

STATE OF SOUTH CAROLINA )

IN THE COURT OF APPEALS

Regina M. Hunter El )  
1165 Broad St. #16 )  
Sumter, S.C. 29150 )

EMERGENCY MOTION FOR  
WRIT OF INJUNCTION  
(Petition for Supersedeas)

Plaintiff(s) )

Appeal from  
Court of Common Pleas, Sumter County  
Case No. 2021-CP-43-1534  
Hon. Ferrell R. Cothran

vs. )

Elijah Hunter )  
3400 Hwy. 261 North )  
Rembert, S.C. 29128 )

Appeal from  
Summary Court, Sumter County  
Case No. 2021CV4310102733  
Fred H. Gordon, Jr., Magistrate

Defendant(s) )

MOTION FOR WRIT OF INJUNCTION

NOW COMES, the Appellant, Regina M. Hunter El, to ask the S.C. Court of Appeals to apply for an injunction against the writs of ejectment entered on 2 September 2021 and 5 October 2021. The Court should take notice that the Appellant also submitted the same, a Petitioner for Extraordinary Writ with the South Carolina Supreme Court on 4 October 2021. The Court also should note, the Appellant filed a Notice of Removal with United States District Court, District of South Carolina on 13 September 2021. At this time, a response to Magistrate Paige J. Gossett’s Report and Recommendation is due by mid-October.

CAN THE SUMMARY COURT ISSUE AN INJUNCTION TO RESTRAIN THE EXECUTION OF THE WARRANT OF EJECTMENT?

Pursuant to South Carolina Appellate Court Rules (SCACR), Rule 205, a notice of appeal in the appellate court does not prohibit the lower court from entertaining “petitions for writs of supersedeas<sup>3</sup> as provided by Rule 241”. In addition, S.C. Code of Laws §15-67-640<sup>4</sup>, either

<sup>3</sup> Supersedeas is Latin for “you shall desist”; a writ of supersedeas that in this case would stay the execution of the writ of ejectment pending the appeal.

<sup>4</sup> S.C. Code of Laws §15-67-640 “The magistrate shall not issue his warrant until the expiration of five days after he announces his decision, and in the meantime the defendant may apply for an injunction, as in other cases, upon giving the bond required by Section 15-67-620, restraining the execution of such warrant pending the determination of his appeal by the circuit court.”

party to a summary ejectment of trespassers proceeding my appeal,<sup>5</sup> and during the five day waiting period for the magistrate's writ the defendant can seek an injunction giving the necessary bond. Also, S.C. Code of Laws §18-7-10 holds that an appeal to the circuit court constitutes a *supersedeas* if the aggrieved party executes a sufficient bond.

Here, Magistrate Fred H. Gordon, Jr. entered his judgment against the Defendant (captioned as Regina Mack, Regina Hunter) on 2 September 2021 in favor of the Plaintiff, Elijah Hunter. Then, Magistrate Gordon prematurely issued his Writ of Ejectment on the same day instead of waiting the prescribed statutory period of five days after announcing his decision. Specifically, the Magistrate did not act in accord with S.C. Rules of Magistrate Court (SCRMC, Rule 1 and Rule 3), the expiration of five days was Monday, 13 September 2021<sup>6</sup> excluding Saturday, Sunday and the U.S. Labor Day holiday since the prescribed period was less than seven days. Thus, the Appellant did not have the ability to seek an injunction and post the necessary bond prior to the warrant going forth. The writ of ejectment was posted conspicuously the next day upon her premises, Friday, 3<sup>rd</sup> September by Sr. Cpl. Thomas. By the time the Appellant returned home and took cognizance of the posting, it was after court hours. Further, the Appellant was adversely impacted by the Labor Holiday weekend (as the court was closed on Monday, 6<sup>th</sup> September) though she tried to get the standby judge's intervention to no avail. Thus, the first day the Appellant could address the Court was Tuesday, 7<sup>th</sup> September.

The Appellant's Emergency Motion to Vacate Judgment was heard instanter in the Summary Court Clerk's office, by Magistrate Gordon, the disposition judge, who also asked his Chief Magistrate, William M. Gamble, the assigned judge to intervene. The Appellant's only recourse to immediately file a Notice of Appeal with the Sumter County Circuit Court of Common Pleas to avoid execution of the writ of ejectment. Although the notice of appeal also indicated an application for a stay, Judge Ferrell did not address it during the initial hearing.

At this time the lower court is neither willing to the writ of ejectment pending the outcome of an appeal nor will it allow the Appellant to give the necessary bond holding that the Court of Appeals and S.C. Supreme Court have jurisdiction over the matter. The Appellant argues the statute does not bar the aggrieved party from seeking a writ of *supersedeas*, granted the execution of a sufficient bond. Yet, the unwillingness of the lower court to even entertain such relief is the cause for this motion being submitted before this Court.\

Therefore, the writ of injunction is necessary because the Appellant is disseized her life, liberty and property pending the outcome of this appeal in contradiction of international, federal and state law. The writ of ejectment permits the Sumter County Sheriff's Office to remove the Appellant from the premises and her property to the roadside if she fails to voluntary vacate within twenty hours of service of the warrant or its conspicuous posting.

WHEREFORE, the Appellant prays that the Court of Appeals will grant such relief as it deems appropriate.

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<sup>5</sup> Albeit SCACR Rule 201(b) states "*only a party aggrieved by an order, judgment, sentence of decision may appeal*"

<sup>6</sup> South Carolina Rules of Magistrate Court. RULE 1: DEFINITIONS. "Working day" means a day which is not a Saturday, Sunday, or legal holiday under state or federal law."

Respectfully submitted this 5<sup>th</sup> day of October 2021 C.E., 28 Safar 1443A.H.

 *Regina M. Hunter El*

I Am: Regina M. Hunter El

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A Natural Person, In Full Life, In Propria Persona, Sui Juris

Regina M. Hunter El

1165 Broad Street, #16

Sumter, S.C. 29150

(803) 883-0600

[reginamhunter@gmail.com](mailto:reginamhunter@gmail.com)

With the Name of Allah, Most Merciful, Most Gracious

STATE OF SOUTH CAROLINA )

IN THE COURT OF APPEALS

MEMORANDUM OF AUTHORITIES

EMERGENCY MOTION FOR WRIT OF INJUNCTION (Petition for Supersedeas)

Regina M. Hunter El ) 1165 Broad St. #16 ) Sumter, S.C. 29150 )

Plaintiff(s) )

vs. )

Elijah Hunter ) 3400 Hwy. 261 North ) Rembert, S.C. 29128 )

Defendant(s) )

Appeal from Court of Common Pleas, Sumter County Case No. 2021-CP-43-1534 Hon. Ferrell R. Cothran

Appeal from Summary Court, Sumter County Case No. 2021CV4310102733 Fred H. Gordon, Jr., Magistrate

MEMORANDUM OF AUTHORITES

- 1. South Carolina Appellate Court Rules (SCACR), Rule 205
2. S.C. Code of Laws §15-67-640
3. S.C. Code of Laws §18-7-10
4. U.S. Const., Amend, XIV
5. S.C. Const., Article 1, Sec. 3
6. United Nations International Covenant on Civil and Political Rights, (16 Dec. 1966)
a. Article 14

**PROOF OF SERVICE**

I, Regina M. Hunter El, certify that I served a copy of this Emergency Motion for Writ of Injunction on Elijah Hunter, Sumter County Court of Common Pleas, and the Sumter County Magistrate Court by depositing a copy of the same with the United States Postal Service, with first class mail postage, to the parties in the attached service list.

Executed this 5<sup>th</sup> day of October 2021 C.E., 28 Safar 1443A.H.

Respectfully,



I Am: Regina M. Hunter El  
All Rights Reserved  
A Natural Person, In Full Life, In Propria Persona, Sui Juris

Regina M. Hunter El  
1165 Broad Street, #16  
Sumter, S.C. 29150  
(803) 883-0600  
[reginamhunter@gmail.com](mailto:reginamhunter@gmail.com)

**Service List:**

Elijah Hunter  
3400 Hwy. 261 North  
Rembert, S.C. 29128

Attn: James C. Campbell, Clerk of Court  
Sumter County Court of Common Pleas  
Sumter County Judicial Center, third floor  
215 N. Harvin St  
Sumter, SC 29150  
Tel.: 803-436-2227  
Fax: 803-436-2223

William Mattison Gamble, Chief Magistrate Judge  
Sumter Magistrate Court  
190 E. Canal Street  
Post Office Box 1428  
Sumter, S.C. 29151-1428  
Tel. (803) 436-2280  
Fax: (803) 436-2789

Chief Justice Donald W. Beatty  
c/o Daniel E. Shearouse, Clerk of Court  
c/o Brenda F. Shealy, Deputy Clerk of Court  
South Carolina Judicial Department  
The South Carolina Supreme Court  
1231 Gervais Street  
Columbia, SC 29201  
Tel. (803) 734-1080, Fax: (803) 734-1499

Attn: Sheriff Anthony Dennis &  
Kathy Ward, General Counsel  
Sumter County Sheriff's Office  
1281 North Main Street  
Sumter, SC 29153  
Tel. (803) 436-2053, Fax: (803) 436-2054  
E-mail: [adennis@sumtercountysc.org](mailto:adennis@sumtercountysc.org)

Hon. Dale Atkinson, Probate Judge  
Sumter County Judicial Center  
215 N. Harvin St  
Sumter, S.C. 29150  
Phone: 803-436-2166  
Fax: 803-436-2407

The Honorable Henry McMaster  
State House  
1100 Gervais Street  
Columbia, SC 29201  
Tel. (803) 734-2100  
Fax: (803) 734-5167

The Honorable Alan Wilson  
c/o Barry Bernstein (Constituent Services)  
P.O. Box 11549  
Columbia, S.C. 29211  
(803) 737-3953