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SC Court of Appeals

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

APPEAL FROM SUMTER COUNTY

Court of Common Pleas, Third Judicial Circuit

The Honorable _____, Circuit Court Judge

Lower Court No. 2026-CP-43-00711

Appellate Case No. 2026-001330

Southland Properties, Respondent v. Cornelius McClary, Appellant

**EMERGENCY VERIFIED PETITION FOR TEMPORARY SUPERSEDEAS AND STAY
BASED ON POSTED WRIT AND LOWER-COURT APPLICATION**

Appellant Cornelius McClary, self-represented, respectfully petitions for an immediate temporary supersedeas under Rules 240 and 241, SCACR, and for a stay upon execution of the undertaking required by S.C. Code Ann. Section 27-40-800(f)(1). This is a new emergency request based on the writ posted after the earlier motion was submitted and Appellant's present effort to cure the undertaking issue identified in the Court's August 26, 2026 order. It is not a petition for rehearing of that order.

VERIFIED FACTS AND CHANGED EMERGENCY

1. This appeal, Case No. 2026-001330, remains pending. The lower court case is Sumter County Common Pleas Case No. 2026-CP-43-00711.
2. The action concerns possession of Appellant's residence at 5660 Peachtree Road, Wedgefield, South Carolina 29168.
3. On August 26, 2026, this Court denied Appellant's earlier stay motion. The order addressed the statutory requirement for an undertaking to pay periodic rent in the amount determined by order of a circuit court judge.
4. A writ of ejectment dated August 26, 2026 was posted at Appellant's residence on August 31, 2026, at approximately 9:02 a.m. It stated a 24-hour period. A copy and/or photograph is attached as Exhibit D.

5. Appellant has been told verbally that rent is \$1,000. To Appellant's knowledge, however, no written circuit court order states the amount, period, due date, payee, and method or place of payment for the undertaking required by Section 27-40-800(f)(1).
6. On September 1, 2026, before submitting this petition, Appellant presented for filing in the Sumter County Court of Common Pleas an Emergency Verified Motion asking the circuit judge to determine the periodic rent in writing and to grant a temporary supersedeas. A filed copy is attached as Exhibit E.
7. Lower-court filing time: _____ [a.m./p.m.]. As of _____ [a.m./p.m.] on September 1, 2026, [] no signed ruling had been received, or [] a ruling was entered and is attached as Exhibit F.
8. The 24-hour writ makes it impracticable to wait through ordinary motion timing without temporary appellate protection. Execution could occur before a circuit rent determination or appellate ruling, making the possession issue practically moot and defeating meaningful review.
9. Appellant tenders the attached undertaking form and asks to complete it immediately when the circuit judge states the required periodic terms. If a circuit rent order is already attached, Appellant asks the Court to accept the completed undertaking and stay execution under Section 27-40-800(f)(1).
10. Appellant is disabled. His household includes two minor children with serious disabilities and medical needs. Immediate displacement would cause substantial and irreparable hardship beyond the loss of the opportunity for meaningful appellate review.
11. Appellant is serving Southland Properties with this petition. He does not seek relief without notice and does not ask this motion to decide the merits of the appeal.

RELIEF REQUESTED

Appellant asks the Court to:

- A. Issue an immediate temporary supersedeas staying execution of the writ while the circuit judge acts on the written rent-determination request and while this Court considers the completed undertaking;
- B. Upon receipt of the circuit rent order and Appellant's completed undertaking, stay execution under Section 27-40-800(f)(1) during this appeal, conditioned on strict compliance with the undertaking;
- C. Direct that the temporary order be transmitted promptly so Appellant may provide it to Sumter Summary Court and the Sumter County Sheriff's Office;
- D. Expedite the response and ruling because the posted writ states a 24-hour period; and
- E. If a new motion fee is required and not already covered by indigency relief, relieve Appellant from the fee in this extraordinary emergency under Rule 240(d), or allow prompt cure without delaying consideration of temporary relief.

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MEMORANDUM OF AUTHORITIES IN SUPPORT OF EMERGENCY PETITION

I. A FILED APPEAL DOES NOT AUTOMATICALLY STAY AN EJECTMENT ORDER

Rule 241(b)(10), SCACR, identifies ejectment orders under Sections 27-37-130 and 27-40-800 as exceptions to the general automatic stay. Appellant therefore seeks an affirmative supersedeas and statutory stay rather than relying on the notice of appeal alone.

**II. RULE 241 AUTHORIZES TEMPORARY SUPERSEDEAS TO PRESERVE
APPELLATE REVIEW**

In an exception case, Rule 241(c)(1) allows a party to move for supersedeas after service of the notice of appeal. Rule 241(c)(2) directs the deciding court to consider whether relief is needed to preserve appellate jurisdiction or prevent a contested issue from becoming moot. Rule 241(c)(3) allows conditions such as a bond or undertaking. Here, physical ejectment before a ruling would make the possession issue practically moot, while a short stay tied to a court-set undertaking preserves the status quo.

**III. THE LOWER-COURT APPLICATION REQUIREMENT IS SATISFIED, OR
WAITING IS IMPRACTICABLE**

Rule 241(d)(1) ordinarily requires an application first to the lower court unless extraordinary circumstances make that step impracticable. Appellant presented the attached emergency motion to the Sumter County Court of Common Pleas before submitting this petition. The posted 24-hour writ makes waiting for ordinary motion timing impracticable. The filing time and current ruling status are stated in the verified facts above.

IV. SECTION 27-40-800(F)(1) SUPPLIES THE UNDERTAKING PROCEDURE

Section 27-40-800(f)(1) provides that, on appeal to the Court of Appeals, execution may be stayed when the tenant signs an undertaking to pay the landlord the periodic rent determined by order of a circuit court judge as it becomes due after judgment. The attached circuit motion seeks the missing written determination, and the attached undertaking is ready to be completed using that order's terms.

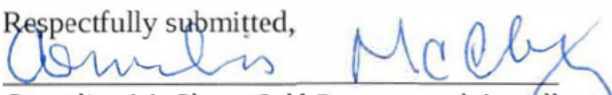
V. THE CHANGED FACTS SUPPORT A NEW EMERGENCY REQUEST

This petition does not seek rehearing of the August 26 order. It is based on the subsequently posted 24-hour writ, the now-imminent execution, the lower-court rent-determination application, and the tendered statutory undertaking. Temporary relief will allow the statutory process to occur without deciding the merits of the appeal.

CONCLUSION

For these reasons, Appellant respectfully asks the Court to issue an immediate temporary supersedeas and, after the circuit rent determination and completed undertaking, to stay execution during the appeal on the conditions the Court finds appropriate.

Respectfully submitted,



Cornelius McClary, Self-Represented Appellant
5660 Peachtree Road, Wedgefield, SC 29168
803-305-3154 | cornelius_mcclaryy@icloud.com

Date: September __, 2026

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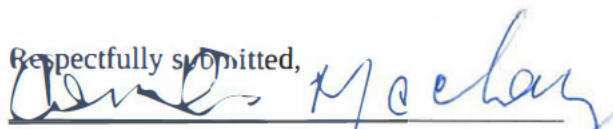
VERIFICATION OF EMERGENCY PETITION

I, Cornelius McClary, being first duly sworn, state:

1. I am the Appellant. I have read the petition and memorandum. Facts stated from my personal knowledge are true, and I believe the identified court records are accurate.
2. The writ was posted at my residence on August 31, 2026, at approximately 9:02 a.m., and stated a 24-hour period.
3. Before submitting this petition, I presented/filed the attached emergency motion in the Sumter County Court of Common Pleas at the time written in paragraph 7 of the petition.
4. The lower-court ruling status marked in paragraph 7 was accurate when I signed this verification.
5. To my knowledge, I have not received a written circuit court order stating all periodic rent terms required to complete the statutory undertaking, except any order attached as Exhibit F.

I declare the foregoing under oath.

Respectfully submitted,



Cornelius McClary, Self-Represented Appellant
5660 Peachtree Road, Wedgefield, SC 29168
803-305-3154 | cornelius_mcclaryy@icloud.com

Date: September __, 2026

SWORN to and subscribed before me
this __ day of September, 2026.

Notary Public for South Carolina
My Commission Expires: _____

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STATUTORY UNDERTAKING UNDER S.C. CODE ANN. SECTION 27-40-800(F)(1)

Complete and sign only after a circuit court judge has entered the written rent terms. If no rent order exists yet, submit this page unsigned as a proposed undertaking and promptly supplement it after the order.

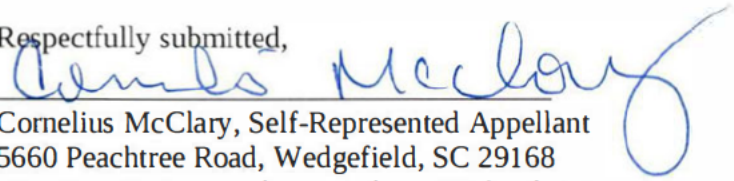
I, Cornelius McClary, state that appellate review of the ejectment judgment is pending in Court of Appeals Case No. 2026-001330.

Under the circuit court's written order dated _____, 2026, periodic rent is \$_____ per _____, due on the _____ day of each _____, payable to _____ by _____.

I undertake and promise to pay that periodic rent as it becomes due after judgment, in accordance with the circuit court order, while the appeal and stay remain in effect. I understand that failure to comply with the undertaking may permit execution of the judgment for possession under Section 27-40-800(f)(2).

I make this undertaking voluntarily and under oath.

Respectfully submitted,


Cornelius McClary, Self-Represented Appellant
5660 Peachtree Road, Wedgefield, SC 29168
803-305-3154 | cornelius_mcclaryy@icloud.com

Date: September __, 2026

SWORN to and subscribed before me
this ____ day of September, 2026.

Notary Public for South Carolina
My Commission Expires: _____

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PROPOSED ORDER GRANTING TEMPORARY SUPERSEDEAS AND STAY

Upon consideration of Appellant's Emergency Verified Petition, the supporting papers, and applicable law, temporary relief is appropriate to preserve the Court's jurisdiction and prevent the possession issue from becoming moot while the statutory undertaking process is completed.

IT IS ORDERED:

1. Execution of the writ of ejectment concerning 5660 Peachtree Road, Wedgefield, South Carolina 29168 is temporarily stayed through _____ at _____ [a.m./p.m.], or until further order, on the following conditions:
_____.
2. If the circuit court has entered a written rent determination and Appellant has executed the undertaking required by S.C. Code Ann. Section 27-40-800(f)(1), execution is stayed during this appeal so long as Appellant strictly complies with that undertaking, subject to further order.
3. Appellant shall promptly serve this Order on Southland Properties and provide a filed copy to Sumter Summary Court and the Sumter County Sheriff's Office.
4. All other issues are reserved.

IT IS SO ORDERED.

Judge, South Carolina Court of Appeals

Date: _____
Columbia, South Carolina

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CERTIFICATE OF SERVICE AND EXHIBIT INDEX

Complete this page only after service. Check the method actually used and fill in the date.

Do not sign before service is made.

I certify that on September ___, 2026, I served a true and correct copy of this Emergency

Verified Petition, memorandum, verification, proposed undertaking, proposed order, and

attached exhibits on:

Southland Properties
480 E. Liberty Street
Sumter, South Carolina 29153

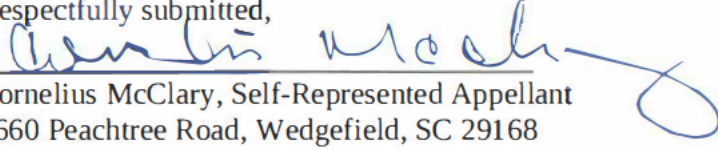
by the following method actually used:

☐ Hand delivery ☒ U.S. Mail ☐ Certified mail

☐ Email to address previously used in this case: _____

☐ Other authorized method: _____

Respectfully submitted,


Cornelius McClary, Self-Represented Appellant
5660 Peachtree Road, Wedgefield, SC 29168
803-305-3154 | cornelius_mcclaryy@icloud.com

Date: September ___, 2026

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REQUIRED/SUPPORTING EXHIBITS

- ☐ Exhibit A - Certified copy of the Common Pleas order being appealed
- ☐ Exhibit B - Notice of Appeal
- ☐ Exhibit C - Proof of service of Notice of Appeal
- ☐ Exhibit D - Copy/photo of writ posted August 31, 2026
- ☐ Exhibit E - Filed September 1 Common Pleas emergency motion
- ☐ Exhibit F - Certified ruling on that motion, if entered; if none, mark no ruling in paragraph 7
- ☐ Exhibit G - Court of Appeals August 26, 2026 order

Filing note: Consecutively number the exhibit pages after this page before emailing the complete PDF.