

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

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Randal K Freeman, Appellant,

v.

David Bryan Trapp, Respondent.

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**APPELLANT'S REPLY TO RESPONDENT'S RETURN TO MOTION FOR RELEASE  
OF BOND WITH CLARIFICATION AND HOLD IN ABEYANCE**

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NOW COMES the Appellant, Randal K. Freeman, Pro Se, and respectfully submits this Reply to the Respondent's Return to Motion for Release of Bond with Clarification and Hold in Abeyance. The Respondent's filing improperly reasserts arguments that have already been addressed and rejected by this Court, misinterprets South Carolina law regarding bond maintenance after vacatur, and disregards statutory protections afforded to tenants. The Respondent's attempt to dismiss this appeal is without merit and lacks a legal basis. Therefore, the Appellant requests that this Court grant the Motion for Release of Bond and allow the appeal to proceed on its merits.

## **BACKGROUND**

### 1. Procedural History

- The Respondent filed a Motion to Dismiss the Appeal on April 1, 2024, asserting that the appeal was moot due to the expiration of the lease.
- The Appellant filed his response on April 8, 2024, demonstrating that a live controversy exists, supported by:
  - The validity of the lease at the time of eviction,
  - Procedural defects in the writ of ejectment, and
  - The lack of an official order requiring bond payment pending a jury trial.
- On June 17, 2024, this Court denied the Respondent's Motion to Dismiss, affirming that a live controversy remained and that the legal issues surrounding the eviction warranted further review.
- On August 29, 2024, Circuit Court Chief Judge Kristi Curtis granted a Bond Stay of Execution of the Writ of Ejectment, allowing the Appellant to remain in possession pending appeal.
- On March 3, 2025, the Appellant vacated the premises at 8 Warren Court, Sumter, SC 29150, transferring all utility responsibilities to the Respondent.

### 2. Appellant's Constructive Eviction and Ongoing Harm

- The Appellant vacated the premises due to ongoing harassment by the Respondent, which compromised his mental and physical well-being and placed his family's safety at risk.
- The Appellant's vacatur was not voluntary in the legal sense but rather a constructive eviction caused by the Respondent's conduct.

- Despite leaving the premises, the Appellant continues to suffer economic harm, reputational damage, and a permanent eviction record, which will negatively impact his future housing and financial stability.

## **ARGUMENTS**

### **I. THE APPEAL REMAINS A LIVE CONTROVERSY DESPITE APPELLANT'S VACATUR**

#### **1. The Court Has Already Ruled That the Appeal Is Not Moot**

- The Respondent's argument that this case is moot was already considered and denied by this Court on June 17, 2024.

- The South Carolina Supreme Court has held that a case is not moot if it continues to impose adverse legal consequences (*Rivers v. Smith\**, 412 S.C. 329, 334 (2015)).

- The eviction proceedings, which remain on the Appellant's record, continue to affect his legal and financial status.

#### **2. The Eviction Continues to Cause Legal and Financial Harm**

- The eviction record permanently affects the Appellant's ability to secure future housing, credit, and financial stability.

- The South Carolina Supreme Court, in *Love v. Gamble*, 316 S.C. 203, 447 S.E.2d 887 (1994), ruled that an appeal remains active when collateral consequences, such as reputational harm, persist.

- Eviction records remain visible to landlords and financial institutions, hindering housing opportunities and credit applications.

## II. NO SOUTH CAROLINA LAW REQUIRES A TENANT TO MAINTAIN BOND AFTER VACATING THE PREMISES

### 1. Bond Is Required Only to Stay Ejectment Pending Appeal

- S.C. Code Ann. § 27-37-130 states that a bond is only required to stay an eviction during the appeal, not to maintain the appeal itself.

- Since the Appellant has vacated the property, there is no longer an eviction to stay, making any requirement to maintain a bond legally irrelevant.

### 2. The Bond Was Not Ordered Pending a Jury Trial

- The Magistrate Court never issued an order requiring the bond as a condition for a jury trial, meaning there is no legal basis for continued enforcement.

- Under South Carolina law, an appeal cannot be conditioned on maintaining a bond unless explicitly ordered under proper procedural grounds.

### III. RESPONDENT'S ACTIONS CONSTITUTE CONSTRUCTIVE EVICTION

#### 1. Ongoing Harassment and Retaliation Forced the Appellant to Leave

- The Appellant was forced to vacate due to Respondent's repeated harassment, making continued occupancy untenable and unsafe.

- S.C. Code Ann. § 27-40-910 explicitly prohibits landlords from retaliating against tenants who assert their legal rights, including challenging an unlawful eviction.

- The Respondent's conduct directly caused the Appellant's departure, establishing a clear case of constructive eviction under South Carolina law.

#### 2. Legal Precedent Supporting Tenant's Right to Vacate Due to Harassment

- In *Moses v. T.N. Thompson & Son*, 149 S.C. 167, 146 S.E. 816 (1929), the South Carolina Supreme Court ruled that a landlord's actions that substantially interfere with a tenant's use of the premises constitute constructive eviction.

- Similarly, in *Gantt v. Universal C.I.T. Credit Corp.*, 254 S.C. 112, 173 S.E.2d 48 (1970), the Court held that a tenant may abandon the premises and claim constructive eviction when the landlord's conduct renders the property unfit for occupancy.

## CONCLUSION

For the foregoing reasons, the Appellant respectfully requests that this Court:

1. Deny the Respondent's request to dismiss the appeal as moot, as legal and financial consequences persist despite the Appellant's vacatur.
2. Grant the Motion for Release of Bond, as no South Carolina law requires a tenant to maintain bond once they have vacated the property.
3. Recognize the Respondent's conduct as harassment and constructive eviction, rendering the eviction procedurally and substantively invalid.
4. Allow the appeal to proceed, permitting full judicial review of the legality of the eviction, the issuance of the writ, and the Appellant's entitlement to relief.

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March 10<sup>th</sup>, 2025

Respectfully submitted,

/s/ Randal K. Freeman  
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**Mar 10 2025**

**SC Court of Appeals**

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**PROOF OF SERVICE**

I certify that I have served the a copy of the APPELLANT'S REPLY TO RESPONDENT'S RETURN TO MOTION FOR RELEASE OF BOND WITH CLARIFICATION AND HOLD IN ABEYANCE on David Bryan Trapp by depositing a copy of it in the United States Mail, postage prepaid, on March 10<sup>th</sup>, 2025, addressed to his attorney of record, J.Benjamin Cahill, Curtis & Croft, LLC 325 West Calhoun Street, Sumter SC 29150.

March 10<sup>th</sup>, 2025

/s/Randal K Freeman  
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