

**IN THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

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Jun 11 2024

**APPEAL FROM ORANGEBURG COUNTY
The Honorable Edgar W. Dickson**

S.C. SUPREME COURT

**Appellate Case No. 2020-000451
Supreme Court Case No. 2023-001318**

Rufus Rivers and Merle Rivers, pro se.....Petitioners

VS.

Stephanie McKune-Grant and Jenny Abbott Kitchings.....Respondents

EMERGENCY PETITION FOR WRIT OF MANDAMUS

Petitioners Rufus Rivers and Merle Rivers submits this **EMERGENCY PETITION FOR WRIT OF MANDAMUS**. This petition is brought pursuant to Rule 221 of SCRCPC, directing the court to issue mandate(Rule 41 . SCRCPC 62(a)(b)(f) outlines how judgments are stayed.

The issues presented are Stephanie McKune-Grant (The magistrate), illegally withholding funds and Jenny Abbott Kitchings(Clerk of Court of Appeals), failure to issue mandate as required under Rule 41 This matter originated in magistrate's court as an ejectment matter where petitioners were ordered to pay \$700.00 per month in to the magistrate's court. This amount was determined by the magistrate and respondent's attorney Kathleen McDaniel as fair market value for monthly rent. The magistrate ordered ejectment resulting in an appeal and the ordering of the bond to stay ejectment of \$700.00 per month. The Court of Appeals reversed the lower court's decision.(see attached). The Court of Appeal's withholding of the remittitur and mandate does not meet South Carolina Rule 242 of South Carolina Rules of Civil Procedure by not issuing either the remittitur or mandate while Respondent's Petition for Writ of Certiorari is pending. Respondent's Writ of Certiorari was filed timely without requesting stay of the Court of Appeals' decision which means the decision is still effective. Petitioners filed two

distinct motions in the Court of Appeals. First, a “motion for mandate” was filed on December 11, 2023 which was denied because the remittitur had not had issued. Second, a “motion to enforce judgment” was filed on March 28, 2024 and denied because the first motion had been filed and denied.(see attached both orders). Time has since expired for the mandate issuance and petitioners feel the remittitur as well is due. It has been 11 months since the Court of Appeals' decision.

ISSUES

Magistrate Stephnie McKune-Grant and The law firm of Burnette, Shutte & McDaniel, each are holding funds that were intended as bond to stay until the court of Appeals rendered its decision. On June 21, 2023 the Court of Appeals reversed the lower court's decision. Petitioners informed the magistrate and the Law firm of the court's decision while providing a copy of the decision.(see attached opinion). Petitioners were told by the magistrate's staff that they were waiting on the court's instructions. Kathleen McDaniel from the law firm stated that they were not going to return any money until the court says so.

Firstly, petitioners feel that redirecting the payments to the law firm was inappropriate from the beginning. Secondly, the return of funds should have been a priority since they were never legally held. .Thirdly, respondent has initiated a new action in the circuit court regarding the same ejection matter involving the same parties as indicated in Judge Taylor's order dated April 8, 2024.(see attached).

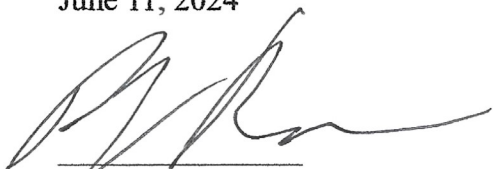
Respondent has had his bite of the apple and looking to get a more favorable result through his instant action where he is precluded , **res judicata**. Petitioners are being disadvantaged by respondent's attempt to circumvent the Court of Appeal's decision by filing a Writ of Certiorari without requesting a stay for the sole purpose of delaying the process while attempting to obtain a more favorable decision in the circuit court Respondent's Writ of Certiorari cites the wrong case number of the lower court's case in the filing(2018-CP-40-01318). The respondent have not presented any issue that would warrant review.

CONCLUSION

Respondent has filed a frivolous Writ of Certiorari, designed to frustrate the courts by interrupting judicial efficiency and creating unreasonable delay.. Respondent, through his attorney have abused the process over and over without any regards to the hardship being placed on petitioners. Not only have they no regard for fairness, respondent have used the process in a way that it was not intended to be used from the onset. What respondent is doing through his attorney is malicious and could be seen as harassment. Petitioners are senior citizens and not in the best of health. It has strained petitioners' finances, health and well-being while holding petitioners' funds is hindering them from effectively prosecuting the new case also. Mostly, unreasonable delay. Petitioners have exhausted their efforts to resolve this matter.

Petitioners pray this court grants this petition for the foregoing reasons and have the Clerk of Court, Jenny Abbott Kitchings issue the mandate and/or remittitur as required.

June 11, 2024



Rufus Rivers, pro se



Merle Rivers, pro se

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