

The South Carolina Court of Appeals

Devario Henderson-Nesbit, Appellant,

v.

Forsberg, LLC, Respondent.

Appellate Case No. 2026-001785

ORDER

On August 11, 2026, Appellant filed a notice of appeal from an August 11, 2026 circuit court's order affirming the order of the magistrate court.¹ That same day, Appellant also filed a motion to stay the circuit court's order, requesting an order staying the August 11, 2026 circuit court order and the underlying June 29, 2026 writ of ejectment as well as a determination that no additional bond was required to maintain the stay, "consistent with the July 13, 2026 order of the East Greenville Summary Court declining to set any bond amount." Respondent filed a return, opposing the motion on procedural grounds and reserving its right to supplement the return with additional argument concerning any supersedeas bond or undertaking.

On September 25, 2026, this court temporarily granted a stay of the August 11, 2026 circuit court order, ordered Respondent to serve and file a return within ten days, and allowed Appellant time to serve and file a reply. The parties were directed to provide the original lease document and explain what occurred at the July 13, 2026 magistrate court bond hearing.

On October 8, 2026, Respondent filed a return, opposing the stay but seeking a supersedeas bond in the alternative. Appellant did not file a reply.

¹ Based upon the parties' filings and this court's review of the public index, it appears Respondent filed a rule to vacate, no hearing was requested by Appellant, and a writ of ejectment was issued and served.

After careful consideration of the filings, we continue the temporary stay and remand this matter to the circuit court for an expedited hearing and consideration of Appellant's motion to stay and for an undertaking as contemplated by section 27-40-800 of the South Carolina Code (2007), as amended by Act No. 252 (H.3387), § 4, 2026 S.C. Acts (eff. June 30, 2026). *Id.* ("Upon appeal to the Supreme Court or 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."). The temporary stay issued by this court shall dissolve upon the circuit court's ruling.

Appellant shall provide this court with status updates in writing every thirty days until the circuit court rules on the matters remanded. Further, Appellant shall provide this court with a copy of the circuit court's written order ruling on the motion to stay and request for undertaking 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. Additionally, 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.

Kristen Carter

J.

FOR THE COURT

Columbia, South Carolina

cc:

Devario Henderson-Nesbit
William Spencer Barrow, Esquire
Megan Anne Serrano, Esquire
The Honorable G.D. Morgan Jr.
The Honorable Jay Gresham

FILED
Oct 22 2026