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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Alan D. Clemmons, Master in Equity

Appellate Case No. 2026-001570

Shaftesbury Green Property Owners Association, Inc.,..... Respondent,

v.

Cedric Javus Browne, Michelle Eblen, Nationstar Mortgage, LLC, American Express National Bank, Bank of America NA, TD Bank USA, N.A., and Portfolio Recovery Associates, LLC, Defendants.

of which Cedric Javus Browne is the..... Appellant.

**REPLY TO RESPONDENT'S RETURN TO RENEWED PETITION FOR REVIEW OF
SECURITY FIXED ON REMAND**

INTRODUCTION

Respondent's Return defends the Master's \$103,263.31 undertaking as a proper exercise of discretion under Rule 241(c)(3), SCACR, and argues that S.C. Code Ann. § 18-9-170 places no limit on that amount because Respondent waived any claim to a deficiency judgment. That argument has it backwards. Section 18-9-170 does not say that the absence of a deficiency removes the ceiling on the undertaking; it says the ceiling on the rental-value component of the undertaking is the deficiency, whatever that deficiency turns out to be. The Master's own order confirms this: it provides that the bond proceeds are payable to Respondent "only up to the amount of any deficiency entered for the failure of the sale proceeds to cover the full judgment debt." Because Respondent has already waived any claim to a deficiency judgment, no deficiency will ever be "entered" in this case. By the plain terms of the Master's own order, the \$72,000.00 rental-value component of the Bond, and the \$18,307.14 component for taxes, insurance, and assessments, have no mechanism by which they could ever become payable, and no statutory basis in the provision the Master himself cites.

ARGUMENT

I. THE ISSUE WAS RAISED TO AND RULED UPON BY THE MASTER, AND RULE 241(d) PROVIDES FOR THIS COURT'S REVIEW BY PETITION.

Respondent argues that Appellant's challenge to the Bond is unpreserved because no Rule 59(e), SCRCR, motion was filed after the Master's Order Imposing Appeal Bond and Approving Stay, and that Appellant "never presented this deficiency-based argument to the Master." (Return at 4.) The record shows otherwise.

First, the issue was raised to the Master before he ruled. Appellant's August 19, 2026 Memorandum in Support of Stay Pending Appeal, filed with the Master before the August 20, 2026 hearing on remand, argued in Section III, titled "SECTION 18-9-170 CAPS APPELLANT'S EXPOSURE AT THE DEFICIENCY, NOT THE PROPERTY'S VALUE," that the rental-value component is limited to "the amount of such deficiency." On September 3, 2026, before the Order was signed, Appellant filed a written Objection to Sections A and H of the proposed order. The Master treated that Objection as a "Motion for Reconsideration" and, by Form 4 order filed September 8, 2026, denied it: "Mr. Browne's Motion for Reconsideration is premature and is therefore denied." Respondent's suggestion that the Master was never given an opportunity to revisit the undertaking is not consistent with that order.

Second, the Master ruled on the issue. His Order quotes the deficiency limitation of § 18-9-170 in Conclusion of Law ¶ 4 and builds it into the Bond's payment term in ¶ D, which limits payment to "the amount of any deficiency entered for the failure of the sale proceeds to cover the full judgment debt." An issue the trial court's order expressly addresses is an issue raised to and ruled upon. The question presented here is whether the Master correctly applied the limitation he himself identified.

Third, Rule 241, SCACR, prescribes how a lower court's supersedeas ruling reaches this Court. Rule 241(d)(2) provides: "After the lower court or administrative tribunal has ruled, any party may petition the appellate court where the appeal is pending for review of this order." Rule 241(d)(7) provides: "Any party aggrieved by the decision of the lower court, the administrative tribunal, or an individual judge or justice may petition under this Rule for a review of that decision." Neither provision conditions review on a Rule 59(e), SCRCP, motion. This Court's July 22, 2026 Order followed the same structure: it remanded Appellant's petition to the Master

"for an expedited hearing on Appellant's petition for writ of supersedeas," required written status updates "every thirty days until the master rules," and required Appellant to provide "a copy of the master's written order regarding the petition for writ of supersedeas within ten days of receiving notice of the ruling," on pain of dismissal of the appeal. Appellant's Renewed Petition for Review of Security Fixed on Remand, filed the same day the Master's Order was entered, is the petition for review that Rule 241(d)(2) and (d)(7) provide.

II. THE MASTER'S OWN ORDER CONFIRMS THAT THE BOND IS PAYABLE ONLY UP TO ANY DEFICIENCY ENTERED, AND NO DEFICIENCY WILL EVER BE ENTERED IN THIS CASE.

The Order states, in its own terms:

"Upon remittitur and after the judicial sale of the Property, if a deficiency exists the obligor under the Bond shall pay over to Plaintiff the proceeds of the Bond in cash, but only up to the amount of any deficiency entered for the failure of the sale proceeds to cover the full judgment debt."

This is not a peripheral detail; it is the operative payment mechanism of the Bond the Master ordered. And the predicate for that mechanism, an entered deficiency, cannot occur in this case. The April 22, 2026 Foreclosure Order itself found: "As I was notified at the hearing of this matter that a personal or deficiency judgment has been waived, bidding at the sale shall be final at the fall of the gavel." Respondent's own Return confirms the waiver, arguing that "Respondent expressly waived any claim for a deficiency judgment in the underlying foreclosure action" and that "there is no deficiency judgment to secure, no future deficiency that may be entered." (Return at 4.)

Respondent cannot have it both ways. If, as Respondent argues, no deficiency can ever be entered, then under the Master's own Order the rental-value, tax, insurance, and assessment components can never become payable to Respondent under this Bond. A bond fixed at \$103,263.31 to secure components that both parties agree can never become payable is not a reasoned exercise of discretion; it requires Appellant to obtain six figures in surety bonds for obligations the Master's own Order makes structurally incapable of arising.

III. THE RENTAL-VALUE COMPONENT WAS CALCULATED UNDER THE WRONG STANDARD; SECTION 18-9-170 CAPS IT AT THE DEFICIENCY, NOT AT MARKET RENT.

The Master's own Conclusions of Law correctly identify the controlling provision. Conclusion of Law ¶ 4 quotes the part of § 18-9-170 that applies when, in the Master's words, "the judgment directs the sale of land to satisfy a lien on the property." The statute itself provides that "[w]hen the judgment directs the sale of land to satisfy a mortgage thereon or other lien," the undertaking shall provide for payment of "a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency, which sum shall be duly entered as a payment on the judgment." S.C. Code Ann. § 18-9-170. The statute does not authorize an open-ended, market-rate rental figure; it authorizes a rental-value payment capped at whatever deficiency results from the sale, and structured as a credit against that deficiency.

Having correctly quoted this standard, the Master's Findings of Fact do not apply it. Finding of Fact ¶ 7 calculates the \$72,000.00 rental component from "other advertised rental rates of homes in the Conway area of similar residences" over a thirty-six month period, a

market-comparison method untethered to any deficiency, since none will be entered. The statute Respondent and the Master both invoke does not permit this method for a lien-foreclosure sale; it permits only a deficiency-capped figure. Because the deficiency here is zero, the statutorily authorized rental-value component is zero.

IV. THE TAXES, INSURANCE, AND ASSESSMENTS COMPONENT HAS NO BASIS IN SECTION 18-9-170 FOR IMPROVED PROPERTY, AND INSURANCE HAS NO BASIS IN THE STATUTE AT ALL.

Section 18-9-170's only reference to taxes and interest as components of a supersedeas undertaking appears in its final clause, which applies "in case the land shall be unimproved land." The Property at issue, 633 Notting Hill Court, Conway, South Carolina, is a developed residential lot improved with a single-family residence, not unimproved land. On the statute's plain terms, that clause does not apply to this Property. Insurance and homeowners association assessments appear nowhere in § 18-9-170 as authorized components of a supersedeas undertaking in any circumstance. The \$18,307.14 component of the Bond attributed to "taxes, insurance and assessment payments" (Order ¶ D) therefore lacks any grounding in the statute both this Court and the Master have identified as controlling. Appellant does not seek to avoid these carrying costs. His August 19, 2026 Memorandum proposed, as a condition of the stay, that he keep homeowners association assessments, trash fees, property taxes, and homeowner's insurance current for as long as the stay remains in effect. That condition protects Respondent as those obligations come due. What § 18-9-170 does not authorize is requiring Appellant to also bond thirty-six months of those same payments in advance.

Consistent with his August 19, 2026 Memorandum, which asked that the undertaking be fixed at an amount reasonably related to the judgment "plus a modest allowance for accruing costs and interest during the pendency of the appeal," Appellant does not object to securing post-judgment interest on the judgment amount, at the 8.75% rate fixed by the Master, for the thirty-six-month period the Master projected for this appeal. The Master calculated that interest as \$2,929.59: \$297.60 accrued through August 24, 2026, plus \$2,631.99 over the following thirty-six months. (Order, Finding of Fact ¶ 11.) Appellant offers to secure that amount as a reasonable term under Rule 241(c)(3), SCACR. It secures the judgment itself, and it is the only component of the Bond, beyond the judgment amount, that bears any relationship to what Respondent could actually recover.

V. RULE 241(c)(3)'S DISCRETION OPERATES WITHIN THE LIMITS SECTION 18-9-170 ESTABLISHES FOR THIS CATEGORY OF JUDGMENT; IT DOES NOT DISPLACE THEM.

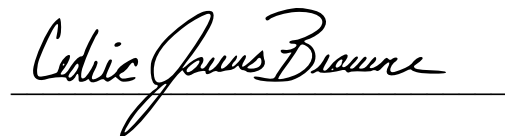
Respondent argues the Master's discretion under Rule 241(c)(3), SCACR, independently justifies the Bond regardless of § 18-9-170's specific terms. Rule 241(b)(4), SCACR, identifies "[j]udgments directing the sale or delivery of possession of real property as provided in S.C. Code Ann. § 18-9-170" as an exception to the automatic stay, governed by that statute. This Court's July 22, 2026 Order cited both Rule 241(b)(4) and § 18-9-170 in remanding for consideration of the undertaking. A general rule authorizing conditions the court "may deem appropriate" does not authorize conditions the General Assembly has specifically limited by statute for this precise category of judgment. Discretion under Rule 241(c)(3) to set the terms of a bond is discretion to apply § 18-9-170's formula to the facts of the case, not discretion to disregard that formula and substitute a different one.

Rule 241(c)(3) also does not commit that discretion to the lower court alone. It provides that relief "may be conditioned upon such terms, including but not limited to the filing of a bond or undertaking, as the lower court, administrative tribunal, appellate court, or judge or justice of the appellate court may deem appropriate." This Court therefore has the same authority to fix the terms of the undertaking that Respondent attributes to the Master.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court find that the rental-value, taxes, insurance, and assessments components of the Master's Order Imposing Appeal Bond and Approving Stay are not supported by S.C. Code Ann. § 18-9-170 or by the Master's own Order, and reduce the required undertaking to the amount that is statutorily and factually supportable: the judgment amount of \$10,026.58 plus accrued and anticipated interest of \$2,929.59 as calculated by the Master, for a total undertaking of \$12,956.17, and grant such other and further relief as this Court deems just and proper.

October 12, 2026

A handwritten signature in cursive script, reading "Cedric Javus Browne", is written over a horizontal line.

Cedric Javus Browne, Appellant, Pro Se

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of October, 2026, I served a true and correct copy of the foregoing Reply to Respondent's Return to Renewed Petition for Review of Security Fixed on Remand upon counsel of record for Respondent by United States Mail, first class, postage prepaid, and by electronic mail, addressed as follows:

Mark A. Nappier, Esq.

Joye, Nappier, Risher & Hardin, LLC

3575 Highway 17 Business

Murrells Inlet, South Carolina 29576

A handwritten signature in black ink, reading "Cedric Javus Browne", is written over a horizontal line.

Cedric Javus Browne