

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

AUG 21 2020

SC Court of Appeals

Dale Van Slambrook, Master in Equity

Appellate Case No. 2019-001572

Wilmington Savings Fund Society, FSB, as  
Owner Trustee of the Residential Credit  
Opportunities Trust V-C,

Respondent,

v.

Nehemiah Bryant,

Appellant.

**RESPONDENT'S RETURN TO APPELLANT'S MOTION TO STAY**

Magalie A. Creech (S.C. Bar 78855)  
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*Attorneys for Respondent*

**NOW COMES** Respondent Wilmington Savings Fund Society, FSB, as owner Trustee of the Residential Credit Opportunities Trust V-C, who, by and through its undersigned counsel, responds to the Appellant's *Motion to Stay* dated August 12, 2020. It appears that Appellant is attempting to continue the eviction hearing scheduled on August 18, 2020 by requesting that this Court stay the proceedings pursuant to Rules 62 and 54 of the South Carolina Rules of Civil Procedure.

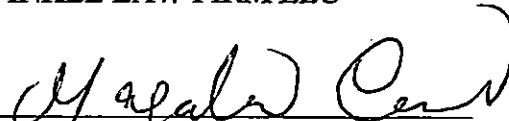
However, because Appellant failed to file an appeal bond pursuant to S.C. Code 18-9-170, Appellant's Motion is ineffectual. Pursuant to South Carolina Rules of Appellate Practice Rule 241, "the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal," unless one of several exceptions apply. In the case at hand, this exception is found in Rule 241(b)(4) which states "the exception to the general rule is . . . [j]udgments directing the sale or delivery of possession of real property as provided in S.C. Code Ann. § 18-9-170." S.C. Code Ann. § 18-9-170 requires the appellant from a judgment directing the delivery of possession of real property to post a bond with two sureties in order to overcome the exception to the automatic stay of Rule 241(b)(4).

To the extent Appellant attempted to appeal the Writ of Assistance to invoke a stay of the proceedings, his failure to post the required bond divests this Court of jurisdiction and precludes consideration of Appellant's Motion. *See Ex Parte Andrews*, 152 S.C. 325, 150 S.E. 313 (1929) (explaining that purchaser of property was entitled to possession of property pending appeal because no bond was posted; remanding the case to be heard on the merits). For these reasons, the Motion must be denied and the eviction proceedings are not stayed by the filing of Appellant's *Notice of Appeal*.

(SIGNATURE PAGE FOLLOWS)

Respectfully submitted,

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*Attorneys for Respondent*

August 18, 2020

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Dale Van Slambrook, Master in Equity

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Owner Trustee of the Residential Credit  
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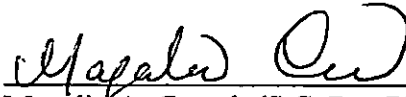
Nehemiah Bryant,

Appellant.

PROOF OF SERVICE

I certify that I have served the *Respondent's Return to Appellant's Motion to Stay* by depositing a copy of same in the United States Mail, postage prepaid, on August 18, 2020, addressed to Appellant, Nehemiah Bryant, 151 Saint Johns Bethel Street, Moncks Corner, SC 29461.

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August 18, 2020



MAGALIE A. CREECH  
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REPLY TO:  
CHARLESTON LITIGATION

August 18, 2020

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

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SC Court of Appeals

RE: Wilmington Savings Fund v. Nehemiah Bryant  
Appellate Case No.: 2019-001572  
Our File No.: 90473.55482

Dear Ms. Kitchings:

Enclosed for filing is the *Respondent's Return to Appellant's Motion to Stay* and related *Proof of Service* in the above-referenced case, along with six (6) copies, which we kindly ask you to file and return in the attached, self-addressed, stamped envelope.

Should you have any questions concerning this matter, please do not hesitate to contact our office at your earliest convenience.

With kind personal regards, we are

Yours very truly,

FINKEL LAW FIRM

  
Magalie A. Creech

CC: Nehemiah Bryant

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The Honorable Jenny Abbott Kitchings,  
South Carolina Court of Appeals Clerk  
P.O. Box 11629  
Columbia, SC 29211

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