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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GEORGETOWN COUNTY COURT OF COMMON PLEAS
Honorable Benjamin H. Culbertson, Circuit Court Judge

MOHAMAD HAISAM KODAIMATI,

Appellant,

v.

ERIC JAMES ADAMCZYK,

Respondent.

Appellate Case No. 2026-001982

Lower Court Case No. 2026-CP-22-00424

Magistrate Case No. 2026CV221040024

APPELLANT INITIAL BRIEF

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October 20, 2026

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STATEMENT OF ISSUES ON APPEAL

Issue I: Did the Circuit Court err as a matter of law by upholding an *ultra vires* administrative dismissal of Appellant's perfected appeal, where the dismissal was entered by a clerk without judicial review, in direct violation of *Miller v. State*, 377 S.C. 99 (2008)?

Issue II: Did the Circuit Court err by dismissing the appeal for "failure to post bond," directly contravening S.C. Code Ann. § 27-40-800(b), which expressly provides that a tenant's written undertaking "is sufficient" to stay execution of a judgment for ejectment?

Issue III: Did the Circuit Court err in refusing to vacate the underlying Magistrate judgment as void *ab initio*, where the Magistrate lacked subject matter and personal jurisdiction due to the absence of the mandatory five-day statutory notice under S.C. Code Ann. § 27-40-710(B), defective service of the ten-day rule to show cause under S.C. Code Ann. § 27-37-20, the Magistrate's conduct of a jury trial in absentia against an appearing party who had filed an Answer, Counterclaim, and jury demand — without notice of the trial date — where the trial summons was returned by the USPS marked "Return to Sender — Attempted — Not Known" and docketed into the court's file on May 8, 2026, the Magistrate Court's failure to vacate the judgment upon receipt of the returned envelope and its transfer of the file to the Circuit Court on June 2, 2026, and the Circuit Court's refusal to vacate the judgment on August 13, 2026, after being explicitly informed of the non-service — all in violation of due process under *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)?

Issue IV: Did the Circuit Court abuse its discretion by issuing a written Form 4 Judgment that directly contradicted its own factual findings on the record — specifically, the admission that

"there's no circuit court order dismissing the appeal" — and by denying Appellant due process upon reconsideration?

Issue V: Did the Circuit Court err by permitting the eviction to proceed on April 29, 2026, while no lawful order dismissing the appeal existed, the Form 4 Judgment not having been entered until June 4, 2026 — thirty-six days after the eviction was executed?

Issue VI: Did the Circuit Court err by failing to recognize that the April 29, 2026, seizure of Appellant's $500,000.00 in motorhomes and personal property was not a lawful execution of a writ of ejectment — which grants possession of real estate only — but an unauthorized levy on personal property to satisfy a $7,500.00 money judgment, executed without a Writ of Execution, without an auction, and without due process, as this Court signaled in Footnote 1 of its October 14, 2026, Order?

Issue VII: Did the Circuit Court err by failing to address Appellant's Motion for Return of Property and Declaration of Void Execution, where the October 2, 2026, attempted docketing of a Transcript of Judgment was a retroactive attempt to manufacture execution authority that did not exist on April 29, 2026, and where S.C. Code Ann. §§ 22-3-300 and 22-3-310 expressly prohibit any sale or change in the status of property pending appeal?

STATEMENT OF THE CASE

1. This is an appeal from the Georgetown County Court of Common Pleas, the Honorable Benjamin H. Culbertson presiding, arising from the Circuit Court's dismissal of Appellant's appeal from a Magistrate Court eviction judgment — which dismissal was entered

administratively by a clerk of court without judicial review, and subsequently affirmed by the Circuit Court in a Form 4 Judgment dated June 4, 2026.

2. On April 14, 2026, a judgment of $7,500.00 was entered against Appellant Mohamad Haisam Kodaimati in Georgetown County Magistrate Court Case No. 2026CV221040024, following a jury trial conducted in Appellant's absence. Respondent Eric James Adamczyk initiated the action by listing his own address (1692 South Morgan Avenue) as Appellant's mailing address on court paperwork, while providing handwritten directions to the process server to locate Appellant's motorhomes at a different location (1746 South Morgan Avenue). Despite this irregular filing, Appellant formally appeared, filed a written Answer denying liability, asserted a $7,500.00 Counterclaim, and demanded a trial by jury.

Appellant received no five-day notice to cure under S.C. Code Ann. § 27-40-710(B). The Rule to Show Cause under S.C. Code Ann. § 27-37-20 was defectively served — not by personal service upon Appellant, but by posting it on the door of Appellant's motorhome at a location other than the premises listed in the eviction complaint. The Magistrate Court mailed the notice of the trial date to Respondent's address (1692 South Morgan Avenue). The United States Postal Service returned this envelope undelivered, stamped **"Return to Sender — Attempted — Not Known"** on April 27, 2026, and the Magistrate Court docketed the returned envelope into its official case file on May 8, 2026.

At the April 13 trial, with Appellant absent and unaware of the proceeding, Respondent's original complaint demanding $3,000.00 was amended at trial to $7,500.00, and the jury rendered a verdict for that amount. The Magistrate Court, upon receiving the returned envelope on May 8, 2026, did not vacate the judgment or notify Appellant. Instead, the Magistrate Court

transferred the file — **including the returned envelope** — to the Circuit Court docket on June 2, 2026, just two days before the June 4 hearing. On August 13, 2026, Appellant explicitly informed Judge Culbertson on the record that the trial summons had been returned undelivered and that the Magistrate Court had concealed the returned envelope for nearly a month before transferring the file. Despite this direct notice, the Circuit Court denied Appellant's motion to reconsider.

3. On April 24, 2026, Appellant timely filed a Notice of Appeal to the Court of Common Pleas and lodged a Tenant's Undertaking pursuant to S.C. Code Ann. § 27-40-800(b), (c), agreeing to pay $600.00 per month during the pendency of the appeal. By operation of clear statutory law, this filing triggered an automatic, **mandatory stay of execution of the Magistrate judgment.**

4. On April 27, 2026, Deputy Blakley of the Georgetown County Sheriff's Office hand-altered the writ of ejectment, crossing out "1692" South Morgan Avenue and writing "1746" — a different parcel entirely. **This alteration was captured on video.**

5. On April 28, 2026, four days after the appeal was filed, the Clerk of Court for Georgetown County administratively marked the appeal as "denied" based solely on a letter from Magistrate John A. Love — the trial magistrate whose own judgment was on appeal. No circuit court judge reviewed the appeal, the undertaking, or the legal sufficiency of the bond. **No judicial order was entered.**

6. On April 29, 2026, Georgetown County Sheriff's deputies executed the writ of ejectment at 1746 South Morgan Avenue — a parcel over which the Magistrate Court never had jurisdiction. Appellant was given no twenty-four-hour notice to vacate, as required by S.C. Code Ann. § 27-

37-160. Appellant's two motorhomes and all personal property contained therein — valued at approximately $500,000.00 — **were seized without lawful authority.**

Two commercial tow trucks were pre-staged at the property. The motorhomes were not set on the public right-of-way, as required by standard eviction procedure; they were impounded by a commercial towing company. **The eviction occurred while the statutory stay was in full force and while no lawful court order existed to dismiss the appeal.**

7. On June 4, 2026, Circuit Court Judge Benjamin H. Culbertson held a hearing on Appellant's pending motions. During the morning session, no one appeared on Respondent Adamczyk's behalf. The court addressed Appellant's preservation and discovery motions and stated that the appeal itself was "scheduled for this afternoon" at 1:30 p.m. **(Exhibit A, morning session, p. 3).**

When the afternoon session commenced, before the parties were even identified on the record, an individual addressed the Court and stated: **"Sir, I was requesting as the magistrate." (Exhibit A, Excerpt 5). This speaker was Magistrate John A. Love — the trial magistrate whose own judgment was on appeal and who had been divested of all jurisdiction upon the filing of Appellant's appeal on April 24, 2026.** Magistrate Love appeared at the appellate hearing accompanied by Lieutenant Alan Jackson and Deputy Terence Blakely of the Georgetown County Sheriff's Office — the same officers who had executed the April 29 eviction. No one from Respondent's side had appeared during the morning session; yet Magistrate Love, Lieutenant Jackson, and Deputy Blakely all arrived together for the afternoon session — the session in which the appeal was to be heard. Magistrate Love had no lawful basis to appear, speak, or participate in the Circuit Court proceeding. **His extrajudicial presence**, accompanied

by the same sheriff's officers who had carried out the April 29 eviction, further demonstrates the coordinated nature of the proceedings below.

During the hearing, Judge Culbertson admitted on the record: **"there's no circuit court order dismissing the appeal." The Clerk confirmed: "NO." (Exhibit A, Excerpt 1).** Despite this admission, Judge Culbertson dismissed Appellant's motions for "failure to post the necessary bond" — directly contradicting S.C. Code Ann. § 27-40-800(b), which provides that a written undertaking "is sufficient" to stay execution. Judge Culbertson acknowledged the undertaking was in the court file (Exhibit A, Excerpt 2). After admitting no dismissal order existed, Judge Culbertson predicted: **"Well, then if I'm wrong, the Court of Appeals will reverse me." (Exhibit A, Excerpt 4).**

8. On August 13, 2026, Judge Culbertson denied Appellant's Rule 59(e) Motion to Reconsider, which had argued that the Form 4 Judgment contradicted the court's own findings on the record and that the dismissal for "failure to post bond" violated the express language of S.C. Code Ann. § 27-40-800(b). At this hearing, Appellant explicitly informed the Court on the record that:

a. the trial summons had been returned undelivered by the USPS,

b. that the Magistrate Court had received the returned envelope on May 8, 2026,

c. that the Magistrate Court had failed to disclose this fact, and

d. that the file had been transferred to the Circuit Court on June 2, 2026 — just two days before the June 4 hearing.

Despite this direct notice, Judge Culbertson denied the motion.

When Appellant attempted to respond to the Court's reasoning, he asked, "Your Honor, may I say something?" and was summarily shut down: "No, you've already argued your case."

9. On August 13, 2026, prior to the hearing on the Motion to Reconsider, Appellant also filed a Motion for Return of Property and Declaration of Void Execution, accompanied by the certified transcript of the June 4, 2026, hearing. Because the Return of Property motion was not on the August 13 hearing docket, the Circuit Court refused to address it. The motion was not denied — it was never heard. That motion remains pending before the Circuit Court.

10. On August 14, 2026, Appellant filed a Notice of Appeal to the South Carolina Court of Appeals, appealing the Circuit Court's dismissal of his appeal and the denial of his motion to reconsider.

10a. On October 2, 2026, Respondent Adamczyk attempted to docket a "Transcript of Judgment" in an apparent effort to enroll the $7,500.00 Magistrate judgment across county lines — six months after the April 29 seizure. No Writ of Execution had been issued on or before April 29, 2026. The Transcript of Judgment docketing was a retroactive attempt to manufacture the execution authority that did not exist when the motorhomes were seized.

On the same date, Adamczyk filed an ***ex parte*** **motion for continuance** in which he explicitly requested **"support and subpoenas for officers at eviction Lt. Alan Jackson, Detective Blakley, Magistrates from county and common pleas court along with Judge Love."** These are the **same three individuals** — Magistrate Love, Lieutenant Jackson, and Deputy Blakely — who appeared together at the June 4, 2026, Circuit Court hearing (see ¶ 7, supra). Respondent's own filings thus confirm that the same actors who coordinated the April 29 seizure also appeared together at the appellate hearing, demonstrating a continuing pattern of coordinated state action.

10b. On October 14, 2026, this Honorable Court reinstated Appellant's appeal and issued a stay of enforcement of the Magistrate's judgment as to the motorhomes. Critically, in **Footnote 1** of that Order, this Court stated: *"It is not clear* ***based on this court's review of the public index and the filings before this court*** *what would entitle Respondent to Appellant's motor homes and personal property as it appears the magistrate court issued a money judgment in the amount of $7,500.00."* **(Exhibit B).** This Footnote directly signals the central issue raised in Issue VI: a $7,500.00 money judgment provides no legal entitlement to seize and retain $500,000.00 in personal property.

10c. The commercial towing company currently detaining Appellant's motorhomes has admitted in court filings that it acted "under the order of the sheriff to execute a writ of ejectment" and was "ordered by the sheriff to impound" the vehicles. By pleading that it took the motorhomes pursuant to sheriff's orders rather than through a standard commercial tow request, the towing company has admitted it acted as an **agent of the state —** not as a private party conducting a routine eviction clearance.

STANDARD OF REVIEW

11. This appeal presents a mix of questions of law and questions of judicial discretion. Each issue is governed by a specific standard of review.

12. Issues I, II, III, VI, and VII — Questions of Law (*De Novo Review*).

A. Whether a clerk of court possesses judicial authority to dismiss a perfected appeal,
B. Whether S.C. Code Ann. § 27-40-800(b) requires a bond or a written undertaking,
C. Whether a court possessed subject matter and personal jurisdiction,
D. Whether a writ of ejectment authorizes seizure of personal property, and

E. Whether a Transcript of Judgment can retroactively validate an unlawful seizure are all questions of law.

Questions of law are reviewed *de novo*, without deference to the lower court's legal conclusions. *Town of Summerville v. City of North Charleston*, 378 S.C. 107, 662 S.E.2d 40 (2008). A void judgment may be challenged at any time and in any court. *Katzburg v. Katzburg*, 410 S.C. 184, 764 S.E.2d 3 (Ct. App. 2014).

13. Issues IV and V — Abuse of Discretion. Whether the Circuit Court's Form 4 Judgment contradicted its own factual findings and whether the court erred in permitting the eviction to proceed without a lawful dismissal order are reviewed for abuse of discretion. "An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support." *State v. Hicks*, 377 S.C. 322, 327, 659 S.E.2d 499 (Ct. App. 2008). "A failure to exercise discretion amounts to an abuse of that discretion." *State v. Hawes*, 411 S.C. 188, 767 S.E.2d 707 (2015).

ARGUMENT

I. THE CIRCUIT COURT ERRED AS A MATTER OF LAW BY UPHOLDING AN *ULTRA VIRES* ADMINISTRATIVE DISMISSAL OF APPELLANT'S PERFECTED APPEAL, WHERE THE DISMISSAL WAS ENTERED BY A CLERK OF COURT WITHOUT JUDICIAL REVIEW.

A. Standard of Review

14. The authority of a clerk of court to dismiss a pending action presents a question of law. In South Carolina, an appellate court reviews questions of law *de novo*, without deference to the

trial court's legal conclusions. *Town of Summerville v. City of North Charleston*, 378 S.C. 107, 662 S.E.2d 40 (2008).

B. A Clerk of Court Lacks Judicial Authority to Dismiss an Appeal

15. Under South Carolina law, the duties of a clerk of court are strictly ministerial, not judicial. The South Carolina Supreme Court has consistently held that a clerk of court has no authority to adjudicate the merits of a filing, determine its legal sufficiency, or unilaterally dismiss a perfected action.

16. In *Miller v. State*, 377 S.C. 99, 659 S.E.2d 492 (2008), the Supreme Court emphatically stated that "it is not within the Clerk of Court's authority to refuse to perform her duty based on her opinion that a filing lacks legal merit or is untimely." Similarly, in *Thompson v. State*, 325 S.C. 58, 479 S.E.2d 808 (1997), the Court reaffirmed that a clerk cannot refuse to accept a filing based on their own interpretation of legal requirements when the law mandates acceptance — **the clerk's role is ministerial, not adjudicative.**

17. This principle was directly applied in *Innovative Waste Management, Inc. v. Crest Energy Partners GP, LLC*, 815 S.E.2d 780 (S.C. Ct. App. 2018), aff'd as modified, 425 S.C. 568, 824 S.E.2d 214 (2019), **where the Court of Appeals held that a Form 4 dismissal signed by a clerk of court — without notice, hearing, or judicial authorization — was "void, and is, in legal effect, nothing."**

The court explained: "The tasks of the clerk of court are ministerial, always subject to judicial control and the rules of court… The record discloses no action of the court authorizing the Form 4 dismissal… It is therefore void." The Supreme Court affirmed: "We agree the Form 4 order of

dismissal signed by the clerk of court was void, the circuit court erred by not restoring the case to the roster, and **the court of appeals correctly vacated the order.**"

18. The dismissal of an appeal is a judicial act that requires the review and signature of a commissioned judge. When a clerk performs a judicial act, that act is *ultra vires* (beyond their legal power) and is void as a matter of law.

C. The Record Confirms the Appeal Was Dismissed Administratively Without a Judge

19. In this case, the record is uncontroverted that Appellant's timely appeal was destroyed by a ministerial clerk, not a judge.

20. On April 24, 2026, Appellant timely filed his Notice of Appeal to the Court of Common Pleas, accompanied by a Tenant's Undertaking pursuant to S.C. Code Ann. § 27-40-800(b). Four days later, on April 28, 2026, the Clerk of Court marked the appeal as "denied" based solely upon an *ex parte* letter received from Magistrate John A. Love **— the very judge whose judgment was being appealed.**

21. No circuit court judge reviewed the appeal. No circuit court judge evaluated the legal sufficiency of the Tenant's Undertaking. No circuit court judge issued an order of dismissal.

22. This total absence of judicial review was expressly admitted on the record by the Circuit Court itself. During the June 4, 2026, hearing, Judge Culbertson engaged in the following exchange, preserved in the certified transcript (**Exhibit A**):

THE COURT: Okay, well, let me check one thing first. Okay, now, has this appeal already been — I mean, is there an order of dismissal? That's what I'm looking for.

CLERK: It's a letter.

THE COURT: Well, that's a letter from the magistrate. Okay. **But there's no circuit court order dismissing the appeal.**

CLERK: NO.

D. The Circuit Court Erred by Adopting a Legal Nullity

23. Despite explicitly acknowledging on the record that "there's no circuit court order dismissing the appeal," Judge Culbertson inexplicably adopted the clerk's administrative dismissal as if it were a valid judicial decree. The Circuit Court subsequently issued a Form 4 Judgment closing the case on the basis that the appeal had already been dismissed.

24. The Circuit Court's ruling defies foundational jurisprudence. Because the clerk of court completely lacked the subject matter jurisdiction and judicial authority to dismiss Appellant's case on April 28, 2026, that dismissal was a legal nullity. As the Supreme Court affirmed in *Innovative Waste Management*, a clerk's dismissal without judicial authorization "is void, and is, in legal effect, nothing." 425 S.C. 568, 824 S.E.2d 214 (2019). **A legal nullity cannot be retroactively validated by a Circuit Court refusing to correct it on the record.**

24a. The impropriety of the administrative dismissal is compounded by Magistrate Love's direct interference in the appellate process. Not only did Magistrate Love send an *ex parte* letter to the Clerk of Court demanding $7,500.00 in cash — a demand that exceeded his authority and violated S.C. Code Ann. § 27-40-800(b) — but Magistrate Love also physically appeared at the June 4, 2026, Circuit Court hearing, accompanied by Lieutenant Alan Jackson and Deputy Terence Blakely of the Georgetown County Sheriff's Office. **(Exhibit A, Excerpt 5).**

No one appeared on Respondent Adamczyk's behalf during the morning session; yet Magistrate Love, Lieutenant Jackson, and Deputy Blakely all arrived together for the afternoon session — the session in which the appeal was to be heard. At the outset of the hearing, before the parties were even identified on the record, Magistrate Love addressed the Court, stating: **"Sir, I was requesting as the magistrate."** Magistrate Love — whose own judgment was on appeal and who had been **divested of all jurisdiction** upon the filing of the appeal on April 24, 2026 — had no lawful basis to appear, speak, or participate in the Circuit Court proceeding. His **extrajudicial interference,** coupled with the physical presence of the same sheriff's officers who had executed the April 29 eviction, demonstrates a coordinated effort to influence the appellate outcome and further renders the proceedings below fundamentally unfair.

25. Consequently, Appellant's appeal remained active and pending on April 29, 2026, the date the eviction was forcefully executed. The Circuit Court committed reversible error by ratifying an *ultra vires* administrative dismissal rather than recognizing the appeal as active and proceeding to a *de novo* review of the Magistrate's judgment.

II. THE CIRCUIT COURT ERRED BY DISMISSING THE APPEAL FOR "FAILURE TO POST BOND," DIRECTLY CONTRAVENING S.C. CODE ANN. § 27-40-800, WHICH EXPRESSLY PROVIDES THAT A TENANT'S WRITTEN UNDERTAKING "IS SUFFICIENT" TO STAY EXECUTION.

A. Standard of Review

26. The interpretation and application of a statute is a question of law. Appellate courts review questions of law *de novo*, without any deference to the circuit court's statutory interpretation. *Town of Summerville v. City of North Charleston*, 378 S.C. 107, 662 S.E.2d 40 (2008).

B. The Plain Language of S.C. Code Ann. § 27-40-800

27. The South Carolina Residential Landlord and Tenant Act (SCRLTA) governs the appellate procedures and stay requirements for residential evictions. Under S.C. Code Ann. § 27-40-800(b), a tenant perfects an appeal and stays the execution of an eviction judgment by executing a written undertaking.

28. The statute dictates that to stay the execution of a judgment for possession; the tenant must sign an undertaking promising to pay the landlord all rent as it becomes periodically due. S.C. Code Ann. § 27-40-800(c) explicitly states: ***The undertaking shall be sufficient to stay the execution of the judgment for possession.***

29. The South Carolina legislature purposely designed this mechanism so that indigent tenants are not deprived of their appellate rights by exorbitant, lump-sum cash bond demands. The statute requires only the promise of ongoing, periodic rental payments; it does not authorize a magistrate or a circuit court to demand a cash bond equal to the total judgment amount as a prerequisite for an appeal.

C. Appellant Filed the Statutory Undertaking on April 24, 2026

30. Appellant filed his Notice of Appeal and lodged the Tenant's Undertaking on April 24, 2026, agreeing to pay $600.00 per month during the pendency of the appeal. The undertaking was in the court file. During the June 4, 2026, hearing, the following exchange occurred **(Exhibit A, Excerpt 2):**

THE COURT: It's in this file?

MR. KODAIMATI: Yes, it's in the file. Basically, it's a promise to pay to make the future payments.

D. The Circuit Court Impermissibly Substituted a Cash Bond for the Statutory Undertaking

31. Despite Appellant's strict compliance with § 27-40-800(b), Magistrate John A. Love demanded a $7,500.00 cash bond — two and a half times the amount pleaded in the original complaint — to maintain the appeal. **Rather than correcting the Magistrate's *ultra vires* demand, the Circuit Court adopted it.** In the June 4, 2026, Form 4 Judgment, Judge Culbertson formally dismissed Appellant's motions "due to the dismissal of the appeal for failure to post the necessary bond."

E. The Circuit Court's Dismissal Constitutes Reversible Error

32. A court cannot impose procedural barriers to an appeal that directly contravene the plain language of the governing statute. The Circuit Court's ruling that Appellant "failed to post the necessary bond" ignores the fact that South Carolina law does not require a cash bond to stay an eviction; it requires a written undertaking, which Appellant timely filed.

33. The statute uses the word "sufficient" — not "necessary" or "preliminary." The statute mandates that upon the filing of a written undertaking, a stay of execution "shall" be ordered. **The statute vests no discretion in the court to demand a bond in addition to the undertaking.** The Circuit Court imposed a requirement that the Legislature did not enact. Where a statute's language is clear and unambiguous, the court must apply it as written.

34. Furthermore, under South Carolina appellate jurisprudence, the failure to post an appeal bond or undertaking primarily affects whether an ejectment is *stayed*; it does not deprive the Circuit Court of subject matter jurisdiction to hear the underlying merits of the appeal. By dismissing the appeal outright for "failure to post the necessary bond," the Circuit Court committed a dual error of law:

> **A.** It incorrectly applied a non-statutory cash bond requirement to a residential eviction appeal, and
>
> **B.** It unlawfully deprived Appellant of his right to a *de novo* review of the Magistrate's judgment.

F. The Statutory Stay Was in Full Force When the Eviction Occurred

35. Because Appellant filed the undertaking on April 24, 2026, and because the undertaking "is sufficient" to stay execution, the statutory stay was in full force from April 24, 2026, forward. See also Rule 241(a), SCACR (service of notice of appeal acts as automatic stay unless lifted by court order). S.C. Code Ann. § 18-7-10 confirms that "no executions shall issue" during the pendency of an appeal. The eviction on April 29, 2026, occurred while this statutory stay was active.

No lawful court order existed to dismiss the appeal — Judge Culbertson admitted this on the record. The Circuit Court's erroneous interpretation of § 27-40-800(b) directly caused the unlawful eviction and seizure of Appellant's property.

III. THE CIRCUIT COURT ERRED IN REFUSING TO VACATE THE UNDERLYING MAGISTRATE JUDGMENT AS VOID AB INITIO, WHERE THE MAGISTRATE COURT LACKED SUBJECT MATTER AND PERSONAL JURISDICTION DUE TO STATUTORY NONCOMPLIANCE AND A TOTAL FAILURE OF DUE PROCESS.

A. Standard of Review

36. Whether a court possesses subject matter or personal jurisdiction, and whether a resulting judgment is void *ab initio*, are pure questions of law reviewed *de novo* without deference to the court below. **Subject matter jurisdiction is fundamental**; it cannot be waived, conferred by consent, or established by administrative oversight, and it may be raised at any time, including for the first time on appeal. *Katzburg v. Katzburg*, 410 S.C. 184, 764 S.E.2d 3 (Ct. App. 2014).

B. A Void Judgment May Be Vacated at Any Time

37. A judgment entered by a court lacking jurisdiction is void *ab initio*. In *Katzburg v. Katzburg*, 410 S.C. 184, 764 S.E.2d 3 (Ct. App. 2014), the Court held: "A judgment of a court without subject matter jurisdiction is void and constitutes grounds for the court to vacate the judgment under Rule 60(b)(4), SCRCP… **A void judgment is one that, from its inception, is a complete nullity and is without legal effect."**

38. In *Financial Federal Credit Inc. v. Brown*, 384 S.C. 555, 683 S.E.2d 486 (2009), the Supreme Court held: **"A judgment is void if a court acts without personal jurisdiction."** In *Leviner v. Sonoco Products Co.*, 339 S.C. 492, 530 S.E.2d 127 (2000), the Supreme Court confirmed that an order issued without jurisdiction "was a nullity" and without legal effect. The Circuit Court had the authority and duty to vacate the Magistrate's void judgment. It refused. That refusal was error.

C. Failure to Provide Statutory Notice Defeats Subject Matter Jurisdiction

39. South Carolina's eviction and ejectment framework strictly limits the jurisdiction of magistrate courts to matters where statutory conditions precedent have been fully satisfied. See S.C. Code Ann. § 22-3-20 (magistrate jurisdiction):

40. Mandatory Five-Day Notice to Cure. S.C. Code Ann. § 27-40-710(B) provides that a landlord may terminate a rental agreement for nonpayment only if written notice of nonpayment is provided and the tenant fails to pay within five days. The record contains no written five-day notice served upon Appellant prior to the filing of the eviction action. Compliance with statutory notice requirements is a mandatory jurisdictional prerequisite to the commencement of an eviction proceeding. *Bowers v. Thomas*, 373 S.C. 240, 644 S.E.2d 751 (Ct. App. 2007).

41. Defective Service of the Ten-Day Rule to Show Cause. Under S.C. Code Ann. § 27-37-20, upon receiving an application for ejectment, the magistrate is statutorily required to issue a written rule requiring the tenant to show cause within ten days why the tenant should not be dispossessed. While a Rule to Show Cause was issued, it was defectively served — not by personal service upon Appellant, but by posting it on the door of Appellant's motorhome at a location other than the premises at 1692 South Morgan Avenue that were the subject of the eviction proceeding. Respondent's own information sheet contained handwritten instructions directing the process server to go "past main driveway" to find "2 RV/Bus parked on lot on right side." In *BB&T v. Taylor*, 369 S.C. 548, 633 S.E.2d 501 (2006), the South Carolina Supreme Court held that posting documents on a door without personal contact or refusal by the occupant constitutes **insufficient service.**

The Court stated: "Petitioner was not properly served under these facts because [the process server] never saw or spoke to anyone who resided in Petitioner's residence nor did anyone refuse

acceptance before [the server] attached the summons and complaint to Petitioner's front door." Similarly, in *Newberry County Water & Sewer Authority v. Welco Construction & Utilities Co.*, 275 S.C. 1, 266 S.E.2d 875 (1980), the Supreme Court held that strict compliance with statutory service requirements is mandatory to confer jurisdiction: "The summons is the paper which gives jurisdiction to the court over the person of the party brought in; and where the law has provided a special mode or character of said summons, either as to service, form, or otherwise, involuntary jurisdiction cannot be acquired without a compliance with said law." Service by posting at a location other than the subject premises, without personal service upon the tenant, was defective and did not confer personal jurisdiction over Appellant.

D. Proceeding In Absentia Against an Appearing Party Who Demanded a Jury Trial, Without Notice of the Trial Date, Violated Fundamental Due Process and Rendered the Judgment Void

42. A court violates fundamental procedural due process under Article I, Section 22 of the South Carolina Constitution and the Fourteenth Amendment to the United States Constitution when it conducts a trial *in absentia* against a party who has formally appeared and demanded a jury trial, without providing proper notice of the trial proceeding. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

43. Appellant formally appeared in the Magistrate Court, submitted a written Answer denying liability, asserted a $7,500.00 Counterclaim, and demanded a trial by jury. Once an answer and jury demand are filed, **a litigant is constitutionally entitled to notice of the trial date.**

The record unequivocally proves this notice was never achieved. The Magistrate Court mailed the trial notice to 1692 South Morgan Avenue — an address controlled by Respondent, not

Appellant. The United States Postal Service could not deliver the envelope because "Mohamad Kodaimati" was not known at that address. The USPS stamped the returned envelope **"Return to Sender — Attempted — Not Known" on April 27, 2026,** and the Magistrate Court formally docketed it into its official case file on May 8, 2026.

44. On April 13, 2026, before the envelope was returned, the Magistrate conducted a jury trial in Appellant's complete absence. The April 13 proceeding was a jury trial at which Respondent was permitted to amend his complaint from $3,000.00 to $7,500.00 without notice to Appellant. Notably, the Magistrate Court's own Order of Disposition checked the box for "Default Judgment" — despite having conducted a jury trial. This internal contradiction between the court's official paperwork (labeling it a "default judgment") and the actual proceeding (a jury trial conducted in absentia) further demonstrates the court's fundamental confusion regarding Appellant's procedural rights and status as an appearing party.

When the returned envelope was docketed into the Magistrate Court's file on May 8, 2026, the **Magistrate Court possessed irrefutable physical proof that Appellant had never received notice of the trial date. Rather than vacating the void judgment, the Magistrate Court failed to act,** did not notify Appellant, and transferred the file — including the returned envelope — to the Circuit Court docket on June 2, 2026, just two days before the June 4 hearing.

On August 13, 2026, Appellant explicitly informed Judge Culbertson on the record that the trial summons had been returned undelivered and that the Magistrate Court had failed to disclose this fact. Despite being directly informed of the non-service and possessing the returned envelope in the court's own file, the Circuit Court denied Appellant's motion to reconsider. Sustaining a judgment when the court's own file confirms the defendant was not notified of the proceeding —

and refusing to vacate after being explicitly informed of the non-service — **constitutes a structural denial of fundamental due process, rendering the resulting judgment void *ab initio*.** *Roche v. Young Bros., Inc.*, 318 S.C. 207, 456 S.E.2d 897 (1995).

E. The Judgment Impermissibly Exceeded the Complaint Demand

45. Even assuming *arguendo* that the Magistrate Court possessed jurisdiction, the judgment is legally void because it violates the strict limits of Rule 54(c) of the South Carolina Rules of Civil Procedure (SCRCP). Rule 54(c), SCRCP expressly provides: **"A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment."** The Magistrate Court's own Order of Disposition checked the box for "Default Judgment," and the Writ of Ejectment paperwork likewise bore the notation "Default Judgement." The court's own official paperwork characterized the April 14 judgment as a default judgment. Notably, the Court of Appeals itself referred to the Magistrate Court's judgment as a 'default judgment' in its October 14, 2026, Order. **(Exhibit B).** Because both the Magistrate Court's official paperwork and the appellate court's own order characterized the judgment as a default judgment, **the strict limitations of Rule 54(c) directly apply.**

46. Respondent's original eviction complaint pleaded a monetary demand of $3,000.00. At the April 13 trial, conducted in Appellant's absence, Respondent was permitted to amend his complaint to $7,500.00 — two and a half times the original amount — and the jury rendered a verdict for that amount. In *Goodson v. American Bankers Insurance Co. of Florida*, 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988), the Court confirmed that under Rule 54(c), recovery "could not have exceeded the amount stated in his complaint." Permitting an amendment of the complaint and entering judgment for an amount far in excess of the original prayer for relief, in

the absence of the defendant and without notice, **is an act beyond the tribunal's authority**, rendering the resulting judgment void.

F. The Judgment Was Entered In Absentia Against an Appearing Party Without Notice of the Trial Date

47. Despite having formally appeared, filed an Answer, asserted a Counterclaim, and demanded a jury trial, Appellant was given no notice of the April 13, 2026, trial date. The Magistrate conducted a jury trial in Appellant's complete absence, and the Circuit Court refused to vacate the judgment even after the returned, undelivered trial summons was docketed into the court's file on May 8, 2026, and even after Appellant explicitly informed the court of the non-service on August 13, 2026.

In *Johnson v. Tamsberg*, 430 F.2d 1125 (4th Cir. 1970), the Fourth Circuit held that South Carolina's statutory eviction framework satisfies constitutional due process only when the tenant is actually afforded a meaningful judicial hearing with adequate notice. Conducting a trial *in absentia* against an appearing tenant who actively demanded a jury trial, and sustaining that judgment after the court obtained physical proof of non-service and after being explicitly informed of the non-service, ***violates both*** *S.C. Const. art. I, § 22 and U.S. Const. amend. XIV.*

G. The Eviction Was Executed at the Wrong Address

48. The complaint, the summons, the trial, and the judgment all concerned 1692 South Morgan Avenue. On April 27, 2026, Deputy Blakley hand-altered the writ of ejectment, crossing out "1692" and writing "1746" — a different parcel entirely. The eviction was executed at 1746 South Morgan Avenue, **a property over which the Magistrate Court never had jurisdiction**.

Law enforcement has no authority to alter a judicial writ by hand in the field. The eviction at 1746 was executed without lawful authority and is void.

H. The Eviction Was Executed Without 24-Hour Notice

49. S.C. Code Ann. § 27-37-160 expressly requires**: "In executing a writ of ejectment, the constable or deputy sheriff shall proceed to the premises, present to the occupants a copy of the writ and give the occupants twenty-four hours to vacate voluntarily."** Appellant was given no 24-hour notice and was forcefully removed on the spot. This violation renders the execution of the writ unlawful.

I. The Circuit Court Had a Duty to Vacate the Void Judgment

50. The Circuit Court was presented with a **Magistrate judgment that was void on at least eight independent grounds:**

(a) no five-day notice to cure;

(b) defective service of the ten-day rule to show cause;

(c) denial of notice of the trial date — with the returned, undelivered summons docketed in the court's file on May 8, 2026;

(d) jury trial conducted *in absentia* against an appearing party who had filed an Answer, Counterclaim, and jury demand;

(e) judgment exceeding the complaint demand;

(f) eviction at the wrong address;

(g) forgery of the writ; and

(h) no 24-hour notice before forced eviction.

The Circuit Court had the authority and duty to vacate this void judgment under Rule 60(b)(4), SCRCP. Its refusal to do so — even after being explicitly informed of the non-service on August 13, 2026 — was error.

IV. THE CIRCUIT COURT ABUSED ITS DISCRETION BY ISSUING A WRITTEN FORM 4 JUDGMENT THAT DIRECTLY CONTRADICTED ITS OWN FACTUAL FINDINGS ON THE RECORD, AND BY DENYING APPELLANT DUE PROCESS UPON RECONSIDERATION.

A. Standard of Review

51. The Circuit Court's issuance of the Form 4 Judgment and its denial of the Rule 59(e) motion to reconsider are reviewed for abuse of discretion. An abuse of discretion occurs when a ruling is based on an error of law or is without evidentiary support. *Historic Charleston Found. v. Krawcheck*, 313 S.C. 500, 443 S.E.2d 401 (Ct. App. 1994); *State v. Hicks*, 377 S.C. 322, 659 S.E.2d 499 (Ct. App. 2008). A failure to exercise discretion also constitutes an abuse of discretion. *State v. Hawes*, 411 S.C. 188, 767 S.E.2d 707 (2015).

B. The Written Form 4 Judgment Materially Contradicted the Court's Oral Findings

52. A foundational principle of due process requires that a court's written judgment be supported by, and consistent with, the factual and legal findings established on the record.

53. During the June 4, 2026, hearing, the Circuit Court made a direct factual inquiry regarding the procedural status of Appellant's appeal. As preserved in the certified transcript (Exhibit A), Judge Culbertson explicitly asked the clerk if an order of dismissal existed, and then stated:

***"Okay. But there's no circuit court order dismissing the appeal,"* to which the Clerk responded, "NO."** *(June 4 Tr., R. p. 4, ll. 19-21).*

54. Despite this definitive, on-the-record judicial admission that no lawful dismissal existed, the Circuit Court issued a written Form 4 Judgment that same afternoon stating: *"All of the appellant's motions pending in this appeal from an eviction issued by the magistrate are DISMISSED due to the dismissal of this appeal…"*

55. The Circuit Court cannot legally predicate a written judgment upon a factual premise — the supposed prior dismissal of the appeal — that the Court itself explicitly rejected as non-existent just hours earlier on the record. This severe contradiction renders the June 4, 2026, Form 4 Judgment arbitrary, capricious, and unsupported by the evidentiary record, constituting a clear abuse of discretion.

C. The Circuit Court Acknowledged Its Own Error but Abdicated Its Duty

56. Further compounding this abuse of discretion, the Circuit Court recognized the precarious legal foundation of its ruling before issuing it. After Appellant correctly cited the controlling statute for a Tenant's Undertaking on the record, the Court stated: ***"Well, then if I'm wrong, the Court of Appeals will reverse me."*** (June 4 Tr., R. p. 14, l. 25 – p. 15, l. 1).

57. A trial court has an affirmative duty to apply the law correctly; it cannot willfully issue a legally flawed ruling and shift the burden of correction entirely to the appellate courts. **Such judicial abdication prejudices the litigant —** who in this case suffered the loss of a $500,000.00 home as a direct result.

58. By dismissing all of Appellant's substantive motions on a procedural ground that the court itself had orally abandoned — **without reaching the merits of any of the four substantive motions** — the Circuit Court failed to exercise the discretion vested in it. Under *Hawes*, **"a failure to exercise discretion amounts to an abuse of that discretion."**

D. Denial of Due Process on Reconsideration

59. The primary purpose of a motion under Rule 59(e), SCRCP, is to afford the trial court an opportunity to correct its own manifest errors of law or fact prior to an appeal.

60. Appellant timely filed a Motion to Reconsider on June 5, 2026, raising the stark contradictions between the Court's oral admissions and the written Form 4 Judgment. At the August 13, 2026, hearing on the motion, rather than reconciling the conflicting record, the Circuit Court summarily denied the motion and upheld the erroneous bond condition.

61. Moreover, when Appellant attempted to respond to the Court's reasoning, he asked, *"Your Honor, may I say something?"* and was summarily shut down by the Court stating, *"You already argued your case. Thank you."* (August 13 Tr., R. p. 17, l. 25 – p. 18, l. 3). The refusal to allow a litigant to be heard on the specific factual contradictions newly introduced by the Court's written order constitutes **a deprivation of the fundamental right to be heard.**

62. By refusing to correct a patently contradictory record, adhering to an error of law regarding the statutory undertaking, and silencing Appellant on reconsideration, **the Circuit Court abused its discretion and denied Appellant procedural due process.**

V. THE CIRCUIT COURT ERRED BY PERMITTING THE EVICTION TO PROCEED WHILE NO LAWFUL ORDER DISMISSING THE APPEAL EXISTED.

A. Standard of Review

63. Whether the Circuit Court erred in failing to recognize that the eviction was executed while the appeal was pending as a matter of law is reviewed *de novo*. To the extent this issue implicates the Circuit Court's discretionary rulings, it is also reviewed for abuse of discretion. *State v. Hicks*, 377 S.C. 322, 659 S.E.2d 499 (Ct. App. 2008); *State v. Hawes*, 411 S.C. 188, 767 S.E.2d 707 (2015).

B. The Eviction Preceded the Form 4 Judgment by Thirty-Six Days

64. The eviction was executed on April 29, 2026. The Form 4 Judgment — the first written order purporting to dismiss Appellant's motions and affirm the appeal dismissal — was not entered until June 4, 2026. **The eviction preceded the Form 4 Judgment by thirty-six days.**

65. During those thirty-six days, there was no lawful court order dismissing Appellant's appeal. The Clerk's administrative marking of the docket on April 28, 2026, was not a judicial order — the Circuit Court itself admitted this on June 4: **"there's no circuit court order dismissing the appeal."** (Exhibit A, Excerpt 1).

C. The Statutory Stay Was in Full Force on April 29, 2026

66. Because no lawful judicial order existed to dismiss the appeal, the appeal remained pending as a matter of law. Because the appeal was pending, the statutory stay under S.C. Code Ann. § 18-7-10 remained in full force: "**no executions shall issue**" during the pendency of an appeal.

Because the undertaking had been filed on April 24, 2026 — and the undertaking "**is sufficient**" under S.C. Code Ann. § 27-40-800(b) — the statutory stay was active and enforceable. See also Rule 241(a), SCACR (automatic stay continues for duration of appeal unless lifted by order).

D. The Eviction Was Executed Without Lawful Authority

67. The eviction on April 29, 2026, was executed:

(a) While the appeal was pending;

(b) While the statutory stay was in full force;

(c) While no judicial order existed to dismiss the appeal;

(d) At the wrong address (1746, not 1692);

(e) Based on a hand-altered writ; and

(f) Without the mandatory 24-hour notice.

68. The Circuit Court permitted this eviction to stand — an eviction that was executed while the appeal was undeniably pending and while the statutory stay was undeniably in force. The court's failure to recognize and remedy this fundamental temporal error — the eviction preceding any lawful dismissal by thirty-six days — constitutes reversible error.

E. The Chronological Impossibility Confirms the Dismissal Was Void

69. If no circuit court order existed to dismiss the appeal on April 29, 2026 — as Judge Culbertson admitted on June 4 — then the eviction was executed while the appeal was pending.

If the appeal was pending, the statutory stay was in force. If the statutory stay was in force, the eviction was unlawful. This chronological impossibility — the eviction preceding any lawful dismissal — confirms that the Clerk's administrative dismissal was void and that the eviction was executed without lawful authority.

F. Restitution Is Part of the Judgment When Proceedings Are Void

69a. When a party is put out of possession by process of law and the proceedings are adjudged void, an order for the return of the property is not discretionary — it is part of the judgment itself. In *Perry v. Tupper*, 70 N.C. 537 (1874), the court held: **"Whenever a party is put out of possession by process of law, and the proceedings are adjudged void, an order for a writ of restitution is a part of the judgment."** The court explained that because the proceeding "was void *ab initio*, for the want of jurisdiction," the plaintiffs obtained possession "by an abuse of the process of the law," and "the only mode to prevent such abuses of judicial process is to put the parties in *statu quo*." The court reversed the lower court's refusal to order restitution, holding that the error was "too palpable to admit of discussion."

69b. The same principle applies here. The April 29 eviction was void *ab initio* because it was executed during an active statutory stay while no lawful order dismissing the appeal existed. Appellant was "put out of possession by process of law" — a writ of ejectment — and those proceedings have now been shown to be void. Under *Perry*, restitution (the return of Appellant's motorhomes and personal property) is not a separate remedy that Appellant must pursue in a different forum; it is part of the judgment reversing the void proceedings. This Court should **reverse the Circuit Court's dismissal and declare that the seizure of Appellant's property was void, with restitution to follow as part of the judgment.**

VI. THE APRIL 29 SEIZURE WAS NOT A LAWFUL EVICTION BUT AN UNAUTHORIZED EXECUTION ON PERSONAL PROPERTY — A WRIT OF EJECTMENT GRANTS POSSESSION OF REAL ESTATE ONLY AND PROVIDES NO LEGAL AUTHORITY TO SEIZE, IMPOUND, OR RETAIN PERSONAL PROPERTY

A. Standard of Review

70. Whether a writ of ejectment authorizes the seizure of personal property is a question of statutory interpretation reviewed *de novo*. *Town of Summerville v. City of North Charleston*, 378 S.C. 107, 662 S.E.2d 40 (2008). Whether the April 29 seizure constituted an unauthorized levy on personal property is also a question of law reviewed *de novo*.

B. A Writ of Ejectment Grants Possession of Real Estate Only

71. Under South Carolina law, a writ of ejectment and a writ of execution are two completely different legal processes with entirely different scopes:

72. (a) **Writ of Ejectment (Eviction).** S.C. Code Ann. § 27-37-160 governs the execution of a writ of ejectment. The statute provides: "In executing a writ of ejectment, the constable or deputy sheriff shall proceed to the premises, present to the occupants a copy of the writ and give the occupants twenty-four hours to vacate voluntarily." The writ grants the landlord possession of the **real estate** — the land and the premises. It does **not** transfer ownership, title, or a possessory lien over personal property to the landlord or to a commercial tow operator.

73. (b) **Writ of Execution (Collecting a Money Judgment).** To collect a $7,500.00 money judgment by seizing personal property, a creditor must obtain a formal Writ of Execution. S.C. Code Ann. § 15-39-100 provides: "Executions shall not bind the personal property of the debtor,

but personal property shall only be bound by actual attachment or levy thereon." Under *McManus v. Bank of Greenwood*, 171 S.C. 84, 171 S.E. 473 (1933), the sheriff must "reduce personalty of the judgment debtor to actual possession, or bring it within his immediate control, in order to accomplish levy of execution." No such Writ of Execution was ever issued in this case.

C. The April 29 Seizure Was a Pre-Planned Asset Seizure, Not an Eviction

74. The record establishes that the April 29 operation was not a standard eviction but a pre-planned asset seizure. Two commercial tow trucks were arrived at the property as the deputies arrived. No 24-hour notice was given — as required by § 27-37-160 — because Respondent knew that **if Appellant were given 24 hours to vacate, the motorhomes would have been driven away, removing the collateral Respondent intended to seize.**

75. Standard eviction procedure requires moving personal property off the premises to clear the real estate — typically to the public right-of-way. It does **not** permit immediate impoundment and ransom by a commercial tow operator. The motorhomes were not set on the public right-of-way; they were seized, towed, and impounded by a commercial towing company that has held them for six months and continues to demand payment for their return.

D. The $7,500.00 Money Judgment Provided No Authority to Seize $500,000.00 in Personal Property

76. The Magistrate Court issued a money judgment of $7,500.00 — not a judgment for the delivery of specific personal property. A money judgment entitles the judgment creditor to execute on the debtor's assets through the statutory execution process (enrollment of judgment, issuance of Writ of Execution, levy, and public auction). It does **not** entitle the creditor to show

up with tow trucks and sheriff's deputies and seize specific items of personal property worth $500,000.00 to satisfy a $7,500.00 debt.

77. This is precisely what this Court recognized in **Footnote 1** of its October 14, 2026, Order (Exhibit B): *"It is not clear* ***based on this court's review of the public index and the filings before this court*** *what would entitle Respondent to Appellant's motor homes and personal property as it appears the magistrate court issued a money judgment in the amount of $7,500.00."* This Court has already signaled the exact legal deficiency that Appellant now argues: a $7,500.00 money judgment provides no legal entitlement to seize and retain personal motorhomes.

E. The Seizure Constitutes Wrongful Execution and Abuse of Process

78. By using a writ of ejectment — a process designed solely to restore possession of real estate — as a vehicle to permanently seize $500,000.00 in personal property, Respondent perpetrated an abuse of process. Under South Carolina law, "[t]he essential elements of abuse of process are **(1)** an ulterior purpose, and **(2)** a willful act in the use of the process that is not proper in the regular conduct of the proceeding." *Pallares v. Seinar*, 407 S.C. 359, 756 S.E.2d 128 (2014). Respondent's ulterior purpose was to seize Appellant's motorhomes as collateral; the willful act was using a writ of ejectment to accomplish that seizure instead of obtaining the required Writ of Execution.

F. The Seizure Constituted State Action Under *Lugar*

79. The commercial towing company that seized and continues to hold Appellant's motorhomes has admitted in court filings that it acted **"under the order of the sheriff to execute a writ of**

ejectment" and was **"ordered by the sheriff to impound"** the vehicles. Under *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982), a private party who jointly participates with state officials to effectuate an **unconstitutional property seizure act under color of state law.** By pleading that it acted pursuant to sheriff's orders, the towing company has admitted it acted as an **agent of the state —** not as a private party conducting a routine commercial tow.

80. Furthermore, Respondent Adamczyk's October 2, 2026**, *ex parte* continuance motion** explicitly requested **"support and subpoenas for officers at eviction Lt. Alan Jackson, Detective Blakely, Magistrates from county and common pleas court along with Judge Love" —** providing written proof that the April 29 seizure was a coordinated operation involving multiple state actors.

81. The seizure of Appellant's property without a Writ of Execution and without due process violates the Fourth Amendment's prohibition against unreasonable seizures and the Fourteenth Amendment's guarantee of due process. Appellant reserves these federal constitutional claims for separate federal adjudication. *Allen v. McCurry*, 449 U.S. 90 (1980).

G. The Seizure Was Unauthorized Under *Price v. Pickens County*

82. Even assuming *arguendo* that state actors were entitled to some form of immunity for executing court orders, such immunity applies only to the "lawful implementation of any process." *Price v. Pickens County*, 308 S.C. 64, 416 S.E.2d 666 (Ct. App. 1992). The April 29 seizure was not a lawful implementation of an ejectment writ — it was an unauthorized levy on personal property under the guise of an eviction. Because the process was not lawfully implemented, no immunity attaches.

VII. THE OCTOBER 2, 2026, ATTEMPTED DOCKETING OF A TRANSCRIPT OF JUDGMENT WAS A RETROACTIVE ATTEMPT TO MANUFACTURE EXECUTION AUTHORITY THAT DID NOT EXIST ON APRIL 29, 2026.

A. Standard of Review

83. Whether a Transcript of Judgment can retroactively validate an unlawful seizure is a question of law reviewed *de novo*. *Town of Summerville v. City of North Charleston*, 378 S.C. 107, 662 S.E.2d 40 (2008).

B. No Writ of Execution Existed on April 29, 2026

84. On April 29, 2026, when Appellant's motorhomes were seized, no Writ of Execution had been issued. No Transcript of Judgment had been enrolled in any county. The only document purportedly authorizing the operation was a writ of ejectment — which, as demonstrated in Issue VI, grants possession of real estate only and provides no authority to seize personal property.

85. Under S.C. Code Ann. § 15-39-100, "executions shall not bind the personal property of the debtor, but personal property shall only be bound by actual attachment or levy thereon." Because no Writ of Execution was issued and no levy was performed on April 29, the seizure of the motorhomes was not a lawful execution — **it was a taking.**

C. The October 2 Transcript of Judgment Was a Retroactive Fabrication

86. On October 2, 2026 — six months after the April 29 seizure — Respondent Adamczyk attempted to docket a "Transcript of Judgment" in an apparent effort to enroll the $7,500.00

Magistrate judgment across county lines. This was a retroactive attempt to create an execution paper trail for a seizure that had already occurred without legal authority.

87. A Transcript of Judgment cannot retroactively justify a seizure that was unlawful when committed. S.C. Code Ann. § 15-39-80 requires that an execution "intelligibly refer to the judgment" — stating the court, the parties, and the amount. No judgment existed to "refer to" on April 29 in any county where the motorhomes were taken, because no Transcript of Judgment had been enrolled. The October 2 docketing does not cure the legal deficiency that existed on April 29.

D. The Chronological Alignment Exposes the Operational Plan

88. The chronological alignment between the April 29 seizure and the October 2 filings exposes a deliberate operational plan:

(a) **April 29:** Seize $500,000.00 in motorhomes using a writ of ejectment (no Writ of Execution);

(b) **October 2:** Attempt to docket a Transcript of Judgment retroactively to manufacture the execution authority that was missing on April 29; and

(c) **October 2:** File an *ex parte* continuance motion requesting the officers who participated in the April 29 seizure to appear as "support" — confirming joint state action.

89. Respondent's own filings demonstrate that he knew the seizure lacked legal authority. The six-month gap between the seizure and the attempted Transcript of Judgment docketing is not a

coincidence — it is evidence that Respondent realized the legal deficiency and attempted to cure it retroactively.

E. S.C. Code §§ 22-3-300 and 22-3-310 Prohibit Any Change in the Status of Property Pending Appeal

90. S.C. Code Ann. § 22-3-300 provides: "But no sale shall be made under any such execution until after the time for appeal has expired, nor pending such appeal, and in cases for the claim and delivery of personal property when bond for the property claimed has been properly given by either party, the status of such property shall not be changed until after the expiration of the time for appealing has expired or until such appeal has terminated." S.C. Code Ann. § 22-3-310 contains the same prohibition.

91. Appellant's appeal was filed on April 24, 2026 — five days before the April 29 seizure. The appeal was pending on April 29. Under §§ 22-3-300 and 22-3-310, the status of Appellant's personal property could not be changed while the appeal was pending. **The seizure, impoundment, and continued detention of the motorhomes violated this express statutory prohibition.**

92. The October 2 attempt to docket a Transcript of Judgment — while the appeal was still pending — further violated these statutory provisions. No sale, no transfer, and no change in the status of the property is permitted while the appeal is active.

CONCLUSION

93. For the foregoing reasons, Appellant Mohamad Haisam Kodaimati respectfully requests that this Honorable Court:

(1) REVERSE the Georgetown County Circuit Court's Form 4 Judgments entered on June 4, 2026, and August 13, 2026;

(2) DECLARE the Clerk of Court's April 28, 2026, administrative dismissal of the appeal to be an *ultra vires* act and a legal nullity;

(3) VACATE the underlying April 13, 2026, judgment entered by the Georgetown County Magistrate Court as void *ab initio* for a total lack of subject matter and personal jurisdiction;

(4) DECLARE that the April 29, 2026, execution of the writ of ejectment and the subsequent seizure of Appellant's motorhomes were conducted without lawful authority and in violation of the statutory stay;

(5) DECLARE that the April 29, 2026, seizure of Appellant's $500,000.00 in motorhomes and personal property was not a lawful execution of a writ of ejectment but an unauthorized levy on personal property to satisfy a $7,500.00 money judgment, executed without a Writ of Execution, without an auction, and without due process;

(6) DECLARE that the October 2, 2026, attempted docketing of a Transcript of Judgment was a retroactive attempt to manufacture execution authority that did not exist on April 29, 2026, and cannot cure the unlawful seizure;

(7) ORDER restitution of Appellant's motorhomes and all personal property seized on April 29, 2026, pursuant to *Perry v. Tupper*, 70 N.C. 537 (1874); and

(8) GRANT such other and further relief as this Court deems just and equitable to restore Appellant's unlawfully seized property.

Respectfully submitted,

/s/ Mohamad Haisam Kodaimati

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Date: October 20th , 2026

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 208(b), SCACR, I hereby certify that this brief complies with the applicable length limitations. This brief contains approximately 38 pages, exclusive of the Title Page, Table of Contents, Table of Authorities, and attached Exhibits.

/s/ Mohamad Haisam Kodaimati

Mohamad Haisam Kodaimati, Appellant Pro Se

Date: October 20th , 2026

EXHIBIT A

CERTIFIED TRANSCRIPT EXCERPT — JUNE 4, 2026, HEARING

Kodaimati v. Adamczyk, Case No. 2026-CP-22-00424 Circuit Court, Georgetown County, South Carolina Before: Honorable Benjamin H. Culbertson, Circuit Court Judge Transcribed by Sandra Allen, Legal Eagle, Certified July 29, 2026.

EXCERPT 1 — JUDGE CULBERTSON'S ADMISSION THAT NO DISMISSAL ORDER EXISTS

(Afternoon Session, pp. 3-4 of certified transcript)

THE COURT: Okay, well, let me check one thing first. Okay, now, has this appeal already been — I mean, is there an order of dismissal? That's what I'm looking for.

CLERK: It's a letter.

THE COURT: Well, that's a letter from the magistrate. Okay. But there's no circuit court order dismissing the appeal.

CLERK: NO. We usually just use the — as the —

THE COURT: Okay. Well, this — sir, this is an appeal from the magistrate's court as I understand, is that correct?

MR. KODAIMATI: Yes, correct.

EXCERPT 2 — JUDGE CULBERTSON'S ADMISSION THAT THE UNDERTAKING WAS FILED

(Afternoon Session, pp. 4-5 of certified transcript)

THE COURT: But you have not posted the bond. The magistrate bond. Is that correct?

MR. KODAIMATI: No, that's not correct, Your Honor.

THE COURT: You have posted the bond.

MR. KODAIMATI: No, no —

THE COURT: You can't post — I mean, you can't maintain the appeal if you don't post your bond.

MR. KODAIMATI: I understand. I did — I signed the undertaking, which protect the landlord for the future payment as —

THE COURT: What is the undertaking?

MR. KODAIMATI: Undertaking is a form that's in your file, Your Honor. Under —

THE COURT: It's in this file?

MR. KODAIMATI: Yes, it's in the file. Basically, it's a promise to pay to make the future payments.

EXCERPT 3 — APPELLANT'S ARGUMENT THAT THE STATUTORY STAY WAS IN FULL FORCE

(Afternoon Session, pp. 7-8 of certified transcript)

MR. KODAIMATI: On April 24th I filed a notice of appeal and the tenant undertaking agreeing to pay six hundred dollars ($600.00) per month during the appeal. Under South Carolina code 27-40-800(b), (c), that undertaking required the magistrate, clerk, or circuit judge to order the stay of execution of the judgment for possession. The clerk told me — I remember her name was April. The clerk told me the stay was in effect but noted and stay order was entered. And four days later, the writ was executed at a different parcel without valid 24-hour notice while my appeal and undertaking set and reviewed. Your Honor, one additional process issue after I filed my appeal and then it's undertaken on April 24th, the appeal docket was marked denied based on the Magistrate Love's letter. Not on any order from this court. The clerk's office confirmed to me on April 29th in a recorded calls — three calls — that no common pleas judge had reviewed my appeal or undertaking and that they were relying only on the magistrate letter. The online system still shows the appeal as denied for that reason.

EXCERPT 4 — JUDGE CULBERTSON PREDICTS HIS OWN REVERSAL

(Afternoon Session, pp. 13-14 of certified transcript)

THE COURT: All right. All right, sir. I'm going to **deny your motions** due to the dismissal of the appeal for failure to post the bond. Thank you.

MR. KODAIMATI: Your honor, I respect that. But I disagree with you.

THE COURT: Well, and I understand.

MR. KODAIMATI: The undertaking is very clear, Your Honor.

THE COURT: **Well, then if I'm wrong, the Court of Appeals will reverse me.**

MR. KODAIMATI: Yes, your honor. Thank you for your time. I appreciate it.

THE COURT: Yes, sir.

EXCERPT 5 — MAGISTRATE LOVE'S UNAUTHORIZED APPEARANCE AT THE JUNE 4 HEARING

(Afternoon Session, p. 2 of certified transcript — Part B)

THE COURT: Next on the roster is 2026-CP-22-00424. Mohamad Haisam Kodaimati versus Eric James Adamczyk. Do you all have something from before? Does anybody – do you have something?

Gentleman: Sir, I was requesting as the magistrate (inaudible).

THE COURT: Oh, I see. I see. I got you. Okay. All right, please state for the record who you – who you represent. You're Mr. Kodaimati?

MR. KODAIMATI: Yes, I'm Mohamad Haisam Kodaimati.

EXHIBIT B

COURT OF APPEALS ORDER — OCTOBER 14, 2026

In the Court of Appeals of South Carolina Case No. 2026-001982 Kodaimati v. Adamczyk

The South Carolina Court of Appeals

Mohamad Haisam Kodaimati, Appellant,

v.

Eric James Adamczyck, Respondent.

Appellate Case No. 2026-001982

ORDER

On August 14, 2026, Appellant filed notice of appeal from a June 4, 2026 circuit court order that provided "All of the appellant's motions pending in this appeal from an eviction issued by the magistrate are DISMISSED due to the dismissal of this appeal for the appellant's failure to post the necessary bond." Appellant also appeals an August 13, 2026 order from the circuit court that denies Appellant's motion to reconsider. On September 15, 2026, Appellant filed a motion to proceed *in forma pauperis* and a motion to stay "enforcement of the Magistrate Court's April 13, 2026[] default judgment, including the April 29, 2026[] eviction and seizure of property." On September 18, 2026, this court requested a return from Respondent; however, Respondent did not file a return.

After careful consideration, we deny Appellant's motion to stay the eviction as moot. *See Sloan v. Greenville Cnty.*, 380 S.C. 528, 535, 670 S.E.2d 663, 667 (Ct. App. 2009) ("A case becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy."). However, we grant the motion to stay as to the motor homes and personal property. Respondent shall not sell or otherwise dispose of the motor homes and personal property during the pendency of the appeal.[1] To the extent Appellant seeks a review of the merits of the appeal prior to briefing, that request is denied. Finally, we deny Appellant's

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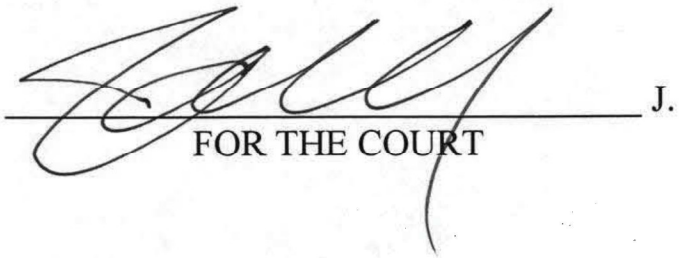
[1] It is not clear based on this court's review of the public index and the filings before this court what would entitle Respondent to Appellant's motor homes and personal property as it appears the magistrate court issued a money judgment in the amount of $7,500.00.

request for an order directing the "preservation of all evidence relevant to this appeal."

Further, the motion to proceed *in forma pauperis* is denied pursuant to *Ex parte Martin*, 321 S.C. 533, 471 S.E.2d 134 (1995). The filing fee must be paid within fifteen days of the date of this order.



J.

FOR THE COURT

Columbia, South Carolina

FILED
Oct 14 2026

cc:
Mohamad Haisam Kodaimati
Eric James Adamczyk
The Honorable Benjamin H. Culbertson
The Honorable Alma Y. White