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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

S. Thompson Tucker III, Magistrate Court Judge

Magistrate Court Case No.: 2026CV041070006

Civil Action No. 2026-CP-04-00229

Jackie Roberts D/B/A Crimson Events,, Appellant

v.

Luigi Cerullo,, Respondent.

**APPELLANT'S EMERGENCY MOTION FOR STAY OF EJECTMENT, STAY OF
BOND PENDING APPEAL, AND REMAND TO CIRCUIT COURT FOR RULING ON
PENDING MOTIONS**

COMES NOW, Appellant Jackie Roberts d/b/a Crimson Events ("Appellant"), appearing pro se, pursuant to Rule 241, SCACR, and the inherent power of this Court, and respectfully files this Emergency Motion for a Stay of Ejectment, Stay of the Magistrate Court's Bond Order Pending Appeal, and for a Remand to the Anderson County Court of Common Pleas with instructions to rule on Appellant's pending motions and to accept proper filings from Appellant. In support of this Emergency Motion, Appellant states as follows

INTRODUCTION AND SUMMARY OF ARGUMENT

This is an extraordinary but necessary request to prevent a manifest injustice and to preserve the jurisdiction of this Court. Appellant appeals from a procedurally anomalous Order of Dismissal issued by Magistrate Judge S. Thompson Tucker III on February 10, 2026, which purported to dismiss an appeal that was then and remains pending before the Anderson County Court of Common Pleas. The Magistrate Court's dismissal was based on an alleged failure to comply with a bond order that was itself issued *ex parte*, without notice, without a hearing, and without any factual finding regarding the reasonable amount of rent as required by S.C. Code Ann. § 27-40-800(b). Compounding this error, at the time the Magistrate issued its dismissal order, Appellant had a timely-filed, meritorious motion to modify that very bond order pending and unaddressed in the Circuit Court.

The practical effect of the Magistrate's Order is to evict Appellant from her place of business before the Circuit Court has had any opportunity to rule on the significant errors of law present in the underlying record. Without an immediate stay from this Court, Appellant will suffer irreparable harm the loss of her business premises, her livelihood, and her appeal to this Court will be rendered moot. The Magistrate Court acted outside its jurisdiction, violated Appellant's due process rights, and made a material misrepresentation to this Court in its order. Furthermore, the Anderson County Clerk of Court has compounded these errors by refusing to accept Appellant's Emergency Motion to Reinstate Appeal, thereby denying Appellant access to the courts. For these reasons, an emergency stay is not only warranted but essential to uphold the rule of law and the integrity of the judicial process.

JURISDICTION AND LEGAL STANDARD

This Court has jurisdiction to grant the requested emergency relief pursuant to Rule 240, and 241 SCACR (Motions generally), and Rule 62(g) of the South Carolina Rules of Civil

Procedure. Rule 62(g) expressly preserves the inherent power of an appellate court to stay proceedings during the pendency of an appeal and to enter any order appropriate to preserve the status quo or the effectiveness of a subsequent judgment.

An application for such relief is properly made in the first instance to the Circuit Court. S.C.R. Civ. P. 62(g). However, such an application is excused, and an appellate court may grant relief in the first instance, when it is "not practicable" to seek relief in the trial court. *Id.*

Here, application to the Circuit Court was rendered impracticable by the actions of the Anderson County Clerk of Court, who on February 18, 2026, refused to accept Appellant's Emergency Motion to Reinstate Appeal for filing, denied Appellant access to a judge, and thereby prevented Appellant from seeking any relief from the lower court. Consequently, this Court is the only forum in which Appellant can presently seek relief to prevent imminent eviction.

STATEMENT OF FACTS

On January 28, 2026, the Powdersville-Piedmont Summary Court entered a Judgment of Ejectment against Appellant.

On January 29, 2026, Appellant timely filed a Notice of Appeal to the Anderson County Court of Common Pleas, which was file-stamped on February 3, 2026.

On February 3, 2026, without any prior notice to Appellant and without holding a hearing, the Magistrate Court issued an ex parte "Bond to Stay Execution on Appeal." This order required Appellant to pay a lump sum of \$10,500.00 in "accrued rent" within five (5) days and to pay normal monthly rent of \$5,000.00 on the first of each month during the appeal. The order states it was prepared by the Court, not requested by the Respondent.

The Magistrate Court's February 3, 2026, Bond Order did not contain any findings of fact regarding the amount of rent that was reasonable or due, nor did it provide Appellant with any

opportunity to be heard on her ability to pay or the proper calculation of arrears, which she contests. Appellant maintains a \$9,000.00 security deposit that was paid to Respondent, which should have been credited against any alleged arrears.

On February 5, 2026, Appellant filed an "Emergency Motion to Stay Bond Order, Modify Bond, and Set or Remand for Prompt Bond Hearing" in the Anderson County Court of Common Pleas. This motion specifically requested that the Circuit Court stay the Magistrate's bond order, credit Appellant's \$9,000.00 security deposit, and either hold a hearing or remand to the Magistrate Court for a proper bond hearing with notice and an opportunity to be heard.

On or about February 6, 2026, this motion was docketed in the Circuit Court. As of the date of this filing, the Circuit Court has taken no action on Appellant's pending motion.

On February 10, 2026, despite the appeal being properly perfected and pending before the Circuit Court, the Magistrate Court issued an "Order" dismissing the appeal. The order states:

"The appellant Jacqueline Roberts has failed to comply with the terms of the Bond to Stay Execution... THEREFORE, IT IS ORDERED that the appeal is dismissed, and the Writ of Ejectment shall be reissued by this Court."

The Magistrate Court's February 10, 2026, Order of Dismissal contains a material misrepresentation. It states: "The appellant signed this Bond on February 4, 2026." Appellant never attended a bond hearing, was never informed of any hearing, and did not sign the bond instrument referenced by the Magistrate Court. The "Bond to Stay Execution on Appeal" appears to be a form document prepared and signed only by the court. Appellant had no opportunity to object to its terms or "sign" it in acceptance, as she was actively seeking relief from its excessive and improper conditions in the Circuit Court.

On February 18, 2026, at approximately 9:00 a.m., Appellant personally appeared at the Anderson County Clerk of Court's office located at 100 South Main Street, Anderson, South Carolina, for the purpose of filing an "Emergency Appellant's Motion to Reinstate Appeal and for Relief from Magistrate Court's Void Order" in the above-captioned case.

Appellant presented the original motion and multiple copies to the clerk's office and requested that the motion be filed in the Circuit Court record. At that time, Reena Thomason, Clerk of Court, or a deputy acting under her authority and direction, reviewed the document and refused to accept it for filing. When Appellant inquired as to the reason for the refusal, the clerk stated that the Magistrate Court's February 10, 2026, Order of Dismissal was "final" and that the Circuit Court could not accept any further filings absent a "secret court order" or direction from a judge permitting the filing. Appellant explained that the Magistrate Court lacked jurisdiction to dismiss the appeal and that the Motion to Reinstate was proper and timely filed in the Circuit Court, which retained exclusive jurisdiction over the matter. The clerk nonetheless refused to file-stamp the motion or accept it into the record, effectively denying Appellant access to the Circuit Court and preventing her from seeking relief from the lower court's void order.

Appellant requested to speak with a supervisor or to have the motion submitted to a judge for review. That request was denied. Appellant was told that no filings would be accepted unless authorized by an order Appellant could not produce because no such order existed and none was required by law. As a result of this refusal, Appellant was unable to have her Emergency Motion to Reinstate Appeal docketed or considered by the Circuit Court. Appellant has no record of the filing and was not provided a receipt or written explanation for the refusal. This denial of access to the courts occurred without notice, without a hearing, and without any legal authority supporting the clerk's action

On February 18, 2026, Appellant filed a Notice of Appeal and this Emergency Motion with the South Carolina Court of Appeals.

As of the date of this filing:

1. Appellant's appeal to the Circuit Court (Case No. 2026-CP-04-00229) remains dismissed;
2. Appellant's February 5, 2026, "Emergency Motion to Stay Bond Order, Modify Bond, and Set or Remand for Prompt Bond Hearing" remains pending and unruled upon in the Circuit Court;
3. The Magistrate Court's February 10, 2026, Order of Dismissal purports to have dismissed the appeal;
4. Appellant has been denied the ability to file her Emergency Motion to Reinstate Appeal in the Circuit Court;
5. No hearing has been held on any bond-related matter;
6. Appellant has not been evicted as of this filing but faces imminent eviction.

ARGUMENT

I. APPELLANT IS LIKELY TO SUCCEED ON THE MERITS BECAUSE THE MAGISTRATE COURT ACTED WITHOUT JURISDICTION AND IN VIOLATION OF DUE PROCESS.

A. The Magistrate Court Lacked Jurisdiction to Dismiss an Appeal Pending Before the Circuit Court.

Once Appellant filed a timely Notice of Appeal to the Circuit Court on January 29, 2026, jurisdiction over the matter vested exclusively in the Court of Common Pleas. The filing of a notice of appeal transfers the record and divests the lower court of jurisdiction to take any further action in the case except in aid of the appeal. ("Generally, the service and filing of a notice of appeal divests the trial court of jurisdiction over the matters appealed.").

The Magistrate Court's February 10, 2026, Order was not "in aid of the appeal"; it was a direct interference with and dismissal of the appeal itself. This action was a clear usurpation of the

Circuit Court's jurisdiction and is, therefore, void ab initio. A void order has no legal effect and cannot be the basis for depriving a party of her property or her right to appeal. *See Dove v. Gold Kist, Inc.*, 314 S.C. 235, 442 S.E.2d 598 (1994).

B. The Ex Parte Bond Order Violated Appellant's Fundamental Due Process Rights.

The Fourteenth Amendment to the U.S. Constitution and Article I, Section 22 of the South Carolina Constitution guarantee that no person shall be deprived of property without due process of law. The right to possession of one's home or business is a fundamental property interest. The Magistrate Court's issuance of a bond order that required the payment of over fifteen thousand dollars (\$15,500.00) within the first month of appeal, without any notice or opportunity for a hearing, is a textbook violation of due process. Here, the Appellant was afforded no such opportunity. The bond amount was set arbitrarily by the court, with no consideration of Appellant's ability to pay, the actual amount of rent due, or the existence of a \$9,000.00 security deposit that could serve as adequate security. This procedure is fundamentally unfair and contrary to the express terms of S.C. Code Ann. § 27-40-800(b), which contemplates a judicial determination of the rent to be paid periodically.

C. The Magistrate Court's Order of Dismissal is Based on a Material Misrepresentation.

The Magistrate Court's Order of Dismissal falsely states that "The appellant signed this Bond on February 4, 2026." This statement is factually incorrect. Appellant never signed any bond document on that date or any other, as she was never presented with one at a hearing, never waived her right to a hearing, and was actively seeking judicial modification of the bond's terms in the Circuit Court on the very day she allegedly "signed" it.

This misrepresentation, whether intentional or through a misunderstanding of the record, taints the entire dismissal order. An order based on a false premise cannot stand. This Court should not permit an eviction to proceed based on a procedural history that the record itself does not support.

D. The Clerk of Court's Refusal to Accept Appellant's Motion to Reinstate Violated Appellant's Right to Access the Courts.

The South Carolina Constitution guarantees litigants meaningful access to the courts. The Clerk of Court, as an officer of the court, has a ministerial duty to accept for filing proper pleadings presented by litigants. See *Barnes v. State*, 433 S.C. 399 (3021). The clerk does not possess the authority to refuse a filing based on a subjective determination that the lower court's order is "final" or that a "secret court order" is required.

The clerk's refusal to accept Appellant's Emergency Motion to Reinstate Appeal effectively deprived Appellant of her opportunity to seek relief in the Circuit Court and compounded the jurisdictional errors already present in this case. This denial of access to the courts, without notice, without a hearing, and without any legal authority, constitutes an independent violation of Appellant's due process rights and warrants intervention by this Court.

II. APPELLANT WILL SUFFER IRREPARABLE HARM ABSENT A STAY.

The harm to Appellant is immediate and catastrophic. If a stay is not granted, the Magistrate Court will "reissue" the Writ of Ejectment, and Respondent will be able to forcibly remove Appellant from the premises at 602 Anderson St, Piedmont, SC. Appellant operates her business, Crimson Events, from this location. An eviction will result in the loss of her business, her livelihood, and her personal property.

These harms are irreparable because they cannot be adequately compensated by money damages. A business, once destroyed, cannot be easily resurrected. Moreover, if Appellant is

evicted and the premises are re-let, her appeal to this Court will be rendered moot, as she will no longer have a possessory interest to protect. The very purpose of a stay is to preserve the status quo pending appellate review and prevent the appeal from becoming moot. See *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 630 S.E.2d 474 (2006) (noting that an appeal can become moot if the status quo is not preserved).

III. THE STAY WILL NOT SUBSTANTIALLY INJURE THE RESPONDENT AND THE PUBLIC INTEREST FAVORS A STAY.

Respondent's interest is in receiving the rent to which he is lawfully entitled. Appellant has never refused to pay rent; she disputes the amount of arrears and the validity of the underlying judgment. If a stay is granted and the matter remanded, the Circuit Court can hold a prompt hearing to set a proper bond consistent with the statute, potentially requiring Appellant to pay rent into the court or directly to Respondent during the appeal. This would protect Respondent's financial interests. Conversely, the injury to Appellant of immediate eviction is severe.

The public interest strongly favors the orderly administration of justice and adherence to procedural due process. The public has a profound interest in ensuring that lower courts do not exceed their jurisdiction, that litigants are afforded a fair opportunity to be heard before being deprived of their property, and that clerks of court perform their ministerial duties without imposing unauthorized barriers to access. Permitting the Magistrate's irregular order and the clerk's refusal to file to stand would undermine public confidence in the judicial system.

IV. THIS COURT SHOULD REMAND THE MATTER TO THE CIRCUIT COURT WITH INSTRUCTIONS.

Given the procedural irregularities at both the Magistrate Court level and the Clerk of Court level, the most efficient and just course is for this Court to remand this matter to the Anderson County Court of Common Pleas with specific instructions to:

1. Reinstate Appellant's appeal (Case No. 2026-CP-04-00229);
2. Accept for filing Appellant's Emergency Motion to Reinstate Appeal and any other proper filings;
3. Rule on Appellant's pending "Emergency Motion to Stay Bond Order, Modify Bond, and Set or Remand for Prompt Bond Hearing" (filed February 5, 2026);
4. Hold a hearing, with notice to all parties, to determine a proper bond consistent with S.C. Code Ann. § 27-40-800(b) and due process requirements.

CONCLUSION AND PRAYER FOR RELIEF

The Magistrate Court's actions and the Clerk of Court's refusal to accept filings have created a procedural crisis. The Magistrate Court issued a bond without a hearing, and then, while Appellant was properly seeking relief from that order in the Circuit Court, the Magistrate Court stepped outside its jurisdiction to dismiss her appeal based on a factually incorrect statement. When Appellant attempted to file a motion to reinstate in the Circuit Court, the Clerk of Court refused to accept it, demanding a non-existent "secret court order." To prevent a grave injustice and preserve the status quo pending this Court's review, immediate intervention is necessary.

WHEREFORE, Appellant respectfully requests that this Court:

1. GRANT this Emergency Motion;
2. IMMEDIATELY STAY the enforcement of the Writ of Ejectment in this matter pending the final resolution of this appeal;
3. IMMEDIATELY STAY the enforcement of the Magistrate Court's February 3, 2026, Bond to Stay Execution on Appeal;
4. REMAIND this matter to the Anderson County Court of Common Pleas with the following instructions:
 - a. Direct the Clerk of Court, Reena Thomason, to immediately accept for filing Appellant's Emergency Motion to Reinstate Appeal and any other proper filings in this matter without requiring a "secret court order" or other unauthorized precondition;
 - b. Order the Circuit Court to reinstate Appellant's appeal (Case No. 2026-CP-04-00229);

- c. Order the Circuit Court to remove the Magistrate Court's February 10, 2026, Order of Dismissal from the docket, as it was entered without jurisdiction;
 - d. Order the Circuit Court to rule on Appellant's "Emergency Motion to Stay Bond Order, Modify Bond, and Set or Remand for Prompt Bond Hearing" (filed February 5, 2026) within ten (10) days of this Court's order;
 - e. Order the Circuit Court to hold a hearing, with notice to all parties, to determine a proper appeal bond consistent with S.C. Code Ann. § 27-40-800(b) and due process requirements;
5. GRANT such other and further relief as the Court deems just and proper.

Respectfully submitted,

By: s/ Jackie Roberts
Jackie Roberts
115 Moss creek Drive, Bldg 9
Piedmont, SC 29673
(678) 200-8499
jegayle@gmail.com
Appellant

Dated: February 18, 2026

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APPEAL FROM ANDERSON COUNTY
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v.

Luigi Cerullo,, Respondent.

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2026, I served a copy of the forging Motion for Stay
via United States Mail, postage prepaid and addressed to:

Luigi Cerullo
23 Neyland Drive
Fountain Inn, SC 29644
Cerullomotors@gmail.com
Respondent

Hon. S. Thompson Tucker III
Powdersville-Piedmont Summary Court
P.O. Box 51312
Piedmont, SC 29673

By: s/ Jackie Roberts
Jackie Roberts
115 Moss creek Drive, Bldg 9
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Appellant