

February 16, 2024

Via E-mailSouth Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201**RECEIVED****Feb 16 2024****SC Court of Appeals**

RE: Appellate Case No. 2023-001923: Request for Clarification Regarding Writ of Ejectment

Dear South Carolina Court of Appeals:

Introduction

This is a request for clarification regarding whether this kind of appeal creates a stay in the Magistrate Court or in any way prevents the Magistrate Judge from issuing the Writ of Ejectment.

Factual Background

The Honorable Judge Jacquelyn I. Duckett in the Gantt Summary Court informed Respondents that anytime she has spoken with the South Carolina Court of Appeals, she has been told that the Magistrate Court cannot issue the Writ of Ejectment because the case is pending before the Court of Appeals. Judge Duckett also stated that such was confirmed in a phone call with an Appeals Specialist at the South Carolina Court of Appeals on February 14, 2024. However, when Respondent has called, the Court of Appeals explained that this type of appeal never creates a stay on the ejectment of the Appellant.

This has been an ongoing issue. For Case No. 2023-000907, another property represented by the same law firm filed a Motion for Writ of Mandamus with the Court of Appeals regarding the same type of appeal from the Gantt Summary Court. The Court of Appeals agreed with the property that there was no stay preventing a Writ of Ejectment but refused to issue the Writ of Mandamus because “any request for relief by Respondent would be more appropriately directed to the magistrate or circuit court.”

In the current case, Respondents filed a motion with the Gantt Summary Court seeking the Writ of Ejectment. The Gantt Summary Court refused to issue the Writ. Then, Respondent filed a Motion with the 13th Judicial Circuit Court for Writ of Mandamus instructing the Gantt Summary Court to issue the Writ of Ejectment. The Circuit Court granted Respondent’s motion, and such Writ of Mandamus was served on the Gantt Summary Court. (Writ of Mandamus, attached hereto as **Exhibit A**). Nevertheless, the Gantt Summary Court is still refusing to issue the Writ of

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Ejectment because it believes there is a stay on the ejectment. Therefore, we bring this request for clarification.

Requests for Clarification

Respondent is requesting clarification on the following questions:

1. Does an appeal from a Writ of Ejectment create an automatic stay on the Writ of Ejectment?
2. Does a Magistrate Court need to wait for instruction from the Court of Appeals on an appeal of this type before issuing or enforcing the Writ of Ejectment?
3. Based on the current appeal, may the Gantt Summary Court currently issue the Writ of Ejectment?
4. May the Gantt Summary Court ignore the Writ of Mandamus from the Circuit Court instructing it to issue the Writ of Ejectment?

Thank you for your guidance on these issues.

Sincerely,



Matthew Blewitt

MB:mjb

cc: Alexis English
Gantt Summary Court

Exhibit A

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

Alexis English,)

2023-CP-23-05644

COMMON PLEAS CASE NUMBER

Appellant,)

2023-CV-23-1100-3815

vs.)

MAGISTRATE CIVIL CASE NUMBER

Haywood Reserve,)

ORDER GRANTING RESPONDENT'S
MOTION AND ISSUING WRIT OF
MANDAMUS

Respondent.)

_____)

Before the Court is Respondents Motion for Writ of Mandamus. It is hereby **GRANTED**.

The South Carolina Appellate Court Rules establish that an appeal to the South Carolina Court of Appeals does not create an automatic stay on “[e]jectment orders as provided in S.C. Code Ann. § 27-37-130.” SCACR 241(b)(10). This case is that type of ejectment order.

Therefore, because no automatic stay exists, this Court issues this Writ of Mandamus instructing the Gantt Summary Court to immediately issue the writ of ejectment and send such to the appropriate authorities for execution against Defendant Alexis English in its case number 2023-CV-23-1100-3815.

IT IS SO ORDERED.

The Honorable Judge G. D. Morgan, Jr.
Circuit Court Judge, Greenville County

Columbia, SC

January ____, 2024



Greenville Common Pleas

Case Caption: Alexis English VS Haywood Reserve

Case Number: 2023CP2305644

Type: Order/Other

So Ordered

G.D. Morgan Jr.