

**RECEIVED**

**Jun 17 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Joseph M. Strickland, Master in Equity Court Judge

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Case No. 2023-CP-40-00090

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Michael Gilbert a/k/a Michael L. Gilbert.....Appellant,

v.

Eastman Credit Union, Hammond School, Founders Federal Credit Union, Woodcreek Farms  
Homeowners Association and South Carolina Department of Revenue..... Respondents,

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**PETITION FOR WRIT  
OF SUPERSEDEAS**

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**COMES NOW** Appellant/Petitioner Michael Gilbert a/k/a Michael L. Gilbert, by and through his undersigned counsel, Kenneth A. Davis, respectfully moves this Honorable Court pursuant to Rule 241(d) of the South Carolina Appellate Court Rules for a writ of supersedeas staying the execution of the judgment in this case, including the sale and execution of a writ of possession, pending resolution of the appeal in order to preserve the jurisdiction of the Court of Appeals and avoid the mootness of the appeal.

The underlying action is the foreclosure of a mortgage held by Respondent Eastman Credit Union. Petitioner is the property owner. Petitioner filed a Notice of Appeal on June 14, 2024, following the June 13, 2024 denial of a Motion to Set Aside Default by the Honorable Joseph Strickland, Richland County Master in Equity. The basis of the Motion to Set Aside relates to a deficiency in the underlying service of process necessary to confer personal jurisdiction on the trial court. Judge Strickland denied the Motion without a hearing.

In general, a judgment granting a mortgage foreclosure and sale is an exception to the automatic stay rule with respect to an appeal. See S.C. Code Ann. § 18-9-170. On June 17, 2024, Petitioner filed a Motion pursuant to Rule 241(c) of the South Carolina Appellate Court Rules to stay the execution of the judgment, or in the alternative, to set a bond hearing pursuant to S.C. Code Ann. § 18-9-170. Judge Strickland denied the Motion without a hearing.

On May 17, 2024, Judge Strickland issued a Writ of Possession, which was scheduled to be executed on June 17, 2024, at 1:00 pm. If this writ of possession is not stayed, the appeal of this matter would be mooted as Petitioner would lose possession of the subject property to a third-party bidder from the foreclosure sale, which would moot the appeal and

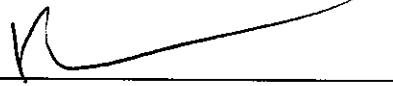
WHEREFORE, Defendant Michael Gilbert prays that this Honorable Court immediately grant a writ of supersedeas staying the execution of judgment in this case, including the sale and execution of the writ of possession, pending appeal in order to preserve the jurisdiction of the Court of Appeals and avoid the mooting of the appeal. If the writ of possession has been executed, Petitioner requests that the Court's order requires return of possession of the property to Petitioner pending resolution of the appeal.

**Certificate of Ex Parte Request for Relief**

Because of the pending Writ of Possession scheduled to be issued at 1:00 p.m. on June 17, 2024, there was no time to give notice because of the pending execution of the Writ.

Respectfully submitted,

BOYKIN & DAVIS, LLC

By:   
Kenneth A. Davis (SC Bar #66416)  
Tierney F. Goodwyn (S.C. Bar # 102035)

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Attorneys for Appellant Michael Gilbert, a/k/a  
Michael L. Gilbert

June 17, 2024  
Columbia, South Carolina

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Case No. 2023-CP-40-00090

Michael Gilbert a/k/a Michael L. Gilbert.....Appellant,

v.

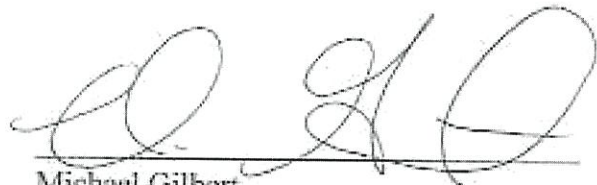
Eastman Credit Union, Hammond School, Founders Federal Credit Union, Woodcreek Farms Homeowners Association and South Carolina Department of Revenue..... Respondents,

VERIFICATION

I, Michael Gilbert, read the petition and affirmed that the facts are true.

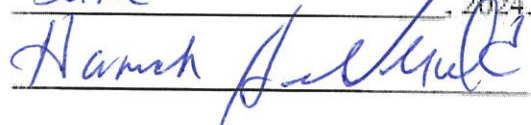
FURTHER AFFIANT SAYETH NOT

6-17-24  
Date

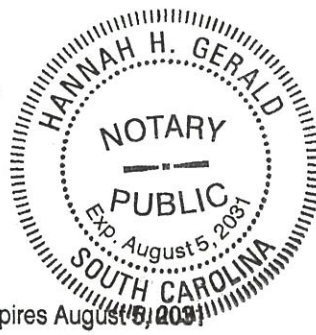
  
Michael Gilbert

SWORN to before me this 17th day of

June, 2024.



My Commission Expires: My Commission Expires August 5, 2025



STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Eastman Credit Union,

Plaintiff,

v.

Michael Gilbert a/k/a Michael L. Gilbert,  
Hammond School, Founders Federal Credit  
Union, Woodcreek Farms Homeowners  
Association and South Carolina Department  
of Revenue,

Defendant(s).

IN THE COURT OF COMMON PLEAS FOR  
THE FIFTH JUDICIAL CIRCUIT

Case No. 2023-CP-40-00090

**ORDER DENYING DEFENDANT'S  
MOTION TO SET BOND AND STAY WRIT  
OF POSSESSION PENDING BOND  
HEARING**


This matter before the court is Defendant Michael Gilbert's a/k/a Michael L. Gilbert's Motion for Supersedeas, or in the Alternative, Motion to Set Bond and Stay Writ of Possession Pending Bond Hearing.

Motion is Denied.

**IT IS SO ORDERED.**

17th day of June 2024

Columbia, South Carolina

  
\_\_\_\_\_  
Joseph M. Strickland as Master-in-Equity  
for Richland County

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Eastman Credit Union, Hammond School, Founders Federal Credit Union, Woodcreek Farms  
Homeowners Association and South Carolina Department of Revenue..... Respondents,

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PROOF OF SERVICE

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I certify that I have served the Petition for Writ of Supersedeas, Order Denying Defendant’s Motion To Set Bond And Stay Writ Of Possession Pending Bond Hearing, and Verification on the counselors of record listed below, by electronic mail and U.S. Mail a copy of same on June 17, 2024, addressed to:

Dean A. Hayes  
4500 Fort Jackson Blvd., Suite 250  
Columbia, SC 29209  
Attorney for Respondent  
Eastman Credit Union

Kyle A. Brannon  
1230 Main Street Suite 700  
Columbia, SC 29201  
Attorney for Respondent  
Founders Federal Credit Union

Kiera C. Dillon, Esq.  
Robert J. Thomas Jr., Esq.  
300A Outlet Pointe Boulevard  
Columbia, SC 29210  
Attorneys for Respondent  
South Carolina Department of Revenue

Shaun W. Cranford  
PO BOX 50684  
Columbia, SC 29250  
Attorney for Respondent  
Wood Creek Farms Homeowners Association

Walter B. Todd, Jr.  
Post Office Box 1549


Richland County Sheriff’s Department  
Attn: Civil Process Division

Columbia, SC 29202  
Attorney for Hammond School

P.O. Box 143  
Columbia, SC 29202

Richland County Master-in-Equity  
Richland County Clerk of Court  
PO Box 192  
Columbia, SC 29201

June 17, 2024.

By:   
Kenneth A. Davis (SC Bar #66416)  
Tierney F. Goodwyn (SC Bar #102035)

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Attorneys for Appellant