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Jun 20 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Paul M. Burch, Circuit Court Judge

Case No. 2025-CP-290-0182

Terry Clark,
Appellant,
v.
Mahender Adonda,
Respondent.

Return to Appellant's Post-Execution Motion for Restoration of
Possession and Continued Emergency Relief and Request for Financial Damages

Appellant moved for an order restoring possession of Respondent's property to Appellant and filed a subsequent request for financial damages. The Court should deny Appellant's Post-Execution Motion for Restoration of Possession and Continued Emergency Relief the circuit court properly ordered enforcement of the Writ, and South Carolina law provides Appellant the ability to file an action for damages. The Court should also dismiss Appellant's Request for Financial Damages because Appellant failed to raise the issue of damages with a lower court and the writ of ejectment was properly executed.

Facts

On June 4, 2025, this Court lifted the stay preventing Appellant's ejectment from the property because Appellant failed to pay the rent ordered by the circuit court. The circuit court

ordered the magistrate to enforce the Writ of Ejectment due to Appellant's failure to pay the required rent. On June 5, 2025, the constable served the Writ by posting it on the premises. A copy of the Writ is attached as Exhibit A. In an email to this Court on June 10, 2025, Appellant admitted the Writ had been served and was "scheduled to be executed on Thursday, June 12 at 10:30 A.M...." A copy of the email is attached as Exhibit B.

The Writ clearly explained a deputy sheriff would enter the premises to effectuate the ejectment on June 12. It also provided a detailed explanation of the process for removing personal property to the public road and disposing of it forty-eight hours after removal. Appellant failed to voluntarily vacate the premises and now seeks an order from this Court granting her possession of the premises and damages for her personal property.

Argument

I. The Court should deny Appellant's motion for possession because the circuit court ordered enforcement of the Writ of Ejectment in compliance with S.C. Code Ann. § 27-40-800(f), and Appellant may file a separate cause of action for damages if she believes she was wrongfully dispossessed.

"The tenant's failure to comply with the terms of the undertaking entitles the landlord to execution of the judgment for possession in accordance with the provisions of subsection (e) of this section." S.C. Code Ann. § 27-40-800(f)(2). "If the tenant fails to make a payment within five days of the due date according to the ... order staying execution, the clerk, upon application of the landlord, shall issue a warrant of ejectment to be executed...." S.C. Code Ann. § 27-40-800(e). As stated in the circuit court order previously filed with Respondent's Motion to Lift Stay, Appellant failed to pay the outstanding rent within five due days, and the circuit court ordered execution of the Writ in compliance with South Carolina law.

Additionally, "[I]n case any tenant is wrongfully dispossessed he may have an action for damages against the landlord. S.C. Code Ann. § 27-37-140. Therefore, South Carolina law requires Appellant to file a separate lawsuit for damages if she was wrongfully dispossessed, not seek an order from this Court granting her possession of Respondent's property.

II. The Court should deny Appellant's motion for damages because Appellant has not raised this issue at a lower court, and the Respondent handled her personal property in compliance with S.C. Code Ann. § 27-40-170 and the Writ of Ejectment.

"It is well settled that, but for a very few exceptional circumstances, an appellate court cannot address an issue unless it was raised to and ruled upon by the trial court." *Chastain v. Hiltabidle*, 381 S.C. 508, 514-15, 673 S.E.2d 826, 829 (Ct. App. 2009). Appellant seeks damages for personal property based on execution of the Writ of Ejectment. Appellant may file a separate action for wrongful dispossession. *See* S.C. Code Ann. § 27-37-140. She has not done so, and the circuit court did not rule on this issue in a prior hearing. Therefore, this Court may not rule on her motion for damages.

Furthermore, the deputy sheriff and Respondent properly executed the writ by placing Appellant's property by the public road for at least forty-eight hours. S.C. Code Ann. § 37-37-160 allows a constable or deputy sheriff to "enter the premises by force ... to effectuate the ejectment."

Personal property belonging to a tenant removed from a premises as a result of an eviction proceeding under this chapter which is placed on a public street or highway shall be removed by the appropriate municipal or county officials after a period of forty-eight hours.... If the premises is located in a municipality or county that does not collect trash or debris from the public highways, then after a period of forty-eight hours, the landlord may remove the personal property from the premises and dispose of it in the manner that trash or debris is normally disposed of in such municipalities or counties. The notice of eviction must clearly inform the tenant of the provisions of this section.

S.C. Code Ann. § 27-40-710. In bold letters, the Writ stated, "Upon gaining access, you shall remove from the premises any occupants and all items of personal property found on the premises.

Such property may be deposited beside the public street or roadway." Because the Writ was executed in compliance with South Carolina law and Appellant was properly notified of the consequences of failing to voluntarily vacate the premises, this Court should deny Appellant's motion for damages.

Because the circuit court properly ordered enforcement of the Writ, and Appellant may file a separate action for wrongful dispossession, the Court should deny Appellant's Post-Execution Motion for Restoration of Possession and Continued Emergency Relief. Because Appellant failed to raise the issue of damages with a lower court and the Writ was properly executed, the Court should dismiss Appellant's Request for Financial Damages.

Rock Hill, South Carolina
June 20, 2025

s/Emily N. Brown
SC Bar # 101131
emily@emilybrownlaw.com
Emily Brown Law LLC
P.O. Box 38113
Rock Hill, SC 29732
(803) 973-0490
Attorney for Respondent

Exhibit A

Writ of Ejectment

June 12th 10:30 AM set out date



STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)
)
)
)
)

2025CV2910100115
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

WRIT OF EJECTMENT

Mahender Reddy Adonda
Po Box 38113
Rock Hill, SC 29732

PLAINTIFF(S)
Vs
Terry Clark
3831 Fairlady Lane
Indian Land, SC 29707

DEFENDANT(S)
TO THE SHERIFF/MAGISTRATE'S CONSTABLE:

Upon Judgment of this Court, rendered on the 7th day of February, 2025, you are hereby Ordered to proceed to the premises located at **3831 Fairlady Lane Indian Land, SC 29707.**

Announce your identity and purpose and serve on the defendant(s) and all occupants a copy of this Writ of Ejectment. Inform them they have **twenty four (24) hours to voluntarily vacate** the premises. **If the premises appear unoccupied and no one responds** to your announced identity and purpose, the Writ of Ejectment shall be served by securely attaching a copy of the Writ in a conspicuous place on the premises.

If after 24 hours following the service or posting of the Writ, the occupants have not voluntarily vacated the premises, **a deputy sheriff may enter the premises** using only as much force as is necessary to effectuate the Ejectment.

Upon gaining access, you shall **remove from the premises any occupants and all items of personal property found on the premises. Such property may be deposited beside the public street or roadway.** All personal property removed from the premises and placed on a public street or roadway may be removed by the proper local government agency after forty eight (48) hours, excluding Saturdays, Sundays, and holidays. Such property may also be removed in the normal course of debris or trash collection before or after a period of forty eight (48) hours.

June 3, 2025

Lancaster County Magistrate

_____, being duly sworn state that:

- I personally served a copy of this Writ on _____, an occupant of the rental unit
- On 6-5 2025, at 1308 the rental unit appeared unoccupied and no one responded when I announced my identity and intentions. I attached a copy of this Writ to a conspicuous part of the premise.
- On 6-12 2025, at 1030 AM, which was not less than 24 hours from the posting date and time, I returned to the rental unit for the purpose of ejectment.
- Under my supervision, I had all persons and personal property removed and evicted from the rental unit placing all personal property beside the roadside.
- The rental unit was unoccupied. The Tenant and all occupants had vacated the unit.
- Informed by Plaintiff that case is settled.

Date: 6-12, 2025 12:30 pm

Sheriff/Deputy Sheriff/Constable

Over →

Exhibit B

Email from Terry Clark Dated June 10, 2025

From: [T.Clark](#)
To: [Singleton, Mary C.](#)
Cc: [Court Of Appeals Filings](#)
Subject: Request for Clarification/Relief Regarding Stay – Case No. 2025-000660 (Terry Clark v. Mahender Adonda)
Date: Tuesday, June 10, 2025 2:49:52 PM

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. *******

Dear Mrs. Singleton,

I hope you are well. I am reaching out regarding my previous appeal, Case No. 2025-000660, in which the motion to stay was lifted on June 4, 2025.

Since that time, I have filed a Petition for Review and a Renewed Emergency Motion to Stay Enforcement with the South Carolina Supreme Court (Case No. 2025-001100). The writ of ejection is scheduled to be executed on Thursday, June 12 at 10:30 A.M., and I am doing everything within my power to lawfully preserve housing for myself and my child during the review process.

I respectfully ask whether the Court of Appeals has authority to reconsider or reimpose a temporary stay due to the pending Supreme Court action — or whether any administrative discretion exists to pause enforcement until a ruling is issued from the higher court.

I appreciate your time and any guidance you may be able to provide in this matter.

Sincerely,
Terry Clark

Phone: (803) 833-3128
Email: cs.luxeglam@gmail.com

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