

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

MOTION AND MEMORANDUM

**NOTICE OF APPEAL FROM COURT OF COMMON PLEAS REGARDING A
FINAL ORDER AFFIRMING JUDGMENT ON APPEAL AND *WRIT OF EJECTMENT*
FROM MAGISTRATE'S COURT**

**APPELLANT'S MOTION AND MEMORANDUM FOR A STAY OF EXECUTION OF
THE WRIT OF EJECTMENT IN THE RULE TO VACATE OR SHOW CAUSE
ACTION, TO COMPEL RESPONDENT TO FACILITATE THIRD PARTY SOUTH
CAROLINA STUDENT RENTAL HOUSING AUTHORITY TO RETURN
APPELLANT'S APARTMENT 3106 SCE&G UTILITIES TO SCE&G FOR
REASSIGNMENT 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.**

I, Beverley D. Wilson, M.D., with permission of and speaking on behalf of Appellant,
Travis Stewart, pursuant to Rule 40(h) of the South Carolina Rules of Civil Procedure, Motion

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the Court for a Stay of Execution of the Writ of Ejection in the Rule to Vacate or Show Cause Action, to Compel Respondent Aspyre Assembly station, now YOUNion, to facilitate third party South Carolina Student Rental Housing Authority to return Appellant's Aspyre Apartment 3106 SCE&G Utilities to SCE&G for reassignment to Appellant, and to add Amanda Bidinger, Alisa Liggett, and the University of South Carolina's Office of Student Conduct as Co-Plaintiffs and Beverly D. Wilson as Co-Defendant to Complaint.

Appellant filed a Notice of Appeal to the Richland County Court of Common Pleas today, March 15, 2019, per Rules 203 and 262 of the South Carolina Rules of Civil Procedure. Appellant Motions the Court per SCRCR Rule 203 Section 18-7-170 for Judgment on Appeal in Appellant's favor requesting judgment according to the justice and merits of the case without regard to technical errors and defects, and instances of Excusable Neglect resulting in one business day delay of Appellant making required rent payments to the Court on three occasions due to circumstances beyond the control of Appellant as these errors, defects, and delays do not affect the true merits of the case and would allow Respondent to prevail unjustly against Appellant. The fourth one business day delay in Appellant making the required rent payment to the Court, another instance wherein Excusable Neglect was warranted, would have been deemed timely had Court consideration been afforded Appellant due to his extreme financial demise, and rent payments due when the 5th fell on a weekend, had been made due on the Monday following the 5th, rather than the Friday preceding the 5th.

Thus, Appellant Appeals the Final Order of the Honorable Walton J. McCleod, Richland County Court of Common Pleas, issued February 15, 2019 Affirming Judgment on Appeal and the *Writ of Ejectment* issued by the Honorable Caroline Streater in Richland County Central Magistrate's Court August 21, 2018 in which Appellant was present. Appellant has received

written notice of entry of Judge McCleod's Final Order Affirming Judgment on Appeal and the *Writ of Ejectment* and is timely filing this Notice of Appeal.

Respondent executed the *Writ of Ejectment* August 24, 2018. The *Writ of Ejectment* was stayed during the pendency of Appellant's August 27, 2018 Appeal to Richland County Court of Common Pleas. Appellant's rent was kept current during the pendency of the appeal and remains current.

The Respondent has repeatedly engaged in behavior since February 2018 that has been and is discriminatory and inciting against Appellant who has PTSD which presents spectrally as bipolar affective disorder and schizophreniform psychosis. Respondent has blatantly, repeatedly committed actions and made statements consistent with disability discrimination against Appellant since February 2018, including Assault and Battery by Respondent's assistant manager Tiffany Maddox June 25, 2018 resulting in an acute exacerbation of Appellant's spectral PTSD, a prolonged course of hospitalization from June 25 to July 27, 2018, with subsequent inability of Appellant to enroll and attend coursework, receive financial aid during Summer 2018 at the University of South Carolina, and prolongation of Appellant's tenure as a student at the University of South Carolina to complete his Master of Science Degree in Biomedical Engineering.

Appellant's inability and failure to timely tender his rent payments to Respondent were secondary to Appellant's financial demise precipitated by inappropriate obstructive actions, institutional overreach, and falsehoods asserted to Appellant and USC officials by Amanda Bidinger, assistant manager for the University of South Carolina's Office of Student Conduct, in her attempts to acquire Appellant's mental health records and directly communicate with Appellant's mental health providers. Ms. Bidinger's inappropriate actions directly prevented Appellant's re-enrollment at the University of South Carolina from January 2018 to the first

week of April 2018 for the Spring 2018 semester. (The University of South Carolina's Spring semester ended early May 2018.) Ms. Bidinger's prevention of Appellant's Spring 2018 re-enrollment, subsequently prevented Appellant's receipt of financial aid for the Spring 2018 semester which was absolutely essential for Appellant to pay his rent for Aspyre Apartment 3106 and other expenses. Ms. Bidinger has been subsequently terminated by the University of South Carolina, however, Respondent, the Richland County Central Magistrate's Court, and the Richland County Court of Common Pleas refuses to consider these facts as mitigating factors in Appellant's failure to timely pay Respondent rent for Aspyre Apartment 3106 or to allow Appellant to add Amanda Bidinger and her immediate supervisor, Alisa Liggett, and the University of South Carolina (Office of Student Conduct) as Co-Plaintiffs in the original action.

Additionally, Respondent compounded Appellant's inability to timely tender his rental payments by unjustly requesting Appellant's vehicle be towed from Aspyre while Appellant was hospitalized for approximately five weeks from September to October 2017 due to an acute exacerbation of his spectral PTSD. Appellant's subsequent lack of transportation made it impossible for Appellant to meaningfully pursue and engage in employment opportunities. Appellant emphasizes that Respondent had Appellant's car towed from Aspyre's Garage during Appellant's September to October 2017 hospitalization for spectral PTSD, despite the then Aspyre manager Taylor (? Last name)'s assurance to Appellant's mother he would safeguard Appellant's interests as they related to Aspyre during Appellant's hospitalization.

Taking the above factors into consideration, and others which will be detailed in Appellant's Brief and the Record on Appeal, the Honorable Judge Harold Cuff, Olympia Magistrate Court, Denied Respondent's request to Execute the *Writ of Ejectment* and Granted Appellant's Petition for a Jury Trial in this matter during the April 16, 2018 Special Hearing subsequent to Appellant's payment of the requisite bond. However, Judge Cuff did not

memorialize his April 16, 2018 Order Granting Appellant's Petition for Jury Trial in writing. The April 16, 2018 hearing was not recorded.

Judge Streater asserted she telephoned the Clerk of Olympia Magistrate Court from her judge's chamber, in the absence of Appellant and Respondent, during Court August 21, 2018 and "asked the Clerk of Olympia Magistrate Court to recall, to the best of her knowledge, what Judge Cuff ordered/stated during the Special Hearing April 16, 2018." Judge Streater then returned to the courtroom subsequently and asserted Judge Cuff did not Grant Appellant a Jury Trial and that the Clerk of the Olympia Magistrate Court improperly transferred the Venue of the trial from Olympia Magistrate Court to the Richland County Central Magistrate's Court without authorization by Judge Cuff.

Appellant adamantly challenged the veracity of Judge Streater's assertions and conclusions and Motioned Judge Streater to Continue the case and speak to Judge Cuff directly in order to obtain an earnest, first person accounting of Judge Cuff's Orders and intentions regarding Appellant's Petition for and Grant of Motion for a Jury Trial. Judge Streater refused Appellant's Motion for a Continuance. Judge Streater abruptly concluded court August 21, 2018, allowed no meaningful opportunity for Appellant to be heard or to confront his accusers or Respondent, Denied Appellant's Petition for a Jury Trial, and Denied Appellant's Petition for Leave of Court for Excusable Neglect due to technical difficulties resulting in 1 day of tardiness on 4 separate occasions. Of those four occasions, two were at the Olympia Magistrate Court's directive, one was due to Appellant's engine failure and subsequent inability to get to Court, and the fourth was due to profound traffic delays secondary to two interstate motor vehicle accidents en route to Court that contributed to Appellant's late arrival to Court a few minutes after 5:00 p.m. on Friday, August 3, 2018 and resulted in Appellant's inability to tender his rental payment to the Court that Friday, before the 5th of August 2018, which fell on that weekend. Appellant

emphasizes Appellant's election to tender his rent payment to the Court Friday, August 3, 2018 was in a dire attempt to allow SCE&G's Good Neighbor Fund director Chris Faircloth to assist Appellant in satisfying Appellant's rental payment in exchange for a portion of Appellant's rent monies to be applied to Appellant's SCE&G bill to restore Appellant's utilities to Apartment 3106.

Appellant received no financial aid from the University of South Carolina until October 2018, due to additional compliance requirements by the University of South Carolina's Office of Student Conduct for re-enrollment for the Fall 2018 semester necessitated by Appellant's June 25 to July 27, 2018 hospitalization subsequent to Aspyre assistant residential manager Tiffany Maddox' Assault and Battery of Appellant June 25, 2018. Appellant emphasizes the Court did not Grant Appellant a customary extension, in consideration of Appellant's extreme financial demise, to tender his rental payment to Court on the Monday following the 5th of the month, when the 5th fell on a weekend. Thus, what would have been a timely rental payment to the Court in August 2018, had that consideration been granted Appellant, was deemed untimely when tendered Monday, August 6, 2018, absent the Court's refusal to Grant Appellant's Motion for Excusable Neglect.

Respondent's assistant managers Andy Walter and Tiffany Maddox have egregiously discriminated against Appellant due to his mental health disabilities and have openly admitted to Appellant's mother and Power of Attorney that Aspyre's refusal to renew Travis' lease was initially, based upon Respondents' Maddox' and Walter's own words, "mainly for [Appellant's] failure to pay rent timely," "but, now, it's not about the money, we just don't want him here." Neither assistant residential manager of Aspyre retracted their statement when Appellant's mother informed each, individually, Appellant suffered from mental illness, was recovering, and was in outpatient therapy for his mental illness, even though Appellant's mother informed both

their statements and actions were blatantly disability discrimination against Appellant due to his mental illness and were illegal. Additionally, June 25, 2018, Tiffany Maddox under false pretenses, effected the unlawful ejection of Appellant from the Aspyre Business Center and committed Assault and Battery against Appellant that precipitated an acute exacerbation of Appellant's spectral PTSD and hospitalization from June 25, 2018 to July 28, 2018. These events precluded Appellant's ability to enroll in Summer 2018 coursework at the University of South Carolina and receive financial aid that Appellant would have received in the Spring 2018 semester, had Appellant been properly allowed to enroll in coursework at the University of South Carolina, per special provision of University of South Carolina Provost Dr. Cheryl Addy and agreement of University of South Carolina Graduate Director of the Biomedical Engineering Program, Dr. Tarek Shazly.

Finally, Respondent's attorney, Thomas I. Howard, Jr., falsely informed SCE&G that Appellant had been ejected from his Aspyre Apartment 3106 after Appellant served Respondent's attorney the Notice of Appeal August 27, 2018 Staying Respondent's *Writ of Ejection*. SCE&G subsequently assigned Appellant's utilities to a third party, South Carolina Student Rental Housing Authority, who manages Aspyre apartments on behalf of the University of South Carolina, October 19, 2018. Mr. Howard proclaimed in open Court December 14, 2018 that the University of South Carolina had no interest in Appellant's Aspyre Apartment 3106 as Apartment 3106 was not a part of the block of Aspyre apartments rented by the University of South Carolina to its students. Appellant is unable to tender his monthly utility payments to SCE&G, is unable to and does not desire to engage in transactions for utility payments with Aspyre given Aspyre's egregious, onerous, discriminatory, deceptive, dishonorable and criminal behavior, actions, and statements toward Appellant. Additionally, Respondent's attorney, Mr.

Howard, submitted no Respondent's Brief in response to Appellant's Initial Brief or Amended Initial Brief, and Respondent should have been barred from prevailing on that fact alone.

Appellant emphasizes Appellant was informed by the Richland County Common Pleas/Circuit Court Clerk that the Court would not grant or have any Motion Hearings regarding the Appeal. Despite all of the above facts and findings being argued by Appellant in Appellant's Initial and Amended Briefs and other documents submitted to the Court, Judge McCleod convened a Motion Hearing in form and substance December 14, 2018, but without effect or a just judgment for Appellant given the Totality of the Circumstances in this case. Justice and Mercy were subverted as far as Appellant's interests were concerned. The Respondent and their attorney, Mr. Howard, were rewarded for deceit, dishonesty, and disability discrimination toward and against Appellant.

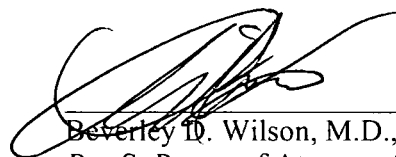
Appellant is in his final year of study as a graduate student and candidate for the Master of Science Degree in the Biomedical Engineering Department at the University of South Carolina. Appellant is in his eighth year of tenancy at Aspyre at Assembly Station and desires to remain at Aspyre to pursue doctoral studies at the University of South Carolina. The Court's allowance of Respondent's Execution of the *Writ of Ejectment* would foreclose Appellant's ability to receive the benefits of a successful appeal of this case and would cause irreparable harm to Appellant's ability to complete his final year of his graduate studies and pursue further studies at the University of South Carolina.

Therefore, Appellant Motions and fervently Prays the Court Grants Appellant a Stay of Respondent's Execution of the *Writ of Ejectment* during the pendency of these appeal proceedings, and an immediate Order Compelling Respondent to transfer Appellant's SCE&G utilities account for Aspyre Apartment 3106 back to SCE&G for reassignment to Appellant. Appellant also fervently Prays the Court Grants Appellant's Motions to join Amanda Bidinger,

Alisa Liggett, and the University of South Carolina and its Office of Student Conduct as Co-Plaintiffs in this action and impose Sanctions against opposing counsel Thomas I. Howard, Jr. in accord with Mr. Howard's Lack of Candor to the Court and the judicial process, dishonest acts and behavior in the Court and toward SCE&G and its counsel, and acts which fall far beneath the standard expected of a practicing attorney in South Carolina.

Respectfully,


Travis G. Stewart, Appellant


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

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 15th day of March 2019.

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

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Aspyre Assembly Station

Respondent

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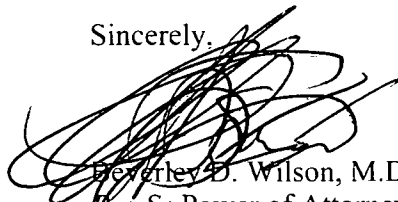
Travis Stewart

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
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Other Counsel of Record
Thomas I. Howard, Jr.
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Attorney for Respondent
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Facsimile: (843)628-0847

Signed this _____ day of March 2019.

March 15, 2019

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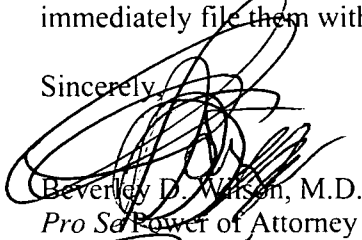
South Carolina Court of Appeals
Clerk of Court
Jenny Abbott Kitchings
1220 Senate Street
Columbia, SC 29201
(803)734-1890
(803)734-1839 (fax)

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