

The South Carolina Court of Appeals

Marthina Wardlaw, Appellant,

v.

Martin Gilliard, Respondent.

Appellate Case No. 2026-002037

ORDER

On September 15, 2026, Appellant filed a notice of appeal from a circuit court order denying her motion to reconsider the circuit court's denial of her motion to proceed *in forma pauperis*. According to the public index, the circuit court issued an order on September 10, 2026, denying Appellant's motion to proceed *in forma pauperis* and stating that if Appellant failed to pay the filing fee and associated costs, then her case would be dismissed on September 11, 2026, "without further order of the court." Based upon this court's review of the public index and Appellant's filings, it appears the matter on appeal in the circuit court was the magistrate court's order evicting Appellant from residential rental property.

The public index also shows that on September 11, 2026, Appellant filed a "request for undertaking to stay execution of ejectment under S.C. Code § 27-40-800" in the circuit court. It does not appear from the public index that this motion has been considered by the circuit court.

On September 15, 2026, Appellant filed an "emergency verified petition for stay of execution and writ of supersedeas" in this court. After careful consideration, we grant a temporary stay and remand this case to the circuit court for an expedited hearing on Appellant's emergency verified petition for stay of execution and writ of supersedeas as well as her request for an undertaking. *See* Rule 241(d), SCACR (explaining an application for supersedeas must first be made to the lower court which entered the order on appeal); S.C. Code Ann. § 27-40-800(f)(1) (2007), as amended by Act No. 252 (H.3387), § 4, 2026 S.C. Acts (eff. June 30, 2026) ("Upon appeal . . . to the court of appeals, a court shall not stay an execution of a

judgment for ejectment unless the tenant files an affidavit with the proper appellate court, in which the tenant promises to pay to the landlord the amount of rent, determined by order of the judge of the circuit court, as it becomes due periodically after judgment was entered. Once the affidavit is accepted by the court, the judge of the court having jurisdiction shall order stay of execution upon the undertaking.").

Appellant shall provide this court with status updates in writing every thirty days until the circuit court rules on Appellant's emergency verified petition for stay of execution and writ of supersedeas and request for an undertaking. Further, Appellant shall provide this court with a copy of the circuit court's written order regarding the petition and request within ten days of receiving notice of the ruling. Appellant's failure to provide this court with status updates every thirty days or to notify this court of the circuit court's ruling within ten days of receiving notice of the ruling will result in dismissal of this appeal. Further, Appellant must provide this court with an affidavit that complies with section 27-40-800(f)(1) within ten days of receipt of notice of the circuit court's ruling.

This appeal is not held in abeyance while the circuit court considers the petition and request.



FOR THE COURT

J.

Columbia, South Carolina

FILED
Sep 17 2026

cc:

Marthina Wardlaw

Martin Gilliard

Honorable Benjamin H. Culbertson

Alma Y. White