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Mar 05 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Appellate Case No.: 2022-000741

Triangle Palisades at the Park, LLC d/b/a Palisades at the ParkRespondent
v.

Mercedes Boyd.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 September 18, 2023, an Order Setting Appeal Bond was filed in the instant action as is indicated in the Greenville County Court of Common Pleas, C/A No. 2022-CP-23-00922.

That Appellant failed to comply with said Order and that the stay in the instant matter was lifted by a filing of this Court on January 16, 2024.

That on January 25, 2024, an Order was filed in C/A No. 2022-CP-23-00922 reinstating the prior-issued Writ of Ejectment.

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

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 GREENVILLE COUNTY
Court of Common Pleas

Appellate Case No.: 2022-000741

Triangle Palisades at the Park, LLC d/b/a Pallisades at the Park, RespondentRespondent
v.
Mercedes Boyd.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 March 1, 2024, who, being duly sworn, states as follows:

1. I am employed by Southwood Realty Company, beneficial owner of Respondent Triangle Palisades at the Park, LLC d/b/a Pallisades at the Park, Respondent (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 16, 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 Spartanburg 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 Mercedes Boyd has been completed. Neither Appellant nor any personal property belonging to Appellant remain on the subject premises.

FURTHER AFFIANT SAYETH NOT.

FOR RESPONDENT TRIANGLE PALISADES AT THE PARK, LLC D/B/A PALISADES AT THE PARK, RESPONDENT

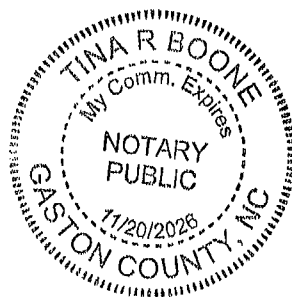


Mary Liz Cameron
Associate General Counsel for Southwood Realty, beneficial owner of Respondent

SWORN TO before me this
1 day of March, 2024.

Jim R. Boone (L.S.)

Tina R. Boone
Notary Public for North Carolina
My Commission Expires: 11/20/2026



Affidavit
Exhibit '1'

The South Carolina Court of Appeals

Triangle Palisades at the Park, LLC, d/b/a Palisades at
the Park, Respondent,

v.


Mercedes Boyd, Appellant.

Appellate Case No. 2022-000741

ORDER

After careful consideration, Respondent's motion to dismiss this appeal is denied. Appellant's motion for default judgment is denied.

This court issued a stay of the eviction on June 2, 2022, because Appellant filed an undertaking with this court on May 21, 2022, in which she agreed to pay her rental amount of \$1410 as it became due, during pendency of the appeal. In her return to Respondent's motion to dismiss, Appellant acknowledges she has not made a rental payment since the end of 2022. Thus, she has not complied with the undertaking. Accordingly, we now lift the stay, and Respondent may proceed with seeking a new writ of ejectment from the magistrate court. *See* S.C. Code Ann. § 27-40-800(f)(2) ("The tenant's failure to comply with the terms of the undertaking entitles the landlord to execution of the judgment for possession in accordance with the provisions of subsection (e) of this section."); S.C. Code Ann. § 27-40-800(e) ("If the tenant fails to make a payment within five days of the due date according to the undertaking and order staying execution, the clerk, upon application of the landlord, shall issue a warrant of ejectment to be executed pursuant to § 27-37-40 of the 1976 Code."); S.C. Code Ann. § 27-37-40 ("If the tenant fails to appear and show cause within the aforesaid ten days then the magistrate shall issue a warrant of ejectment and the tenant shall be ejected by his regular or special constable or by the sheriff of the county.").


C.J.
FOR THE COURT

Columbia, South Carolina.

FILED
Jan 16 2024

cc:

Mercedes Boyd

Theodore von Keller, Esquire

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
In the Circuit Court
Greenville County Civil Action Number 2022-CP-23-00922

The Honorable William P. Keesley, Circuit Court Judge

Appellate Case No.: 2022-000741

Mercedes BoydAppellant

v.

Triangle Palisades at the Park, LLC d/b/a Palisades at the ParkRespondent

PROOF 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, postage prepaid on March 5, 2024, addressed to the party of record to the below address:

Mercedes Boyd
805 Mauldin Road, Apt. 2306
Greenville, South Carolina 29607

Respectfully submitted,

s/ Jason M. Hunter

Jason M. Hunter, SC Bar No. 101501
Crawford & von Keller, LLC
Post Office Box 4216
Columbia, South Carolina 29250
(803) 764-7444
ted@crawfordvk.com



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
Gregory P. Cowan**

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

* Certified Specialist in Bankruptcy
and Debtor-Creditor Law in SC

**Admitted in South Carolina and North Carolina

March 5, 2024

Via ctappfilings@sccourts.org and Regular Mail

SC Court of Appeals
PO Box 11629
Columbia, SC 29211

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SC Court of Appeals

**RE: Mercedes Boyd vs. Triangle Palisades at the Park, LLC d/b/a Palisades at the Park
Appellate Case No.: 2022-000741**

Dear Sir/Madam:

Enclosed please find Respondent's Motion to Dismiss and Proof of Service regarding the above referenced matter. I have also enclosed a check for \$50.00 for your motion filing fee.

Sincerely,

CRAWFORD & VON KELLER, LLC

Jason M. Hunter, Esquire
Post Office Box 4216
Columbia, South Carolina 29240
Telephone: (803) 790-2626
Attorney for Respondent

TVK/tdd
Enclosure

Cc: Mercedes Boyd
805 Maulding Road, Apt. 2306
Greenville, South Carolina 29607

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

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