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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Master-in-Equity

Civil Action No. 2023-CP-23-05810

Oriole Properties, LLC., Petitioner.

IN RE:

Castlebrook Homeowner’s Association, Inc., Plaintiff,

Of Whom Castlebrook Homeowner’s Association, Inc., and Oriole Properties,
LLC,..... Respondents,

v.

Ardie C. Gary and Primary Residential Mortgage, Inc., Defendants,

Of Whom Ardie C. Gary,....., Appellant.

EMERGENCY MOTION FOR STAY OF ENFORCEMENT OF JUDGMENT

COMES NOW, Defendant Ardie C. Gary (hereinafter referred to as “Appellant”), and respectfully moves this Honorable Court pursuant to Rule 241 of the South Carolina Appellate Court Rules (SCACR) and applicable case law for a stay of enforcement of the Judgment of Eviction entered in favor of Respondent Oriole Properties, LLC, pending resolution of Appellant’s

appeal to the South Carolina Court of Appeals. In support of this motion, Appellant states as follows:

Likelihood of Success on Appeal.

1. Appellant's appeal raises substantial and meritorious issues of law, including the trial court's failure to properly consider the Wham factors and its improper denial of intervention. These errors constitute significant misapplications of the law that violates Appellant Gary's rights under South Carolina law and applicable procedural rules. Accordingly, there is a strong likelihood that the appellate court will reverse or remand the trial court's decision.

Irreparable Harm.

2. Absent a stay, Appellant Gary and Mr. Nedwards will suffer irreparable harm through the loss of possession of their primary residence. Enforcement of the Judgment of Eviction, which is scheduled to occur no later than February 14, 2025, will render any appellate relief moot, as the residence will no longer be available to them.

Lack of Prejudice to Opposing Parties

3. A temporary stay of enforcement will not cause substantial prejudice to Respondent, Oriole Properties, LLC. While the stay may delay the execution of the eviction, this delay is outweighed by the equitable considerations and Appellant's right to appellate review. Moreover, Respondent's interests in the property will remain protected during the pendency of the appeal.

Public Interest.

4. Granting a stay preserves the status quo and ensures fairness by allowing appellate review before irreversible harm occurs. The public interest is best served by promoting judicial

efficiency and preventing the premature enforcement of orders that may ultimately be overturned or modified on appeal.

CONCLUSION

WHEREFORE, Appellant respectfully requests that this Court enter an order **STAYING** Enforcement of the Judgment of Eviction entered in this matter until the resolution of Appellant's appeal. Appellant further requests such other and further relief as this Court deems just and proper.

Respectfully submitted

By: Ardie Gary
Ardie C. Gary
323 Skipton St
Greenville, SC 29605
Appellant