

**IN THE COURT OF APPEALS
STATE OF SOUTH CAROLINA**

McINTYRE, SYLECIA, Appellant

v.

WESTWOOD TOWNHOMES, Respondent

From: Magistrate Case No. 2025CV4210301403

Appeal No.: 2025-CP-42-04002

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OCT 13 2025
SC Court of Appeals

MOTION TO VACATE APPELLATE DISMISSAL

Appellant, McIntyre, Sylecia, respectfully moves this Honorable Court to vacate the Order of Dismissal entered on October 10, 2025, on grounds of procedural ambiguity, good faith performance, and due process under S.C. Code Ann. § 27-40-800(D) and Rule 60(b), SCRPC.

1. Appellant was granted appeal jurisdiction from the Magistrate Court under the above-referenced case numbers and was instructed to post bond as a condition of appeal.
2. The dismissal entered by the Appellate Judge was based upon non-payment of the appeal bond; however, § 27-40-800(D) only states that the tenant “shall undertake the bond” and does not specify whether the bond should be taken and placed under appeal or if the bond should be undertaken by complying with the same amount under reconsideration. This lack of clarity created ambiguity as to the manner of compliance and gave reasonable basis for the need of a bond reconsideration hearing. It was never stated that Appellant could not comply, but rather that clarification was needed as to how compliance should occur under the statute. Appellant believed that this clarification would be resolved during the reconsideration hearing, but it was not.
3. As a pro se litigant acting in good faith, Appellant tendered the full amounts believed due — including \$1,081 for the original bond and \$631 monthly payments for September and October — demonstrating substantial compliance with the Magistrate’s order and intent to satisfy the appeal conditions.

4. The dismissal foreclosed Appellant's right to due process and correction of procedural error, notwithstanding timely tender and documented compliance.
5. Pursuant to Rule 60(b)(1)–(6), SCRPC, Appellant requests relief from the dismissal order on grounds of mistake, excusable neglect, ambiguity of statutory instruction, and newly available documentation establishing compliance.
6. Attached Exhibits include copies of money orders, affidavit of tender, and affidavit of bond payment reflecting full satisfaction of the magistrate's directive.

WHEREFORE, Appellant respectfully requests that this Honorable Court:

- (a) Vacate the Order of Dismissal entered October 10, 2025;
- (b) Reinstate the appeal to active status; and
- (c) Grant such other relief as justice may require.

Respectfully submitted,

McIntyre, Sylecia

McINTYRE, SYLECIA

Agent and Appellant

Date: October 13, 2025

Address: 1855 E Main St, Spartanburg, SC 29307

Phone: (864) 788-3274

CERTIFICATE OF SERVICE

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Magistrate Case No.: 2025CV4210301403
Appeal Case No.: 2025-CP-42-04002

I, Sylecia McIntyre, hereby certify that I have this day served a true and correct copy of the attached Motion to Vacate Appellate Dismissal upon all parties in the above-captioned action by depositing said copies in the United States Mail, properly addressed and with sufficient postage prepaid as follows:

To the Court:
South Carolina Court of Appeals
Clerk of Court
1015 Sumter Street
Columbia, South Carolina 29201

To Counsel for Respondent:
Ross Buchanan Plyler, Esq.

Attorney for Westwood Townhomes
P.O. Box 10329 Greenville, SC 29603
Office: 1002 N. Church St.
Greenville, SC, 29601

Executed this 13th day of October, 2025.

Respectfully submitted,

McIntyre Sylecia

McINTYRE, SYLECIA

Agent and Appellant

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Spartanburg, SC 29307

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NOTICE OF MOTION AND REQUEST FOR HEARING

TO: Clerk of the South Carolina Court of Appeals
AND TO: Counsel for Respondent, Ross Buchanan Plyler, Esq.

PLEASE TAKE NOTICE that the Appellant, Sylecia McIntyre, hereby moves this Honorable Court for a hearing on the following motions filed contemporaneously herewith:

1. Motion to Vacate Appellate Dismissal (seeking reinstatement of appeal dismissed on October 10, 2025); and
2. Motion to Stay Enforcement Pending Appeal (pursuant to Rule 241, SCACR).

Appellant respectfully requests that the Court set this matter for hearing at the earliest available date, as the issues concern immediate housing possession and appellate review rights.

This motion is based upon the pleadings, affidavits, and exhibits filed, together with such further arguments and evidence as may be presented at hearing.

Respectfully submitted,

McIntyre, Sylecia

McINTYRE, SYLECIA

Agent and Appellant

1855 E Main Street

Spartanburg, SC 29307

(864) 788-3274

Date: October 13, 2025