subject Writ of Ejectment and engaged with the County's Sheriff's Office or other appropriate authority to post the same and supervise Appellant's removal from the subject premises.

3. As of the execution of the instant Affidavit, the eviction of Appellant Dia Curry has been completed. Neither Appellant nor any personal property belonging to Appellant remain on the subject premises.

FURTHER AFFIANT SAYETH NOT.

FOR RESPONDENT LODGES AT LAKE WYLIE

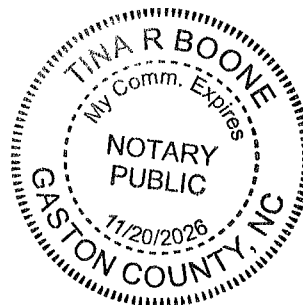


Mary Liz Cameron
Associate General Counsel for Southwood
Realty, beneficial owner of Respondent

SWORN TO before me this
5th day of February, 2024.

Tina R. Boone (L.S.)

Tina R. Boone
Notary Public for North Carolina
My Commission Expires: 11/20/2024



Affidavit Exhibit '1'

STATE OF SOUTH CAROLINA
COUNTY OF YORK

Dia Curry,

Appellant,

vs.

Southwood Lodges at Lake Wylie d/b/a
Lodges at Lake Wylie,

Respondent.

IN THE COURT OF COMMON PLEAS
C/A No.: 2023-CP-46-02263

S.C. Ct. App. No.: 2023-001341

**MOTION &
ORDER LIFTING STAY &
REINSTATING WRIT OF EJECTMENT**

(Action for Ejectment;
S.C. Code Ann. § 27-40-800(f)(2); Rules 205
& 241 SCACR)

File No. 0145-23-0002

Respondent, through their undersigned counsel, moves this Court for an Order lifting the stay and says:

WHEREAS this Court, pursuant to S.C. Code Ann. § 27-40-800(f)(2) and Rules 205 & 241 SCACR, executed and filed of record an Order Setting Appeal Bond in the instant matter on December 7, 2023, directing Appellant Dia Curry to make certain payments in order to stay execution of the underlying eviction order, and;

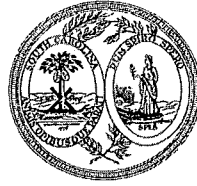
WHEREAS, Appellant Dia Curry has failed to comply with the aforesaid Order Setting Appeal Bond, as is indicated by that Affidavit of Failure to Pay Bond or Non-Compliance with Undertaking attached hereto as Exhibit '1' and made a part hereof by reference;

THEREFORE, IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

- A. Appellant Dia Curry is in violation of and has failed to comply with the aforesaid Order Setting Appeal Bond filed December 7, 2023.
- B. Respondent's Motion to Lift the Stay is hereby granted.
- C. Pursuant to S.C. Code § 27-40-800(f)(2), Appellant Dia Curry's failure to comply with the terms of the undertaking entitles the landlord to execution of the judgment for possession.
- D. The Magistrate Court is hereby Ordered to reinstate the subject Writ of Ejectment and engage with the County's Sheriff's Office or other appropriate authority to have Appellant Dia Curry removed from the subject premises.

AND IT IS SO ORDERED!

****SIGNATURE PAGE TO FOLLOW****



York Common Pleas

Case Caption: Dia Curry VS Lodges At Lake Wylie

Case Number: 2023CP4602263

Type: Order/Other

So Ordered

/s William A. McKinnon, #2761, Circuit Judge

RECEIVED

Feb 06 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

William A. McKinnon, Circuit Judge

Case No. 2023-CP-46-02263
Appellate Case No.: 2023-001341

Lodges at Lake WylieRespondent.

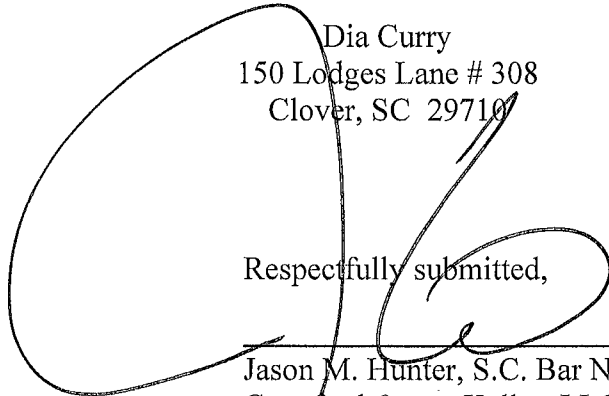
Dia CurryAppellant.

CERTIFICATE OF SERVICE

The undersigned certifies that he has served Respondent’s Motion to Dismiss by depositing a copy of it in the United States Mail, postage prepaid, on February 6, 2024, addressed to the party of record to the below address:

Dia Curry
150 Lodges Lane # 308
Clover, SC 29710

Respectfully submitted,



Jason M. Hunter, S.C. Bar No. 101501
Crawford & von Keller, LLC
Post Office Box 4216
Columbia, South Carolina 29250
(803) 764-7444
jed@crawfordvk.com
Attorney for Respondent

February 6, 2024



CRAWFORD & VON KELLER, LLC

SOUTH CAROLINA
B. Lindsay Crawford, III *
Theodore von Keller
B. Lindsay Crawford, IV**

NORTH CAROLINA
Benjamin A. Barco
Brittany T. Morrison**
William Kibbe

Charley S. MacInnis
Jason M. Hunter
Eric H. Nelson
Lawrence W. Johnson, Jr. * - Special Counsel

* Certified Specialist in Bankruptcy

**Admitted in South Carolina and North Carolina
and Debtor-Creditor Law in SC

February 6, 2024

Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
Feb 06 2024
SC Court of Appeals

RE: Lodges at Lake Wylie vs. Dia Curry
Appellate Case No: 2023-001341
Our file no.: 0145.23.0002

Dear Clerk:

Enclosed please find Respondent's Motion to Dismiss in the above referenced matter. I have also enclosed a check for \$50.00 to cover the filing fee. Please file the original and return a clocked copy in the enclosed envelope.

Please contact me with any questions.

Sincerely,

Crawford & von Keller, LLC

Jason M. Hunter

cc: Dia Curry
150 Lodges Lane #308
Clover, SC 29710

**WE ARE A DEBT COLLECTOR. THIS COMMUNICATION IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED
WILL BE USED FOR THAT PURPOSE.**

P.O. Box 4216, COLUMBIA, SC 29240 • 1640 ST. JULIAN PLACE, SC 29204 • 803-790-2626 • FACSIMILE 803-790-1277