

The South Carolina Court of Appeals

James Burrell, as Personal Representative for
The Estate of Elizabeth Jones Burrell, Respondent,

v.

Catherine Carroll, Deceased, and Any Unknown Adults
being a class designated as John Doe, and any unknown
infants or person under disability or in the Military service
being class designated as Richard Roe, and Percy Morant,
Defendants,

of whom Percy Morant is the Appellant.

Appellate Case No. 2026-001756

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Aug 14 2026

SC Court of Appeals

REPLY

Appellant Percy Morant, appearing pro se, respectfully submits this
Reply to the Return filed by Respondent, and states as follows:

1. Section 18-9-170 authorizes an undertaking conditioned on two things only: that the appellant will not commit waste on the property, and that the appellant will pay the value of the use and occupation of the property, from the date of the undertaking until delivery of possession, if the judgment is affirmed. The statute does not authorize an undertaking to secure any other form of loss, including a generalized

interest Respondent may claim in the property unrelated to waste or lost value of use.

2. As to waste, the Order itself forecloses Respondent's position. Paragraph 26 finds that Appellant has paid property taxes and provided upkeep to the property throughout his residency. Respondent identifies no waste, destruction, or damage in the Return, and none appears anywhere in the record.

3. As to the value of use and occupation, the Order forecloses Respondent's position as well. Paragraph 32 of the Order expressly provides that Respondent "will not reside, nor rent, nor allow anyone else to reside in the house pending a subsequent hearing to quiet title following the determination of heirs." Respondent is therefore barred, by the terms of the Order he obtained, from realizing any rental or occupancy value from this property during the pendency of this appeal, regardless of who holds physical possession of it. There is no value of use and occupation being lost to Respondent for the undertaking to secure, because the Order itself prohibits that value from being realized by anyone during this period.

4. Even setting aside whether any value of use and occupation exists to be secured, Respondent's entitlement to receive any such value is itself presently undetermined. The property remains titled in the name of Defendant Catherine Carroll, deceased. No estate has been opened for Defendant Carroll, and the Order directs Respondent to petition the Richland County Probate Court to determine her heirs before any further quiet title proceeding may occur. Order, Paragraphs 19, 21, 22. Respondent's sole claim to the property, adverse possession, was dismissed for failure of proof. Order, Paragraph 16. On this record, Respondent has not been established as an heir of Defendant Carroll, an owner of any interest in the property, or a party entitled to receive the value of its use and occupation. An undertaking payable, upon affirmance, to a party whose own entitlement to the property remains judicially undetermined is not what Section 18-9-170 contemplates.

5. Paragraph 28 of the Order, weighing Appellant's equitable interest claim against the fact that he never paid rent, was made in the context of evaluating Appellant's claimed equitable interest in the property for purposes of the underlying quiet title action. It is not a finding of the fair rental value of the property, no such valuation appears anywhere in the record, and it does not establish any dollar amount relevant to the undertaking now at issue.

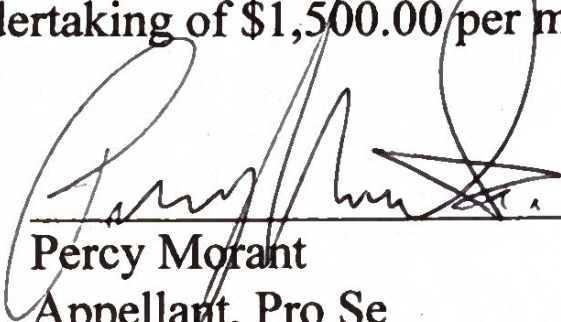
6. To the extent Respondent's Return suggests a bond is necessary to fund insurance on the property, the record does not support that need. James Burrell testified on direct examination at the July 8, 2026 hearing that the property already has insurance in place. Tr. 68:8-10 ("Q: Right now, as far as you know, the house has no insurance, is that correct? A: No, we do have insurance on the house."). Later in the same hearing, after all rulings had been made, Mr. Brooks stated that his client wanted to keep the insurance on the house, and Mr. Burrell himself asked the Court, "Do we need to keep the insurance on the house?" The Court responded, "I can't tell you. I can't tell you that," and directed Mr. Burrell to consult his own attorney. Tr. 143:1-13. No order regarding insurance was made from the bench. Appellant does not concede, and expressly disputes, the validity of Paragraph 31 of the Order, which purports to grant Respondent access to the property to secure, appraise, and insure it. That provision is separately challenged on this appeal as never having been ordered from the bench, and Appellant does not rely upon, invoke, or invite that provision here as a basis for setting the undertaking amount.

7. Respondent asks this Court to fix the undertaking at no less than \$1,500.00 per month without identifying which of the two statutory purposes, waste or lost value of use, that figure is meant to secure, and without accounting for either Paragraph 32's bar on his own use of the property or the unresolved question of who is even entitled to receive that value. Appellant respectfully submits that an undertaking of \$1,500.00 per month, or any amount approaching it, bears no relationship to either purpose Section 18-9-170 exists to serve.

8. Appellant testified under oath at the July 8, 2026 hearing that he has been unemployed since 2019 and has maintained the property through gifts from family and friends rather than through personal income. S.C. Code Ann. Section 18-9-190 gives this Court, or the Master-in-Equity on remand, discretion to fix the undertaking accordingly.

RELIEF REQUESTED

Appellant respectfully requests that this Court, or the Master-in-Equity on remand, fix the undertaking required under Section 18-9-170 at \$0.00, or at such other nominal amount as the Court deems appropriate, consistent with the absence of any waste or any recoverable value of use and occupation under the terms of the Order itself, and deny Respondent's request for an undertaking of \$1,500.00 per month.



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cc:

Charles Thomas Brooks, III, Esquire
The Honorable Stephanie N. Lawrence
The Honorable Jeanette W. McBride