

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM SUMTER COUNTY  
COURT OF COMMON PLEAS

The Hon. R. Kirk Griffin, Circuit Court Judge

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Case No. 2021-CP-43-01882

Appellate Case No. 2021-001407

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Jaylin’s Properties.....  
Respondents,

v.

Reginald Evans.....  
Appellant.

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RETURN TO MOTION TO STAY

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Respondents by and through their undersigned attorney, file this Return to Appellant’s Motion to Stay.

In his Motion to Stay, the Appellant states that this Honorable Courts granting of a stay is appropriate because his appeal will, “... present serious legal questions: and (ii) absent stay Defendant will irreparable injury.” However, the Appellant has raised no legal questions in his Motion to Stay. Further, Respondents would point out that Appellant has laid no basis in either code or case law for a Stay to be granted.

Even if the Appellant had asserted a well-pleaded motion to stay pending appeal – and he has not – a stay would be inappropriate here. The burden to support the relief requested in the

Appellants Motion to Stay lies with the Appellant. *Hodges v. Shalala*, 127 F.Supp.2d 790 (D. S.C. 2001). The United States District Court for the District of South Carolina in *Hodges* quoting *Long v. Robinson*, 432 F.2d 977, 979 (4<sup>th</sup> Cir. 1970) states that a party seeking a stay ... show, “that he will likely prevail on the merits of the appeal...” In the instant matter, the Appellant has failed to show that he will likely prevail on the merits of his appeal. In fact, the Appellant has failed to lay any basis in either South Carolina Code or South Carolina case law as to the merits of his appeal. Rather, he, the Appellant, has merely stated that he has “medical problems”, making that the primary reason as to why his Motion to Stay should be granted.

The Fourth Circuit Court of Appeals in *Long* goes on to list three additional elements that enclose the four part inquiry as to whether an injunction should be stayed pending appeal, “(2) that he [the party seeking a stay] will suffer irreparable injury if the stay is denied, (3) that other parties will not be substantially harmed by the stay, and (4) that the public interest will be served by granting the stay.” *Long* at 979. In his instant Motion to Stay, the Appellant has not stated that he will suffer irreparable harm if a stay is not granted. Further, the Respondent would be substantially harmed by the stay in that it would allow the Appellant to remain in the property owned by the Respondent during the pendency of litigation in the Court of Common Pleas. Lastly, Respondent would show that the public interest would not be served by granting Appellant’s Motion to Stay, as it would be allowing him to stay in a home owned by the Respondent.

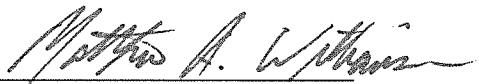
### **CONCLUSION**

For the reasons stated above, the Court should deny Appellant’s Motion for Stay.

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Respectfully submitted,

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