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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE SOUTH CAROLINA COURT
OF APPEALS **Apr 04 2022**

South Carolina **SC Court of Appeals**
Court of Appeals
Case No. 2022-0322

ALFIE INVESTORS,
Respondents

C.A. NO. 2020-CP-23-04007

v.

INTERNATIONAL PALM OIL &
BIODIESEL, LLC; JUIITH OGLESBY,
THOMAS OGLESBT; UNIVERSAL
FUNDING GROUP, LLC; et al; And
CHRISTOPHER JONES; of whom
Christopher Jones, Appeals

**APPELLANT’S EMERGENCY MOTION
TO POST APPEAL BOND PURSUANT
To S.C Code 18-9-170 And Rule 62,
SCRCP.**

Appellant,

MEMORANDUM IN SUPPORT

Appellant, Christopher Jones, (“Jones”), hereby submits this memorandum in support of a stay of the Plaintiff’s Emergency Motion to Post Appeal Bond, pursuant to Order denying Stay by the South Carolina Court of Appeals on April 1, 2022. The Appellant now requests an that the Court immediately amend this Court’s Order denying the Stay of Execution filed and entered March 31, 2022 and requiring a supersedeas bond pursuant to S.C. 18-9-170 (2014).

PROCEDURAL HISTORY

On March 15, 2022, Appellant filed this appeal seeking a stay of execution of the foreclosure Order entered on March 2, 2022, by the Honorable Charles Simmons, Greenville County Master-in-Equity Judge, and received by the Appellant on March 7, 2022. The amount of judgement due by the Order is \$358,551.89 and \$312,816.63, respectfully. Appellant then filed their Notice of Appeal and Proof of Service on March 15, 2022, Christopher Jones is Appellant; Appellant Case No. 2022-000322, was filed without bond.

ARGUMENT

As previously set forth Appellant's Motion to Stay, this Court is governed by Rule 62 of the South Carolina Rules of Civil Procedure and S.C. Code Ann. § 18-9-130, as amended. S.C. Code Ann. § 18-9-130(A)(1), as amended provides: "A notice of appeal from a judgment directing the payment of money does not stay the execution of the judgment unless the presiding judge before whom the judgment was obtained grants a stay of execution. If the presiding judge grants a stay of execution and requires a bond or other surety to guarantee the payment of the judgment pending the appeal, the amount of the bond or other surety may not exceed the amount of the judgment."

Rule 62(d) of the South Carolina Rules of Civil Procedure, further provides that "[w]hen an appeal is taken, a party, by giving a supersedeas bond, may obtain a stay subject to the exceptions contained in subdivision (a) of this rule and the South Carolina Appellate Court Rules. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the supersedeas as the case may be. The stay is effective when the supersedeas bond is approved by the court." Being that an appeal has been filed and is now pending against Respondents, it would be in this Court's discretion to grant a stay of execution in order for the appeal to take place to preserve the status quo. Appellant did not first seek an appeal bond amount from Judge Simmons, but has now submitted the same to Judge Simmons in order to post the sufficient bond with the Court, who issued the Order on March 2, 2020. Because Judge Simmons ordered the foreclosure, Judge Simmons was the proper judge for Appellant to seek the amount of bond for the Stay requested. Accordingly, the Appellant could not know the amount of appeal bond without receiving the same from Judge Simmons. See Steele v. Charlotte, C & A R Co., 14 S.C. 324 (1879); Cudd v. Williams, 39 S.C. 452, 18 S.E. 3 (1893); State v. Harrelson, 211 S.C. 11, 43 S.E.2d 593

(1947); Dukes & Dukes, Inc. v. Hygrade Food Products Corp., 236 S.C. 69, 113 S.E.2d 254 (1960); Ex Parte State, 263 S.C. 363, 210 S.E.2d 600 (1974); and Cook v. Taylor, 272 S.C. 536, 538, 252 S.E.2d 923, 924 (1979).

Plaintiff's Emergency Motion seeks to preserve the status quo whereby, the property itself, would be sufficient to protect the Respondent's interests, however, the Appellant has secured the amount of judgment to be placed as appeal bond against the case while on appeal. Pursuant to South Carolina Rules of Civil Procedure only the Presiding Judge can issue the Stay and only when a Supersedeas Bond is posted. While S.C. Code Ann. § 18-9-130 does state that the presiding judge before whom the judgment was obtained can grant the stay of execution, Rule 62(f) of the South Carolina Rules of Civil Procedure provides that the Rules are "cumulative to and not superseding the right of any party to a stay of execution accorded by the statute..." Moreover, Rule 62(g) clearly states that, "the provisions in this rule do not limit any power of an appellate court or a judge or justice thereof to stay proceedings during pendency of any appeal..." An application for such relief should be made to the trial court under Rule 62(c) or (d)...", which is what Appellant is attempting to do under emergency procedures.

The amount of any bond is in the discretion of the Court. The only requirement is that it may not exceed the amount of the Judgment. This S.C. Court of Appeals Court denied Appellant's Stay of Execution pursuant to 18-9-170 only. Appellant has cured this defect and would respectfully petition that judge Simmons formally enter an amount of the Supersedeas Bond as warranted. As is set forth by Christopher Jones, Appellant. The company he has secured to provide the Supersedeas Bond has been in operation in South Carolina for many years and is authorized by Judge Simmons, Master-in-Equity and has been authorized to write checks up to **\$2,000,000** and has assets sufficient to satisfy the judgment, if it is ultimately found liable for

the debt of Christopher Jones to Alfie Investors., after the final decision of appeal. Jones seeks merely to maintain the status quo and sees no reason for this Court to not Amend its prior Order. In addition, request that Judge Simmons simultaneously set the bond amount at his discretion.

Respectfully submitted this 4th day of April, 2022.

s/ CHRISTOPHER JONES
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IN THE SOUTH CAROLINA COURT
COURT OF APPEALS

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Apr 04 2022

SC Court of Appeals

Alfie Investors, LLC,)
Respondent,)
)
v.)
International Palm Oil and Biodiesel, LLC.)
Judith Oglesby; Thomas Oglesby;)
James T. Donovan; Carter Lumber of the)
South, Inc.; Universal Funding Group, LLC;)
Christopher Jones; and International Palm,)
Defendants,)
Of Whom Christopher Jones is the Appellant.)

APPELLANTS' CERTIFICATE OF
SERVICE MOTION FOR STAY
EXECUTION OF JUDGMENT
PENDING APPEAL, PURSUANT TO
RULE 241 S.C.A.C.R.

APPEAL NO. 2022-000322

CERTIFICATE OF SERVICE

I, Christopher Jones hereby certify that on April 4, 2022, that I served Respondents with the Appellant's Emergency Motion For Stay Execution Bond, which was filed with the S.C. Court of Appeals Clerk of Court by email and will send notifications of such filing to the following:

ROE & CASSIDY, PA
Amber Glidewell, Esquire
James Cassidy, Esquire
1052 N. Church Street
Greenville, SC 29601
(864)349-2600

Under penalties of perjury, I hereby certify that on April 4, 2022 Ie mailed and caused the same documents to be filed with the Clerk of Court and the above-named Counsel for Respondents. aglidewell@roecassidy.com

s/ CHRISTOPHER JONES
Christopher Jones
Appellant