

SOUTH CAROLINA COURT OF APPEALS

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Sep 02 2025

SC Court of Appeals

EMERGENCY MOTION FOR STAY PENDING APPEAL (RULE 225, SCACR) CASE No: 001299

NOW COMES Appellant Attia Elbadawy, pro se, and respectfully moves this Court pursuant to Rule 225, SCACR, for an emergency stay of proceedings in the Dorchester County Court of Common Pleas (Case No. 2024-CP-18-01459), including the hearing scheduled for September 15, 2025.

APPLICABLE LAW & RULES

1. Rule 225, SCACR (Emergency Stay Authority): This Court has authority to issue an immediate stay where lower court proceedings threaten to render an appeal meaningless. If the September 15 hearing proceeds, Appellant's Quiet Title claim could be dismissed despite both Defendants being in default, effectively mooting the appeal.
2. Rule 55, SCRCPC (Default): Both Defendants are in default. Defaulted parties lack standing to file or pursue motions to dismiss. The trial court's decision to entertain such a motion is a clear error of law.
3. Rule 62, SCRCPC (Stay Upon Appeal): The filing of a Notice of Appeal operates to stay further substantive proceedings in the trial court. Scheduling a dismissal hearing while an appeal is pending is ultra vires and beyond the trial court's jurisdiction.
4. Judicial Canons & Due Process: Canon 3(E), SC Code of Judicial Conduct requires recusal when impartiality might reasonably be questioned. Appellant's Motion to Recuse Judge Murphy remains pending. Proceeding under these circumstances undermines due process. *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009).
5. Case Law: *Ex Parte Gregory*, 378 S.C. 430, 663 S.E.2d 46 (2008) – once an appeal is perfected, the trial court is divested of jurisdiction. *South Carolina Dept of Soc. Servs. v. Broome*, 307 S.C. 48, 413 S.E.2d 835 (1992) – trial court acts without authority if it proceeds while appeal is pending.
6. Procedural Irregularities: The September 15 hearing notice was altered ('chopped') by Clerk staff, including ADR Coordinator Priscilla Boland, raising questions as to the accuracy of the record. Altering official court notices violate the principle that notice must be 'reasonably calculated' to inform the parties. *Mullane v. Central Hanover Bank*, 339 U.S. 306 (1950).
7. Irreparable Harm: If the hearing proceeds, Appellant faces dismissal of her Quiet Title action without fair process, destruction of her appellate rights, and permanent impairment of property interests.

Emergency Motion for Stay Pending Appeal

Request for Stay of Related Proceedings

1. Appellants respectfully move this Court for an emergency stay under Rule 241, SCACR, to preserve the effectiveness of the appeal in Case No. 2024-CP-18-01459, currently pending before this Court.
2. The Circuit Court has scheduled a related proceeding in Case No. 2025-CP-18-00527 (Quiet Title) for September 15, 2025, concerning the same subject property (Wise Lane/Wise Road).
3. Although Case No. 2025-CP-1801527 is not yet before this Court, the subject matter is identical to that in Case No. 2024-CP-1801459. If the September 15th hearing proceeds, there is a serious risk of conflicting rulings, and the appeal in Case No: 2024-CP-1801459 may be rendered moot or ineffectual.
4. This Court has inherent authority, and express authority under Rule 241, SCACR, to stay lower-court proceedings where necessary to protect appellate jurisdiction and to ensure the appeal remains meaningful.
5. Appellants do not ask this Court to assume jurisdiction over Case No. 2025-CP-1801527 or decide its merits. Rather, they respectfully request only that this Court issue a stay of proceedings affecting the subject property until the appeal in Case No: 2024-CP-1801459 is resolved.
6. Without such a stay, Appellants will suffer irreparable harm, the balance of equities favors temporary relief, and the integrity of this Court's review in Case No. 2024-CP-1801459 will be compromised.

EMERGENCY RELIEF REQUESTED

WHEREFORE, Appellant respectfully requests the court:

Issues an Emergency Stay of All proceedings in the
Dorchester County Court of Common Pleas,
including the September 15, 2025, virtual hearing.


- 1) Halt the September 15, 2025, virtual hearing.
- 2) Preserve the Default already entered against
Dorchester County and D R Horton.
- 3) Prevent further unlawful filings by parties in
default until they properly move to vacate default.

Appellant/Plaintiff also would like the court to notice
should this matter proceed despite these violations,
the irregularities will be presented to the South Carolina
Court of Appeals to review.

Direct that no further trial-level processing occurs until

This appeal is fully resolved, and Grant, such further
relief as this Court deems just and proper.

Respectfully submitted,

Attia Elbadawy 
493 Wise Road
Summerville, SC 29483

Strongest Appellate Arguments

1. Entry of Default Was Ignored

Rule 55, SCRPC makes default automatic if a defendant fails to answer within 30 days of service.

Both Dorchester County and D.R. Horton were properly served and failed to answer. The trial court should have proceeded to default judgment, not entertained later filings. Allowing them to file after default without a motion to vacate is a clear error of law.

2. Improper Motion to Dismiss Filed by a Party in Default

Mitchell filed a Motion to Dismiss on behalf of parties already in default.

Under Rule 55, a party in default loses the right to file motions unless and until default is set aside.

The court's acceptance of that filing contradicts the rule and deprived Plaintiff of the benefit of default.

3. Unauthorized Representation of Horton by the County

Horton never filed anything on its own.

Dorchester County, through Bradley Mitchell, attempted to act for Horton.

Rule 12, SCRPC requires each defendant to answer or move independently.

One defendant cannot file pleadings for another. This is improper and prejudicial.

4. Judicial Bias and Conflict of Interest

Judge Murphy's conflict (spousal political connection and repeated rulings favoring county and Horton) undermines due process.

A judge with a conflict must step aside. Failing to recuse when bias is raised is reversible error.

The Court of Appeals takes judicial integrity seriously, and the record shows this issue was preserved.

These appeal points are not about discretionary rulings — they are about clear violations of the South Carolina Rules of Civil Procedure and denial of due process. The trial court disregarded mandatory defaults, accepted filings by parties in default, allowed unauthorized representation, and failed to address judicial bias. Each of these constitutes reversible error under South Carolina law.

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Respectfully submitted,

Attia Elbadawy 
493 Wise Road
Summerville, SC 29483

Supplemental Point in Support of Emergency Motion to Stay Pending Appeal

Re: Clarification of Exhibits Transmitted to Court of Appeals
Case No. 2024-CP-1801459

1. Under Rule 225, South Carolina Appellate Court Rules, any correction or supplementation of the record on appeal must be transparent to all parties.
2. The Court of Appeals has requested certain exhibits from the Dorchester County Clerk of Court. As parties to this appeal, Appellants have a right to know what exhibits were requested and transmitted.
3. The record on appeal must remain equally available to both sides to ensure fairness and proper review.
4. Appellants respectfully request confirmation from the Court of Appeals as to: (a) which exhibits were requested from the lower court; (b) whether those exhibits have been transmitted and filed; and (c) whether copies or access will be provided to the parties.
5. Appellants attach a stamped filing copy from the Dorchester County Clerk of Court (Priscilla Bolin) as part of this package, evidencing proper submission and certification.

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SC Court of Appeals

SOUTH CAROLINA COURT OF APPEALS

C.O.A.: CASE No: 001299

D. C.: CASE No: 2024-CP-1801459

D. C.: CASE No: 2025-CP-1801527

**ATTIA ELBADAWY,
APPLIANT/PLAINTIFF
V.
DORCHESTER COUNTY
D.R. HORTON, INC.,
DEFENDANTS,**

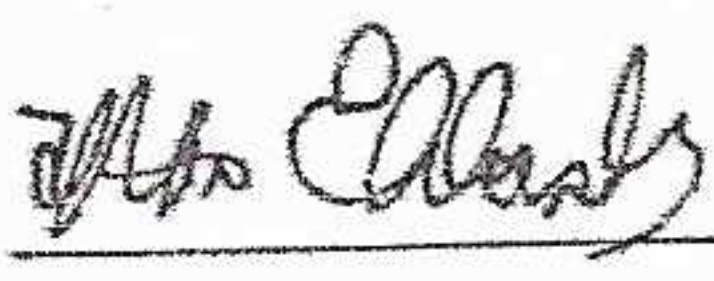
**CERTIFICATE OF SERVICE
EMERGENCY MOTION TO STAY
PENDING APPEAL AND
CLARIFICATION OF EXHIBITS
TO COURT OF APPEALS FROM
DORCHESTER COUNTY COURT REVIEW.**

I, certify that on September 2, 2025. I have served a true and correct copy of the EMERGENCY MOTION TO STAY PENDING APPEAL AND CLARIFICATION OF EXHIBITS TO THE COURT OF APPEALS FROM DORCHESTER COUNTY COURT REVIEW by U S Mail to the following:

DORCHESTER COUNTY
BRADLEY MITCHELL
201 JOHNSON STREET
ST. GEORGE, SC 29477

ATTIA ELBADAWY
493 WISE ROAD
SUMMERVILLE, SC 29483

DORCHESTER COUNTY
COURT OF CLERK
5200 E. JIM BILTON BLVD,
ST. GEORGE, SC 29477

Sign: 

ATTIA ELBADAWY

D. R. HORTON, INC
MARK BIBLE
325 W. MCBEE AVENUE
SUITE #301
GREENVILLE, SC 29601

DATE: 09/02/2025