

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

CASE NO. 2018-CP-10-04284

BONITA STEED, et al. )  
 )  
 )  
Plaintiffs, )

**MOTION TO VACATE STAY  
OF THE APPEAL**

VS. )

**RECEIVED**

ANTOINE HEYWARD, RUBY )  
HEYWARD, et al. )  
 )  
Defendants. )

**Aug 13 2024**

**SC Court of Appeals**

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Defendants, Antoine Heyward and Ruby Heyward, by and through their undersigned counsel, respectfully submit this Motion to Vacate Stay of the Appeal so that Defendants may occupy or generate income by renting the property because Plaintiffs have failed to comply with S.C. Code 18-9-170.

**HISTORY**

Plaintiffs Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed filed an Adverse Possession Complaint against Defendants and Defendants counterclaimed with a Quiet Title action. The property in dispute was 516 Bank Street, Mount Pleasant, South Carolina. A Non-Jury Trial was conducted on September 14, 2023.

In the Court’s Order filed on February 6, 2024, the Court ruled that the property was quieted and confirmed into Defendants Antoine and Ruby Heyward, who were vested with fee simple title to 516 Bank Street, Mt. Pleasant, SC 29464 (TMS#532-05-00-113). **See Order filed 2/6/2024 attached as Exhibit A.**

Plaintiffs filed a Motion for Reconsideration and April 10, 2024, the Court issued its’

Order and denied Plaintiff's Motion for Reconsideration. See **Order filed 4/10/2024 attached as Exhibit B.**

On May 9, 2024, Plaintiffs filed an Appeal with the S.C. Court of Appeals. See **Notice of Appeal dated 5/9/2024 attached as Exhibit C.**

### LEGAL AUTHORITY

Generally speaking, when a Notice of Appeal is filed, the lower court matter is stayed until such time as there is a decision rendered by the appellate court. See SCACR, Rule 241(a). An **exception** to the automatic stay is set forth in SCACR, Rule 241(b)(4) and further explained in S.C. Code 18-9-170:

**“If the judgment appealed from directs the sale or delivery of possession of real property, the execution of the judgment shall NOT be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by appellant, he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed, he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding the sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking.”**

Only upon the party executing the bond in the terms set forth above, will the appealed judgment be stayed in the court below. See S.C. Code 18-9-180.

### ARGUMENT

On February 6, 2024 and April 10, 2024, the Court issued two rulings that stated that the property is owned by Defendants Heyward. Despite these Orders, Plaintiffs refused to vacate the property thereby denying Defendants' ownership rights to the property. Since Plaintiffs continued to reside on Defendants' property, Plaintiffs had a statutory obligation to produce a written undertaking with two sureties. As set forth above, the purpose of the undertaking was to protect Defendants' property from damage that may be caused by Plaintiffs while this appeal was

pending. No surety bond(s) have been forthcoming.

### CONCLUSION

Defendants respectfully request that the Court grant their Motion to Vacate Stay of the Appeal for the reasons set forth above so that Defendants may proceed with evicting Plaintiffs from the Defendants' property located at 516 Bank Street, Mount Pleasant, SC. This will allow the Defendants, as owners, to make decisions regarding their property as they see fit.

Dated: August 12, 2024  
Mount Pleasant, SC

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