

RECEIVED

Mar 20 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY

Court of Common Pleas

, Circuit Court /Special Referee: Samuel Price Jr

Case No. 2025-CP-36-238

ENID GARCIA,

Respondent

v.

REGGIE JONES,

Appellant

Case No: 2025-CP-36-238

MEMORANDUM IN SUPPORT OF MOTION TO STAY

Appellant respectfully submits that a stay is necessary because the foreclosure judgment is void for lack of proper service and violation of due process.

Service by publication is constitutionally permissible only where the Appellant cannot be located through reasonable diligence. In *Mullane v. Central Hanover Bank & Trust Co.*, the United States Supreme Court held that notice must be reasonably calculated to inform interested parties. Publication alone is insufficient where the party's location is known or easily ascertainable.

In *Jones v. Flowers*, the Court further held that when notice efforts fail, additional reasonable steps are required before depriving a person of property. Appellants argument is that "no proven notice and/or effort" was made prior to Publication.

Here, Respondent failed to exercise any meaningful diligence. The service affidavit contains no documentation of attempts at personal service and merely asserts that no one resided at the property. This assertion is directly contradicted by Appellant's utility records, identification documents, and prior successful service at the same address.

Appellant was deprived of any opportunity to be heard and to present meritorious defenses, including that Respondent breached the contract and that no amounts were owed. Appellant had completed approximately eleven (11) years of a fifteen (15) year agreement, establishing substantial equity in the property.

Because Appellant was never properly served, the Court lacked personal jurisdiction, rendering the judgment void. Enforcement of the writ would therefore result in irreparable harm and an unconstitutional deprivation of property.

For these reasons, a stay pending appeal is necessary to preserve the status quo.

Robert J. 3/20/20