

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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**Jul 05 2024**

**SC Court of Appeals**

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APPEAL FROM SUMTER COUNTY

Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2024-CP-43-000366

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Appellant Case No. 2024-000283

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Randal K Freeman,

Appellant,

v.

David Bryan Trapp

Respondent.

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**REPLY TO RESPONDENTS RETURN IN OPPOSITION**

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In response, I, Randal K. Freeman, respectfully submit the following:

I respectfully request that the Court deny all of the Respondent's requests in his return and affirm the order "Stay of Eviction on Appeal" dated March 1, 2024, as allowed and governed by S.C. Code § 27-40-800(f).

**1) Misinterpretation of the Order:** Respondent, through his counsel, has misinterpreted the Order and Return from Magistrate Judge Bryan K. Griffin. In the order dated December 7th, 2023, Judge Griffin stated verbatim: "Accordingly, IT IS ORDERED that defendant post bond as previously ordered for November and December in the amount of Three Thousand Two Hundred Dollars (\$3200.00). If the appeal is not heard before the end of this year, the previous bond order will be extended into January. Defendant has 5 days from receipt of this order to post bond with the Summary Court." *See Exhibit A*, highlighted. Judge Griffin specifically required bond to be paid for November, December, and January. The Appellant complied with this order, and no further directive was given for February 2024. Additionally, per South Carolina Rule of Civil Procedure 5B(a), an order is not valid until signed by a judge and filed with the clerk (*Upchurch v. Upchurch*, 367 S.C. 16).

**2) Lack of Bond Order in Case File:** A hearing was held by Judge R. Ferrell Cothran Jr. on January 30th, 2024, for Case #2023-CP-4301865. During this hearing, the respondent, through his counsel, attempted to argue for the Writ of Ejectment. However, as seen in *Exhibit B*, an excerpt from the Transcript of Record, January 30th, 2024, page 8, lines 6 through 20, Judge Cothran stated that there was no such order for bond in the case file of #2023CV4310101594 prior to the order dated and signed December 7th, 2024. The only order present was the one mentioned above.

**3) Stay of Execution on Appeal:** Pursuant to S.C. Code § 27-40-800(f), upon appeal to the Supreme Court or to the court of appeals, it is sufficient to stay execution of a judgment for ejectment that the tenant sign an undertaking that he will pay to the landlord the amount of rent, determined by order of the judge of the circuit court, as it becomes due periodically after judgment was entered. The judge of the court having jurisdiction shall order stay of execution upon the undertaking. The Circuit Court directed the appellant to receive such action from the Sumter Summary Court as they maintain jurisdiction of all eviction

matters.

WHEREFORE, I, Randal K. Freeman, respectfully request that this Honorable Court grant the 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 pursuant to S.C. Code § 27-40-800(f). Said order should not be lifted as Judge Larry Blanding had the authority and jurisdiction as Associate Chief Magistrate of Sumter Summary Court to order the stay under S.C. Code § 27-40-800(f). I also request such other and further relief as this Court deems just and proper.

Respectfully Submitted,

/s Randal K Freeman

Randal Freeman

8 Warren Ct

Sumter, SC 29150

Tel. (224) 407-1660

Sumter, South Carolina

July 2nd, 2024

EXHIBIT A

STATE OF SOUTH CAROLINA  
COUNTY OF SUMTER

RECORDED IN THE MAGISTRATES COURT  
C/A No.: 2023-CV-4310101594

2024 JAN 23 AM 11:24

David Bryant Trapp,

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

ORDER AND RETURN

v.

Randall Freeman and Jenna Freeman,

Defendants

This matter is before the court upon its own motion. As stated in prior pleadings, this action arose out of an Application for Ejectment filed on April 3, 2023. 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. I ordered the bond set at \$1,750.00 and payable within five (5) days from the date of the hearing. Additionally, future bond payments were set at \$1,600.00 due and payable on the first of each month and no later than the 10<sup>th</sup> of each month, beginning on September 1, 2023.

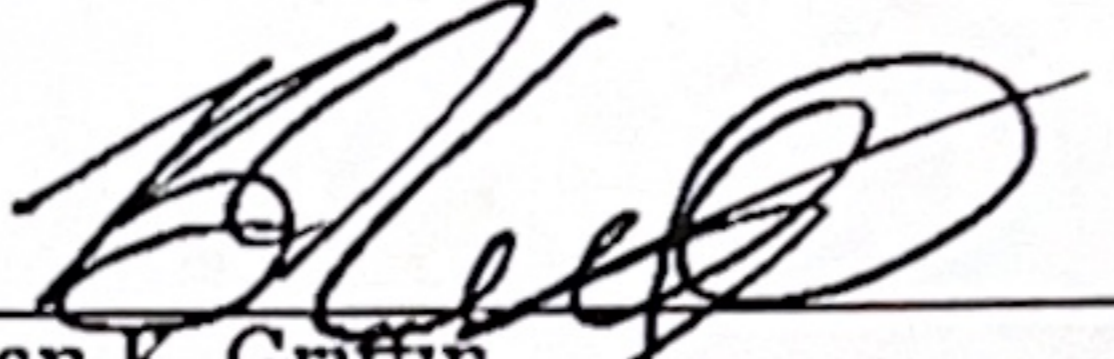
After bond was set, defendants posted their September and October bond timely to the Sumter County Magistrate Court, each in the amount of \$1,600.00 respectively. November bond was not paid or received by the Court by November 10, 2023. Accordingly, a Writ of Ejectment was issued and executed pursuant to S.C. Code Ann. §27-37-160. Subsequently, Defendant Randall Freeman filed an appeal with the Court of Common Pleas. Freeman filed the appeal without his counsel, alleging *inter alia*, that he attempted to pay his bond and was refused by my civil court clerks. Regardless of this appeal's merits, I must allow the defendant to post bond with the court pending the appeal. **Accordingly, IT IS ORDERED that defendant post bond as previously ordered for November and December in the amount of Three Thousand Two Hundred Dollars (\$3200.00).<sup>1</sup> If the appeal is not heard before the end of this year, the previous bond**

<sup>1</sup> When I was noticed of Freeman's appeal, I requested an affidavit from plaintiff as there was no need for a new bond hearing. The affidavit alleges rent is owed for April, May,

*Handwritten signature*

order will be extended into January. Defendant has 5 days from receipt of this order to post bond with the Summary Court. This order shall be sent to defense counsel on Freeman's behalf as he is still counsel of record for the purpose of calculating time. This order shall also serve as the magistrate's return in the event the appeal is conducted by the circuit court. Any failure to post bond will result in the dismissal of the appeal by the trial magistrate as required by statute.

**AND IT IS SO ORDERED.**

  
Bryan K. Griffin  
Magistrate, Sumter County

Sumter, South Carolina  
December 7, 2023

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June, and July As the alleged failure to pay rent for those months is an issue on the merits, I think my order is limited to the original ruling in August to the present.

BK  
2/2

1 the removal and one was for the preliminary bond. That was  
2 sent to him. There were issues with the removal draft and  
3 then Judge Griffin ended up drafting that himself actually a  
4 few months later. But that was actually Attorney Brunson's  
5 job as ordered by Judge Griffin.

6 THE COURT: Okay. So has there ever been an order  
7 signed for the bond?

8 MR. CAHILL: Yes, Your Honor.

9 THE COURT: And do you have a copy of it?

10 MR. CAHILL: The order was signed by  
11 Judge Griffin. I would have to go back and look, I don't  
12 have it on me, no, Your Honor.

13 THE COURT: Okay. I do have an order -- he put it  
14 in his return but he didn't file it until December the 7th,  
15 and he said: It is so ordered that defendant post bond as  
16 previously ordered for November, December, in the amount of  
17 \$3,200. If this appeal is not heard before the end of the  
18 year the previous bond order shall be extended to January,  
19 and he signed that on December the 7th.

20 MR. CAHILL: Yes, Your Honor.

21 THE COURT: So what day did you go try to pay the  
22 money?

23 MR. FREEMAN: Your Honor, I tried to go in  
24 November -- sorry, Your Honor, I'm a little off with dates,  
25 I put them on my appeal.

STATE OF SOUTH CAROLINA     )     TRANSCRIPT OF RECORD  
COUNTY OF SUMTER            )     CASE NO. 2023-CP-43-01865

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January 30, 2024

BEFORE: The Honorable R. Ferrell Cothran, Jr.

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Randal Klint Freeman,

Plaintiff,

vs.

David Bryan Trapp,

Defendant.

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APPEARANCES:

Randal K. Freeman, Pro Se

James Cahill, Esq.  
Christopher Jay, Esq.  
Attorneys for Defendant

Official Court Reporter,  
Cynthia D. Weaver

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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Appellant Case No. 2024-000283

Randal K Freeman,

Appellant

v.

David Bryan Trapp

Respondent.

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PROOF OF SERVICE

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I certify that I have served a copy of the REPLY TO RESPONDENTS RETURN IN OPPOSITION dated July 2nd, 2024 on David Bryan Trapp by depositing a copy of it in the United States Mail, postage prepaid, on July 5th, 2024, addressed to his attorney of record, J. Benjamin Cahill, 693 N. Guignard Dr. Sumter SC 29150.

July 5th, 2024

/s Randal K Freeman

Randal K Freeman  
8 Warren Court  
Sumter, SC 29150  
Tel. (224) 407-1660

**Appellant**