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**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM ORANGEBURG COUNTY

The Honorable Edgar W. Dickson, Circuit Court Judge

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Appellate Case No. 2023-001318

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

v.

James Smith, Jr.. . . . . Petitioner.

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**REPLY BRIEF OF PETITIONER**

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**ATTORNEYS FOR PETITIONER**

## TABLE OF CONTENTS

Table of Authorities.....	iii
Argument .....	1
Conclusion.....	12

## TABLE OF AUTHORITIES

### Statutes

S.C. Code Ann. § 15-82-10(A)(1).....	3
S.C. Code Ann. § 22-3-20.....	1

### Cases

<i>Rivers v. Brumby Corp, et al.</i> , 2008-CP-1801209 at 1, Dorchester Common Pleas Order of June 16, 2009.....	3
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## ARGUMENT

Petitioner submits this Reply Brief to concisely address the assertions made in Respondents' Brief in Opposition, but otherwise relies on the detailed arguments set forth in their Initial Brief. The capitalized terms here have the same meaning as those in Petitioner's opening brief.

The questions presented here are narrow: 1) whether the Court of Appeals erred in holding that an eviction proceeding is a civil action within the meaning of S.C. Code Ann. § 22-3-20, and 2) did the Court of Appeals' interpretation of the phrase "come into question" unreasonably empower these unlawful tenants to strip the jurisdiction of the magistrate court to issue an order of eviction simply by filing a legally and factually baseless action purporting to bring title of the Property in question. (Pet. Initial Brief, p. 1.)

Respondents have submitted their Brief in Opposition<sup>1</sup>, but notably do not provide any argument whatsoever in their favor on the questions presented. Respondents do not argue how the Court of Appeals erred in its holding at all,(see my comment for changing this) instead electing to simply state that the Court of Appeals ruled correctly. (Resp. Brief, p. 4.) Respondents' global position throughout this matter has been consistent: they do not believe that they should be forced to leave Petitioner's Property because they think his deceased mother wished for Respondents to reside forever on the Property without putting anything in writing.

While Respondents' arguments on the questions presented require no response from Petitioner, Respondents do make several assertions that Petitioner feels should be

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<sup>1</sup> Petitioner's filing is captioned Amended Brief in Opposition to Petition for Writ of Certiorari.

addressed for the purpose of clarification.. Specifically, Respondents argue that they have now adversely possessed the subject Property, argue that the Court of Appeals held they were never tenants, and provide alleged additional information on a previous litigation in which they were involved. (*Id.* pp. 2-4.) Petitioner will address each in turn.

**I. The issue of adverse possession is not relevant to this case.**

Respondents argue that “[t]his matter falls squarely under adverse possession since Respondents have met the elements that are required.” (*Id.* p. 2.) Respondents further assert that they have resided at the Property openly, continuously, exclusively, notoriously, and in a hostile manner since moving in during the lifetime of the previous owner because they have refused to leave the property since being first asked to do so in 2018. (*Id.*)

Adverse possession was not raised as a defense to the underlying eviction here, a fact which Respondents recognize, as they stated “[Respondents] would have been premature in asserting an adverse possession claim at the beginning of these proceedings.” (*Id.*) It would be an absurd result if a tenant could drag out their eviction proceedings in order to extend their tenancy long enough to have their interest converted into one of ownership, all while failing to pay rent.

**II. The Court of Appeals did not rule that Respondents and Petitioner have no landlord-tenant relationship.**

Respondents assert that the Court of Appeals held that there was no tenancy relationship present because they never paid rent to Petitioner and they have stayed in Petitioner’s property for over six years now against Petitioner’s wishes. (*Id.* p. 4.) This is simply incorrect.

Respondents argued two points to the Court of Appeals, that the magistrate never had jurisdiction over this matter and that no landlord-tenant relationship existed between the parties. (App. p. 165.) The Court of Appeals only ruled on the jurisdiction question and did not reach the question of whether Respondents have a landlord-tenant relationship. (App. pp. 167-169.)

Although Respondents have repeatedly asserted in this matter that they are not Petitioner's tenants, this is based upon a misunderstanding of the law. Respondents must have some legal relationship to the subject Property. Respondents are understandably loathe to admit their tenancy since they believe the Property was transferred to them orally by Jessie Mae Smith, but if they are not tenants and they are not owners and they occupy the Property against the owner's wishes, their relationship to the property must be considered one of trespasser. S.C. Code Ann. § 15-82-10(A)(1). Regardless, Respondents are incorrect about the Court of Appeals ruling.

**III. Respondents provided uncited facts that this Court should disregard.**

Respondents assert without support or citation in their Brief in Opposition that *Rivers v. Brumby* is distinguishable from this case. (Resp. Brief, p. 3.) Moreover, Respondents did not counter any of Petitioner's comments on that case. The simple fact is that in *Rivers v. Brumby*, Respondents were found (in an unappealed court order) to have engaged in maneuvers that were "a ruse designed to facilitate [their] continued possession of the premises without any intent to keep [their] end of the bargain" and engaged in conduct that "delayed or frustrated" the proceedings. *Rivers v. Brumby Corp, et al.*, 2008-CP-1801209 at 1, Dorchester Common Pleas Order of June 16, 2009).

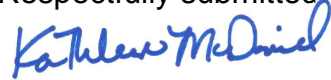
Nothing that Respondents have stated in their Brief counters the conclusion that Respondents are using the same “maneuvers” here.

Respondents have now managed to tie this matter up in litigation and appeals for long enough that they believe they have met the standard for adverse possession of the Property. (Resp. Brief, p. 2.). It would appear from Respondents’ own actions that one purpose of their defense against their eviction has been to delay ejection until the statutory requirements of adverse possession have been met. This Court should recognize that the idea that the law would allow a person to live on a property rent-free for a time and therefore preclude subsequent property owners from ever ejecting him is preposterous.

### **CONCLUSION**

For the foregoing reasons, Petitioner respectfully asks that this Court reverse the Order of the Court of Appeals and allow him to regain possession of his property and to recover unpaid rent.

Respectfully submitted



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September 5, 2024

Columbia, South Carolina