

The South Carolina Court of Appeals

Dennis Gilpatrick, Appellant,

v.

Gregory Lucas, Respondent.

Appellate Case No. 2025-001607

ORDER

On August 11, 2025, Appellant appealed a July 30, 2025 order in a consolidated civil action that denied Appellant's cause of action for specific performance and granted Respondent's cause of action for ejectment. On October 28, 2025, Respondent filed a motion to dismiss this appeal after the master-in-equity signed an order on October 24, 2025 finding Appellant "failed to post bond" and seeking to dismiss this appeal. On November 3, 2025, Appellant filed a Rule 59(e), South Carolina Rules of Civil Procedure, motion to reconsider the October 24, 2025 order with the master-in-equity requesting the master clarify the October 24, 2025 order due to the consolidated nature of the case. On November 21, 2025, the master-in-equity granted the motion to reconsider and vacated the October 24, 2025 order. Subsequently, on December 9, 2025, Respondent filed a second motion to dismiss this appeal. On December 11, 2025, Appellant filed a motion to remand to the master-in-equity "for reconsideration of the matters raised in the case." Both parties agree Appellant has vacated the property at issue.

After careful consideration, we deny Respondent's October 28, 2025 motion to dismiss; Respondent's December 9, 2025 motion to dismiss; and Appellant's December 11, 2025 motion to remand. *See* S.C. Code Ann. § 27-40-800(f)(1) ("Upon appeal to the Supreme Court or to the court of appeals, it is sufficient to stay execution of a judgment for ejectment that the tenant sign an undertaking that he will pay to the landlord the amount of rent, determined by order of the judge of the circuit court, as it becomes due periodically after judgment was entered. The judge of the court having jurisdiction shall order stay of execution upon the undertaking."); S.C. Code Ann. § 27-40-800(f)(2) ("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(e) ("If the tenant fails to make a payment within five days of the due date according to the undertaking and order staying execution, the clerk, upon application of the landlord, shall issue a warrant of ejectment to be executed pursuant to § 27-37-40 of the 1976 Code."); *Skydive Myrtle Beach, Inc. v. Horry Cnty.*, 428 S.C. 638, 644, 837 S.E.2d 485, 488 (2020) (providing an appeal is not moot and can proceed on the merits even when a tenant has been evicted from the premises at issue in the appeal). Respondent's initial brief and designation of matter shall be filed within thirty days of the date of this order.



FOR THE COURT

Columbia, South Carolina

FILED
Dec 23 2025

cc:
Rolf Mouin Baghdady, Esquire
Theodore von Keller, Esquire