

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )  
 )  
Aspyre Assembly Station, )  
 )  
Respondent/Plaintiff, )  
 )  
v. )  
 )  
Travis Stewart, )  
 )  
Appellant/Defendant. )

IN THE COURT OF COMMON PLEAS  
CASE NO: 2018-CP-40-04557

**ORDER AFFIRMING JUDGMENT  
ON APPEAL FROM TRIAL COURT**

**RECEIVED**  
**MAR 15 2019**  
**SC Court of Appeals**

This matter comes before the court on an Appeal filed by Dr. Beverly D. Wilson on behalf of her natural son, Appellant/Defendant Travis Stewart (hereinafter "Appellant"). Dr. Wilson is also Appellant's agent pursuant to a recorded power of attorney. The Appeal stems from a Magistrate Court judgment, which granted possession and issued a Writ of Ejectment to Respondent/Plaintiff, Aspyre Assembly Station (hereinafter "Respondent") in case number 2018CV4010800184. A hearing on the Appeal was scheduled for and held on December 14, 2018. Present at the hearing were Appellant, Dr. Wilson, and Thomas I. Howard, Jr., counsel for Respondent. Based on the documents on file with the court and arguments presented during the hearing, the court makes the following findings of fact and conclusions of law.

By way of background, Respondent filed an Application for Ejectment on March 12, 2018, for failing to pay rent when due or demanded as outlined in the Parties Lease Agreement. A Rule to Vacate or Show Cause was served on March 21, 2018. Appellant answered and requested a jury trial on March 29, 2018. A writ was issued by the Richland County Central Court on August 21, 2018 and an Order issued on August 31, 2018.

Appellant asserted among other matters that the Magistrate Court erred in granting the Writ of Ejectment as a result of the court's determination at the August 21, 2018, court date that Appellant had failed to timely make the rent bond payments as ordered by the court. Respondent

argued that S.C. Code Ann. §§ 27-40-790 and 27-37-150 apply to this case. S.C. Code Ann. § 27-40-790 provides that a tenant wishing to assert claims or defenses to an Application for Ejectment must pay all rent allegedly due and any rent that subsequently accrues before being allowed to present their claims and defenses or the landlord must be placed in possession of the premises. Furthermore, Respondent argued that S.C. Code Ann. § 27-37-150 also applies if rent had been accepted after the issuance of the Rule to Vacate as the landlord is entitled to receive past due rent and rent that comes due and acceptance of these payments does not waive the landlord's right to still insist upon ejectment as the case is tried based on the rights of the parties as they existed at the time the Rule to Vacate or Show Cause is issued. Appellant explained that the reason for the delayed or delinquent payments arose from technical difficulties.

Pursuant to S.C. Code Ann. § 18-7-170, the circuit court hearing an appeal "shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits." In giving judgment, the circuit court "may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact." S.C. Code Ann. § 18-7-170; *see also Bowers v. Thomas*, 272 S.C. 240, 244, 644 S.E.2d 751, 753 (Ct. App. 2007).

The court finds and concludes that South Carolina Code §§ 27-40-790 and 27-37-150 are applicable to the facts of this Appeal. The court further finds and concludes that Appellant failed to show sufficient error of law or fact on the part of the Magistrate Court in granting of possession and issuance of a Writ of Ejectment to Respondent.

Therefore, finding no error of law or fact by the Magistrate Court, IT IS HEREBY ORDERED that the judgment of the Magistrate Court is affirmed.

**AND IT IS SO ORDERED.**

[ELECTRONIC SIGNATURE PAGE TO FOLLOW]



Richland Common Pleas

**Case Caption:** Aspyre Assembly Station vs Travis Stewart  
**Case Number:** 2018CP4004557  
**Type:** Order/Other

So Ordered

s/Walton J. McLeod, 2765

Electronically signed on 2019-02-15 14:40:02 page 3 of 3

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Walton J. McCleod, Circuit Court Judge

Appellate Case No. 2018-CP-40-04557

Caroline Streater, Magistrate Court Judge

Original Trial Case No. 2018CV4010800184

Aspyre Assembly Station

Respondent

V.

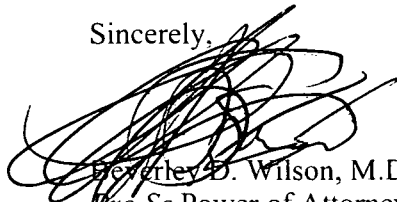
Travis Stewart

Appellant

**PROOF OF SERVICE**

I respectfully submitted a **Notice of Appeal and Motion and Memorandum to Stay Execution of Respondent's Writ of Ejectment, to Compel Respondent to Facilitate Return of SCE&G Utilities for Apartment 3106 to Appellant, and to Add Amanda Bidinger, Alisa Liggett, and the University of South Carolina's Office of Student Conduct as Co-Plaintiffs and Beverley D. Wilson as Co-Defendant to Complaint** by depositing same in today's United States Postal Service with sufficient postage for First Class mail to opposing counsel, Mr. Thomas I. Howard, Jr. at the address listed below.

Sincerely,



Beverley D. Wilson, M.D.  
*Pro Se* Power of Attorney for Appellant  
P.O. Box 21612  
Charleston, South Carolina 29413  
Telephone: (803)724-7560

**RECEIVED**  
MAR 15 2019  
SC Court of Appeals

Other Counsel of Record  
Thomas I. Howard, Jr.  
Brownlee Whitlow & Praet, PLLC  
3255 Landmark Drive, Suite 301  
North Charleston, South Carolina 29418  
Attorney for Respondent  
Telephone: (843)628-7120  
Facsimile: (843)628-0847

Signed this \_\_\_\_\_ day of March 2019.

March 15, 2019

Beverley D. Wilson  
Post Office Box 21612  
Charleston, South Carolina 29413  
(803)724-7560  
Email: bdwilson@charlestonlaw.edu

RECEIVED

MAR 15 2019

SC Court of Appeals

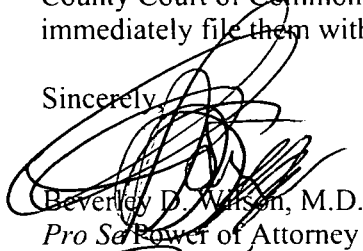
South Carolina Court of Appeals  
Clerk of Court  
Jenny Abbott Kitchings  
1220 Senate Street  
Columbia, SC 29201  
(803)734-1890  
(803)734-1839 (fax)

Re: Aspyre Assembly Station, Respondent vs. Travis Stewart, Appellant  
Appellate Case Number: 2018-CP-40-04557  
Original Trial Case No: 2018CV4010800184

Dear Ms. Kitchings:

I respectfully submit a **Notice of Appeal and Motion and Memorandum to Stay Execution of Respondent's *Writ of Ejectment*, to Compel Respondent to Facilitate Return of SCE&G Utilities for Apartment 3106 to Appellant, and to Add Amanda Bidinger, Alisa Liggett, and the University of South Carolina's Office of Student Conduct as Co-Plaintiffs and Beverley D. Wilson as Co-Defendant to Complaint** to the South Carolina Court of Appeals from the February 15, 2019 Final Order of the Honorable Walton J. McCleod, Presiding Circuit Judge of the Richland County Court of Common Pleas Affirming Judgment of the Honorable Caroline Streater, Presiding Magistrate Judge Richland County Central Magistrate's Court for *Writ of Ejectment*. I enclose herewith a copy of the Proof of Service submitted in today's mail to opposing counsel, Mr. Thomas I. Howard, Jr. and am presenting copies of same to the Honorable Judge Walton McCleod of the Richland County Court of Common Pleas. Please time stamp these documents and immediately file them with the South Carolina Court of Appeals.

Sincerely,



Beverley D. Wilson, M.D.  
*Pro Se* Power of Attorney for Appellant



Travis G. Stewart, Appellant