

RECEIVED

Jan 15 2026

SC Court of Appeals

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

Sylecia McIntyre, Appellant,
v.
Westwood Town Homes, Respondent.

Appellate Case No. 2025-002087
(Trial Court Case No. 2025CP4204002)

MOTION TO VACATE ORDER OF DISMISSAL AND STAY REMITTITUR

Appellant, Sylecia McIntyre, appearing pro se, respectfully moves this Court to vacate the Order of Dismissal filed on January 14, 2026, and to stay the issuance of the remittitur. In support of this Motion, Appellant shows the following:

1. Mischaracterization of Filing

On January 14, 2026, the Court issued an order dismissing the appeal for failure to provide a filing fee. The Court simultaneously issued a letter stating it would not entertain a "second motion for reconsideration" of the denial to proceed in forma pauperis. However, Appellant did not file a motion for reconsideration. Appellant filed a Motion to Cure Deficiency and Request for Leave under Rule 240, SCACR.

2. Procedural Error under Rule 240

Appellant's motion was a corrective filing intended to cure the perceived deficiency in the in forma pauperis (IFP) application. By treating a Rule 240 Motion to Cure as a Rule 221(c) Motion for Reconsideration, the Clerk's office effectively denied Appellant the right to correct the record and maintain the appeal.

3. Judicial Consistency and Indigent Status

Appellant currently maintains active in forma pauperis status in the Spartanburg County Circuit Court (Case No. 2025CP4204002) and has been granted the same in related Federal proceedings. Furthermore, this Court has previously acknowledged Appellant's financial hardship by granting an Order to Stay. It is a violation of due process to recognize Appellant's indigency for the purpose of a stay while denying it for the purpose of filing the appeal, thereby creating a "pay-to-play" barrier to justice.

4. Request for Extension

To ensure that this matter is properly reviewed on the procedural and substantive merits of the bond undertaking—not dismissed solely on filing status—Appellant respectfully requests that this Court vacate the Order of Dismissal and grant an extension until March 1, 2026, to either:

A. Finalize the recognition of Appellant's IFP status based on the previously submitted affidavits; or

B. Provide the required filing fee under protest.

WHEREFORE, Appellant prays this Court vacate the Order of Dismissal dated January 14, 2026, stay the remittitur, and allow the appeal to proceed on the merits of the undertaking.

Respectfully Submitted,

/s/ Sylecia McIntyre

Sylecia McIntyre, Appellant

1855 E. Main Street

Spartanburg, SC 29307

Dated: January 16, 2026

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
Appellate Case No. 2025-002087**

RECEIVED

Jan 15 2026

SC Court of Appeals

Affidavit of Clarification and Procedural Record

Sylecia McIntyre, Appellant

I, Sylecia McIntyre, Appellant in the above-referenced matter, being duly sworn, state the following under penalty of perjury:

On January 7, 2026, I timely submitted a Motion to Cure Filing Deficiency, Reassert Indigent Status, Request Waiver of Motion Fees, and Request Leave to Amend Appeal Pursuant to Rule 240, SCACR to the South Carolina Court of Appeals.

Said motion was filed to address a deficiency notice from the Clerk of Court dated January 5, 2026, which cited failure to submit a \$250 filing fee as grounds for potential dismissal. My filing reaffirmed my ongoing indigent status and included a sworn affidavit of inability to pay.

On January 14, 2026, the Court of Appeals issued an Order of Dismissal and accompanying correspondence mischaracterizing my Rule 240 motion as a “second motion for reconsideration.” This characterization was in error. The motion was not a request for reconsideration but a good-faith procedural filing made to cure a perceived deficiency pursuant to Rule 240.

My indigent status has been previously acknowledged and remains active in the parallel trial court proceeding (Case No. 2025CP4204002), and I have also been granted in forma pauperis status in related federal matters.

Importantly, on October 13, 2025, the Court of Appeals issued a Stay Order in this appeal, recognizing my indigent status and financial hardship as part of its basis for the stay. That recognition has since been disregarded in the January 14, 2026 ruling, despite no change in my financial condition or legal standing.

As of the date of this affidavit, my ability to participate in this appeal remains impaired by the Court’s failure to properly acknowledge the procedural and factual basis of my January 7, 2026 filing.

Verification and Certification

I, Sylecia McIntyre, hereby certify under penalty of perjury under the laws of the State of South Carolina that the foregoing statements are true and correct to the best of my knowledge, information, and belief. I understand that any false statement may be grounds for sanctions, dismissal, or other appropriate remedies.

Executed on this 16th day of January, 2026.

I affirm the above to be true and correct to the best of my knowledge.

Respectfully submitted,

/s/ Sylecia McIntyre

Sylecia McIntyre, Appellant

1855 E. Main Street

Spartanburg, SC 29307

Dated: January 16, 2026

RECEIVED

Jan 15 2026

SC Court of Appeals

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have this day served a true and correct copy of the following pleading by depositing the same in the United States Mail, properly addressed with first-class postage prepaid, and directed to the attorneys of record as listed below:

Documents Served:

- Motion to Vacate Order of Dismissal and Stay Remittitur
- Affidavit in Support
- Proof of Service

Served Upon:

Cassidy Coates Price, P.A.
Attn: Ross Plyler & Tiffany H.
P.O. Box 10529
Greenville, South Carolina 29603

I certify that the above-referenced documents were placed in a sealed envelope and deposited with the United States Postal Service on this date.

/s/ Sylecia McIntyre

Sylecia McIntyre, Appellant

1855 E. Main Street

Spartanburg, SC 29307

Date: January 16, 2026

RECEIVED

Jan 15 2026

SC Court of Appeals

PROOF OF SERVICE

I, Sylecia McIntyre, hereby certify under penalty of perjury that I have served a true and correct copy of the following documents:

- Motion to Vacate Order of Dismissal and Stay Remittitur
- Affidavit in Support
- Proof of Service

Upon counsel of record by depositing the same in the U.S. Mail, first-class postage prepaid, properly addressed as follows:

Served Upon:

Cassidy Coates Price, P.A.
Attn: Ross Plyler & Tiffany H.
P.O. Box 10529
Greenville, South Carolina 29603

I certify that the above-referenced documents were placed in a sealed envelope and deposited with the United States Postal Service on this date.

/s/ Sylecia McIntyre
Sylecia McIntyre, Appellant
1855 E. Main Street
Spartanburg, SC 29307
Date: January 16, 2026