

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

R. Ferrell Cothran Jr, Circuit Court Judge

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Case No. 2024-CP-43-000366

Randal K. Freeman,

Appellant,

v.

David Bryan Trapp,

Respondent.

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**MOTION TO CORRECT OR AMEND ORDER DATED JUNE 17th, 2024**

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I, Randal K. Freeman, the Appellant in the above-captioned case, proceeding pro se, hereby respectfully request that this Honorable Court correct or amend its order dated June 17th, 2024. This motion is based on the oversight of not considering a prior order granting a stay of execution that was signed on March 1st, 2024, by Judge Larry Blanding, Associate Chief Magistrate of the Sumter County Magistrate Court. The motion cites S.C. Code § 27-40-800(f) and S.C. App. Ct. R. 241 as the legal basis for the correction, and requests that the June 17th, 2024 order be amended to accurately reflect the stay of execution, specifically correcting the title of the March 1st, 2024 Order to "Bond to Stay Eviction on Appeal".

### Background

On March 1st, 2024, Judge Larry Blanding, Associate Chief Magistrate of the Sumter County Magistrate Court, issued an order titled "Bond to Stay Eviction on Appeal" pursuant to S.C. Code § 27-40-800(f). This order was filed under case no. 2023-CV-4310101594 on March 1st, 2024. Additionally, it was filed in the Court of Common Pleas of Sumter County Third Circuit under case no. 2024-CP-4300366, and with the South Carolina Court of Appeals under case no. 2024-000283.

Subsequently, on June 17th, 2024, an order was issued in this case. However, this order did not take into consideration the previously issued and filed order titled "Bond to Stay Eviction on Appeal".

### Legal Basis

#### 1. Rule 241 - Stay and Supersedeas in Civil Actions:

(a) General Rule. As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, decree, or decision. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate

court. The lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal.

2. S.C. Code § 27-40-800(f): Under this code, Judge Larry Blanding had the authority, as stated in S.C. App. Ct. R. 241, that the lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal, including the authority to enforce any matters not stayed by the appeal.

#### **Error in the June 17th, 2024 Order**

The order dated June 17th, 2024, contains an oversight in that it does not acknowledge or consider the "Bond to Stay Eviction on Appeal" granted by Judge Larry Blanding on March 1st, 2024. This oversight may lead to unjust consequences and enforcement actions that are contrary to the Court's intent as expressed in the March 1st, 2024 order.

#### **Request for Correction**

I, Randal K. Freeman, respectfully request that this Court correct or amend its June 17th, 2024 order to accurately reflect the "Bond to Stay Eviction on Appeal" as ordered on March 1st, 2024, by Judge Larry Blanding. This correction is necessary to ensure the integrity of the Court's orders and to prevent any unjust enforcement actions that may arise from the oversight.

Conclusion

WHEREFORE, I, Randal K. Freeman, respectfully request that this Honorable Court grant this motion to correct or amend its order dated June 17th, 2024, to include the "Bond to Stay Eviction on Appeal" as ordered on March 1st, 2024, by Judge Larry Blanding, and for such other and further relief as this Court deems just and proper.

Respectfully submitted, sequences and enforcement actions that are contrary to the Court's intent as expressed in the March 1st, 2024 order.

June 17, 2024

Respectfully submitted,

*/s/ Randal K. Freeman*  
Randal K Freeman  
8 Warren Ct  
Sumter, South Carolina 29150  
(224) 407-1660  
Appellant

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Mar 01 2024

RECORDED

2024-CP-43-000366  
COMMON PLEAS CASE NUMBER

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

2024 MAR 31 AM 10:02

2023-CV-4310101594

SC Court of Appeals

David Bryan Trapp  
PLAINTIFF/ LANDLORD

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

MAGISTRATE CIVIL CASE NUMBER

VS.

BOND TO STAY EVICTION ON  
APPEAL

Randal K Freeman  
DEFENDANT/TENANT

S.C. Code § 27-40-800(f)

Now comes the Tenant(s) in the above entitled action and respectfully shows the Court that a order of Execution was affirmed against the Tenant(s) and for the Landlord on 02/29/2024, by the Honorable R. Ferrell Cothran, Jr.. Tenant has appealed the Judgment to the THE STATE OF SOUTH CAROLINA In the Court of Appeals.

Pursuant to S.C. Code § 27-40-800(f), the Tenant is obligated to pay rent in the amount of \$ 1600.00 per month, due on the 10th day of each month, beginning March, 2024. Payments are to be made by cash, cashier's check or money order to SUMTER COUNTY SUMMARY COURT, located at 190 E. Canal Street, Sumter SC 29150.

Tenant(s) hereby undertakes to pay the periodic rent hereinafter due according to the aforesaid findings of the Court and moves the Court to stay execution of Judgment and the Writ of Ejectment until this matter is heard on appeal and decided by the Court of Appeals.

Dated on: 02/29/2024

Defendant/Tenant

Upon execution of the above bond, execution on the order dated 02/29/2024 and the Writ of Ejectment is hereby stayed until the action is heard on appeal and decided by the Court of Appeals. If Tenant(s) fails to make any rental payment within five (5) days of the due date, upon application of the Landlord, the stay of execution shall dissolve, the appeal by the Tenant(s) to the Circuit Court on issues dealing with possession must be dismissed and the Sheriff may dispossess the Tenant(s).

Dated on: 3/1/24

JUDGE

**PROOF OF SERVICE OF  
MOTION TO CORRECT OR AMEND ORDER DATED JUNE 17th, 2024**

THE STATE OF SOUTH CAROLINA  
In The Court of  
Appeals

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**PROOF OF SERVICE**

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I certify that I have served a copy of MOTION TO CORRECT OR AMEND ORDER DATED JUNE 17th, 2024 on David Bryan Trapp by depositing a copy of it in the United States Mail, postage prepaid, on June 17<sup>th</sup>, 2024, addressed to his attorney of record, J. Benjamin Cahill, 693 N Guignard, Sumter, South Carolina 29150.

June 17, 2024

s/ Randal K.  
Freeman  
Randal Freeman  
8 Warren C  
Sumter, South Carolina 29150  
(224) 407-1660  
Appellant