

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)
)
)
 David Bryan Trapp,)
)
 Plaintiff/Respondent,)
)
 v.)
)
 Randal Klint Freeman and Jenna Freeman,)
)
 Defendants/Appellants.)

IN THE COURT OF MAGISTRATE
 THIRD JUDICIAL CIRCUIT
 CASE No.: 2023-CV-4310101594 &
 2023-CP-4301865

ORDER

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SC Court of Appeals

BACKGROUND:

This matter came back before the Court for hearing on February 14, 2024, upon remand from the Honorable Judge Cothran in the Court of Common Pleas Case Number 2023-CP-4301865. Present before the Court was J. Benjamin Cahill and Christopher Jay, attorneys for the Plaintiff, David Bryan Trapp. Randal Klint Freeman was present, and Jenna Freeman, who was not present, were represented by their defense counsel, Willie H. Brunson.

On November 20, 2023, a *Writ of Ejectment* was issued pursuant to S.C. Code Ann. § 27-37-160 as the Court determined that the Defendants/Appellants did not timely remit their November 2023 bond payment on or before November 10, 2024. The Defendants/Appellants filed an appeal on November 29, 2023. The Appeal was heard on January 30, 2024 wherein Judge Cothran remanded the matter for a finding of fact as to whether the Defendants/Appellants' bond was improperly denied on November 8, 2023.

PROCEDURAL HISTORY:

1. The Application for ejectment was filed on April 3, 2023.
2. Service was made upon the Defendants as shown by the proofs of service filed herein.
3. Defendants filed an Answer on April 27, 2023, demanding a jury trial and a pre-trial hearing pursuant to S.C. Code Ann. §27-40-790 to determine the rent/bond to be paid into Court pending the disposition of this action.

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4. I ordered bond set a \$1,750.00 and payable within five days from the date of the hearing, August, 8, 2023. Additionally future bond payments were set at \$1,600.00 due and payable on the first of each month and no later than the 10th of each month beginning on September 1, 2023.
5. November 2023 was not received by the Court by November 10, 2023 and a *Writ of Ejectment* was issued and executed pursuant to S.C. Code Ann. §27-37-160.
6. Defendant Randall Freeman filed an appeal with the Court of Common Pleas without his counsel, alleging *inter alia*, that he attempted to pay his bond as was refused by the court clerks.
7. The appeal was heard on January 30, 2024 by Judge Cothran in the Court of Common Pleas. Judge Cothran remanded the case for hearing within fourteen (14) days to make a finding of fact as to whether the Defendants/Appellants had indeed been prevented from paying their bond in a timely manner.

FINDINGS OF FACT:

8. At the hearing on February 14, 2024, I heard sworn testimony from Ms. Lila M. Yates, a Clerk of Court. Ms. Yates testified she did not deny the Defendants/Appellants' alleged November 2023 bond payment. Ms. Yates did testify that Mr. Freeman came in on November 8, 2023, to request paperwork; however, Mr. Freeman did not attempt to pay or remit his bond at that time.
9. Mr. Freeman testified to the contrary, stating that he was prevented from paying his bond.
10. Upon direct and cross-examination of Mr. Freeman, I did not find him to be a credible witness.
11. It is my finding of fact that the November 2023 bond payment was not timely made, and the previously issued *Writ of Ejectment* was proper.
12. Additionally, during the hearing it was brought to the Court's attention that the February 2024 bond payment was also not paid in a timely manner.
13. I find that the remand from the Circuit Court was a general remand, thus my prior Order that future bond payments of \$1,600.00 due and payable on the first of each month and no later than the 10th of each month, beginning September 1, 2023, is still in effect.

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CONCLUSIONS OF LAW:

14. As such, I conclude that the Defendants/Appellants failed to post bond as ordered for both the months of November 2023 and February 2024 and the prior *Writ of Ejectment* was proper under S.C. Code Ann. §27-37-160.
15. Therefore, I conclude that the *Writ of Ejectment* be re-issued in accordance with S.C. Code Ann. §27-37-100.


IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED,

16. That the Defendant failed to post bond for the months of November 2023 and February 2024 and as such the *Writ of Ejectment* be re-issued.

IT IS SO ORDERED.

Sumter, South Carolina

February 2024



The Honorable Bryan K. Griffin

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