

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Diane Goodstein, Circuit Court Judge

Case No. 2018-CP-10-1562

RECEIVED
AUG 15 2018
SC Court of Appeals

Tanisha Cross.....Respondent

v.

Marvin Bowens,Appellant

MOTION TO PROCEED ON APPEAL INFORMA PAUPERIS
(extraordinary circumstances)

WHEREFORE, on July 10, 2018 (**Exhibit 1**) the Honorable Diane Goodstein issued an order (signed July 9, 2018) (**Exhibit 2**) affirming the lower court judgment in this case, said order being received by the appellant on July 16, 2018 and appellant having until August 16, 2018 to file his Notice of Appeal (pursuant to Rule 203(b)(1) SCACR), Appellant respectfully moves this honorable court pursuant to Rule 224 SCACR or other appropriate statutory law to proceed on appeal Informa Pauperis due to extraordinary circumstances involved in this appeal and offers the following as good and sufficient grounds to do so:

FIRST GROUND FOR MOTION: NO ADEQUATE REMEDY AT LAW/VIOLATION OF DUE PROCESS

1. On July 14, 2018 while preparing to drive to Columbia to file his appeal, the appellant called the magistrate court which issued the original judgment to inform them that he was headed to file his appeal today and inform them of his intent to file a "motion to impose a Supersedeas' today in the circuit court after he files the notice of appeal. Consequently, the magistrate court informed the appellant that they had already paid the judgment to the Respondent on July 23, 2018 (**Exhibit 3**). The premature payment of the judgment before the Appellant 30 days right to appeal (after written receipt of the

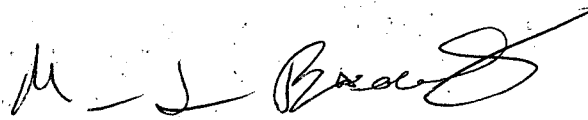
p 2/9

circuit court order) violates Rule 203(b)(1) SCACR and Rule 225(c)(1) SCACR. As a result of the judgment being paid prematurely, before the Appellant's 30 days right to appeal and otherwise file a supersedeas leaves the Appellant with "no adequate remedy at law". This action otherwise makes this appeal moot because even if the Appellant wins on appeal, which is the reason for an appeal and supersedeas the Appellant cannot effectively recover his magistrate court Supersedeas Bond, which covered the judgment being appealed.

In any event, much of the Appellant entire case on appeal to the circuit court was an "abuse of discretion" by the magistrate. The Magistrate 1) granted damages and rent to the Respondent in violation of SC Codes of Law 27-40-660 2) gave the Respondent rent damages of \$660.00 a month even though the Respondent application for injunctive relief stated she only paid \$400.00 a month for rent 3) Gave the Respondent free rent on appeal in violation of SC Codes of Law 27-40-800 because she (the magistrate) said the Appellant should not have appealed her decision and 4) after the circuit court affirmed the magistrate court decision the magistrate instructed her secretaries to not allow the Appellant to eviction against the Respondent unless the Appellant agreed not to conduct any further appeal (to the Court of appeals). Appellant now contends that the Magistrate willfully and maliciously paid the judgment to the Respondent prematurely in an attempt to make his appeal moot. As proof, the judgment was paid on July 23, 2018, only 13 days after the circuit court judge issued her order on July 10, 2018.

SECOND GROUNDS FOR MOTION: APPELLANT IS INFORMA PAUPERIS

Although the Appellant was personally going to file his appeal today (8/14/18) in Columbia, the Appellant had to write a check for the appeal and find the money to pay it because this appeal is important. In any event, the Appellant has attached an affidavit of his indigency.



Marvin Lamar Bowens
6038 Savannah Highway, Lot 6
Ravenel, SC 29470
(843) 297-5973
Pro So Appellant

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Diane Goodstein, Circuit Court Judge

Case No. 2018-CP-10-1562

RECEIVED
AUG 15 2018
SC Court of Appeals

Tanisha Cross.....Respondent

v.

Marvin Bowens,Appellant

AFFIDAVIT OF MARVIN LAMAR BOWENS

IN SUPPORT OF MOTION TO PROCEED ON APPEAL INFORMA PAUPERIS

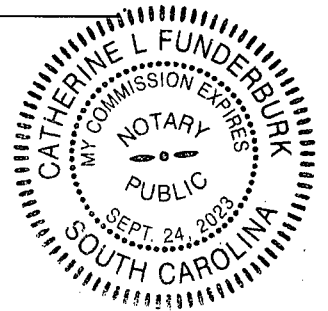
I, Marvin Lamar Bowens, who being duly sworn deposes as follows:

1. That my name is Marvin Lamar Bowens.
2. That I reside at 6038 Savannah Hwy. Lot 6, Ravenel, SC 29470.
3. That I rent out 2 mobile homes for a living. However, after paying lot rent each month I only gross \$600.00 (six hundred) a month.
4. That my 14 year old son lives with me and his school is aware of that.
5. That the SC Dept of Social Services is also aware that my son lives with me and they give us \$357.00 each month in EBT (food stamps) benefits under case # _____
6. That my Regions bank account as of August 14, 2018 is \$24.48

Further affiant saith Not!

M. Bowens

Affiant



Sworn to and subscribed before me this 14th day of Aug 2018

Catherine L. Funderburk Catherine L. Funderburk

Print name of notary

signature of notary

My commission Expires Sept 24, 2023

8419