

The South Carolina Court of Appeals

Allen Livingston, Respondent,

v.

Harold Simmons, Appellant.

Appellate Case No. 2016-001201

ORDER

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.

Appellant's request for an extension of time to order the transcript is granted. Appellant shall provide proof the transcript has been ordered pursuant to Rule 207, SCACR, within fifteen days of the date of this order.

Appellant has also filed a "Motion for Emergency Stay of Execution on All Action of the Lower Court," which this court construes as a request to stay the sale of the property at issue in this matter. After careful consideration, the motion is denied because Appellant failed to first request the stay with the lower court and because Appellant has not complied with Rule 241(b)(4), SCACR. *See* Rule 241(d)(1), SCACR ("Except where extraordinary circumstances make it impracticable, an application for an order lifting the automatic stay or for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal."); S.C. Code Ann. § 18-9-170 (2014) ("If the judgment appealed from direct the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the

possession of such property by the appellant he will not commit or suffer to be committed any waste thereon").


FOR THE COURT

Columbia, South Carolina

cc:
Harold Simmons, Jr.
Bruce Alan Berlinsky, Esquire

FILED

July 29, 2016