

The South Carolina Court of Appeals

CitiMortgage, Inc., Respondent,

v.


Bruce W. Gardner and First Citizens Bank and Trust
Company, Inc., Defendants,

Of whom Bruce W. Gardner is the Appellant.

Appellate Case No. 2016-000969

ORDER

Appellant has filed a "motion complaint of malicious prosecution and petition to cancel foreclosure sale," which we construe as a motion to stay the foreclosure sale. After careful consideration, the motion to stay is denied. *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 directs 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 . . ."). To the extent that Appellant is asking this court to reverse the foreclosure, this court will consider the merits of the appeal once it is fully briefed and assigned to a panel for review.



FOR THE COURT

Columbia, South Carolina

FILED

August 5, 2016

cc:

Bruce W. Gardner

Peter M Balthazor, Esquire