

96574

RECEIVED

JUN 29 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM EDGEFIELD COUNTY
Court of Common Pleas
Allison Renee Lee, Circuit Court Judge

Case No. 2016-CP-19-00141
Appellate Case No.: 2019-001428

Rufus Lyndell Griffin,

Appellant,

v.

Thomas Mosley, Quinnie Mosley, Walter Mosley, Timothy Mosley,
And Paquita Mosley, Individually and as Personal Representative
Of the Estate of Ellec Mosley,

Defendants.

PETITION FOR REHEARING

Appellant, Rufus Lyndell Griffin, moves this Court to rehear and reconsider its decision issued in this case on the following issues:

1. The Court erred in determining that Appellant “failed to preserve his argument that the circuit court’s order is technically flawed and invalid for appellate review”. The Court supported its assessment by reminding Appellant of his remedy available pursuant to Rule (60)a, SCRPC.

However, Appellant argues that the mistakes noted in the captioning of

the Order of the lower court is not merely a clerical error or typographical error, but one that improperly dismisses or omits one of the original defendants of the case and infringes on the due process rights of the parties and the chain of continuity of the case itself moving through the appellate process. And, in addition, it was exacerbated by the issue of the sudden change in captioning on the circuit court order, of the other non-omitted, remaining Respondents, which changed their titles, appearing to give status to all parties equally the status belonging solely to one. It is the totality of the these and other issues raised which are more substantial than mere clerical error, and fall into the area of Rule (60)b, which was not considered in the Court's opinion.

2. The Court erred in affirming the circuit court's dismissal of the complaint for lack of subject matter jurisdiction. It is the opinion of the Court that Appellant did not include sufficient proof within his record that the probate court did not have jurisdiction over the disputed assets which Appellant claimed were outside of the lower court's jurisdiction. Appellant's probate case was closed in September 2014, and executorship and heir rights were formally given to the lone probate Respondent, Paquita Mosley. Upon appeal of that decision, the Circuit Court ruled in favor of Appellant, Rufus Griffin, per its Order, dated November 12, 2015, (R. pg 15) which supports that Appellant's probate case was 'reversed and remanded' but solely on the basis of an improper standard used by the

probate court in regard to Appellant's paternity, (as it pertains to executorship and heir rights in opposition to or jointly with his sister, Respondent, Paquita Mosley). This reverse and remand action also limits Appellant's rights to only estate assets, if it is established that he is a child of the decedent and heir. The jurisdiction of the probate court does not afford Appellant the right to a jury trial against all the named Respondents whom he has filed civil action and has the legal right to pursue in a civil court setting for accounts of which he was a joint owner. The Court did not address the circuit court action of dismissal which denied that right of Appellant.

3. The Court erred in upholding the circuit court's dismissal of the complaint against all Respondents as predicated on the circuit court's lack of subject matter jurisdiction. Appellant stands on the fact that the circuit court did not lack subject matter jurisdiction as parties of the civil suit were not parties in the original probate court matter, and these parties cannot now be introduced to an appealed probate proceeding of which they were not original petitioners/parties, as the probate court case closed in September 2014 and was remanded in November 2015 by the circuit court only on the basis of misapplication of legal standard as it pertains to Appellant's paternity. Jurisdiction of a probate court does not protect the due process rights of Appellant's right of trial by jury against the Respondents who

were not petitioners or parties of the probate action, nor can Appellant recover monetary losses and seek award for punitive damage.

4. Appellant remains in disagreement of the circuit court order's dismissal as it relates to the premise of res judicata, as two prior judges had previously heard the argument of jurisdiction and both determined, through oral argument/presentation, that the case indeed consisted of assets that were of a non-probate nature, and therefore Appellant was rightfully in the proper (circuit) court venue. After the circuit court accepted and upheld its jurisdiction, for roughly five (5) years, it is not reasonable that upon a third motion for dismissal, on the same exact grounds as the previous two initial motions, that the circuit court would suddenly act to dismiss a civil case to a lower probate court. The Court also errantly overlooked the discrepancies within the circuit court order which provided legal standards supporting its lack of jurisdiction which were wrongly based on misstated material facts.
5. The Court's opinion stated that it "declined to consider the issue of whether the circuit court violated statutory standards in the filing of documents or maintenance of court records", and determined in err that Appellant "again failed to provide a sufficient record from which this court can intelligently review this issue". The Court based its decision on the Appellant not providing a transcript proving that his brief had been submitted to the court at the time of hearing. However, Appellant, in his

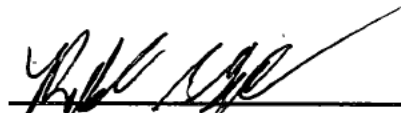
Record on Appeal, did submit 1) an excerpt from the transcript (R p. 33) which showed the reference to the brief being read in court, 2) a letter dated March 30, 2019 (R pp. 48-49) from Appellant to the circuit court to formally inform the court that his brief had not yet been properly recorded, 3) an email correspondence (R. p. 51) showing Appellant's continued concern and inquiry that his brief was missing from the court records, and finally 4) acknowledgement and proof directly from the circuit court judge in the form of her letter, dated December 4, 2019, to the Clerk of Court (R. p. 52), whereas the judge personally affirmed that Appellant had indeed submitted his brief to her during the March 18, 2019 hearing, but it was not filed, with reason being that she'd kept it in her possession to review. It was only then, December 2019, that the judge finally returned it to the clerk. Although the Court insists upon the filing of the document being solely the responsibility of Appellant, it is clear that Appellant did indeed bring this matter to the attention of the Clerk of Court's office and the judge in March 2019, per letter (R. pp. 48-49).

Pursuant to S.C. Code, Article 1 §14-17-570, upon the court's receipt, it is the clerk of court's responsibility to ensure that all items submitted to the court are properly filed, recorded and available for later inspection. From March to December 2019, neither official of the lower court took action to ensure that the document in the judge's possession was returned to the clerk for its proper registering, even after notification from Appellant

months prior. Court rules do not allow the clerk or the judge to disregard the rules requiring the proper maintenance of court documents once they have been submitted by a litigant to the court.

The decision of this Court in perhaps misunderstanding some of the details of the case or initially overlooking some of the documents on Record may have allowed the Court to not address the issues properly before the Court. Therefore, Appellant submits this Petition requesting reconsideration or rehearing.

Respectfully submitted,



Rufus L. Griffin, pro se

Address: 313 5th Avenue
McCormick, SC 29835

Phone: 864-852-2163

Email: writeme44@yahoo.com

June 27, 2022

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

JUN 29 2022

SC Court of Appeals

APPEAL FROM EDGEFIELD COUNTY
Court of Common Pleas
Allison Renee Lee, Circuit Court Judge

Case No. 2016-CP-19-00141
Appellate Case No.: 2019-001428

Rufus Lyndell Griffin,

Appellant,

v.

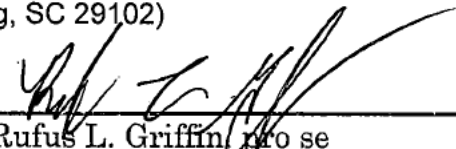
Thomas Mosley, Quinnie Mosley, Walter Mosley, Timothy Mosley,
And Paquita Mosley, Individually and as Personal Representative
Of the Estate of Ellec Mosley,

Defendants.

PROOF OF SERVICE

I, Rufus L. Griffin, certify that a true and correct copy of the **Petition for Rehearing** and cover letter to the Court was served upon each Respondent's attorney of record, or individually if no attorney, by first class U.S. mail, as follows:

Paquita Mosley- (Rachael Dain, Esq., 810 Dutch Square Blvd., Ste 215, Columbia, SC 29210)
Thomas Mosley- (1018 Price Ave., Columbia, SC 29201 / no counsel of record)
Timothy Mosley & Walter Mosley-(Randall D. Williams, Esq., PO Box 70, Edgefield, SC 29824),
Quinnie Mosley- (Eydie J. Tillman, Esq., P.O. Box 71, Edgefield, SC 29824),
Betty Mosley- (Eleazer Carter, Esq., P.O. Box 187, Manning, SC 29102)


Rufus L. Griffin, pro se
Address: 313 Fifth Avenue
McCormick, SC 29835
Phone: 864-852-2163
Email: writeme44@yahoo.com

June 27, 2022

The South Carolina Court of Appeals
Attn: Jenny Abbott Kitchings, Clerk of Court
P.O. Box 11629
Columbia, SC 29211
www.sccourts.org

RECEIVED

JUN 29 2022

SC Court of Appeals

June 27, 2022

Rufus L. Griffin
313 Fifth Avenue
McCormick, SC 29835
(864) 852-2163
writeme44@yahoo.com

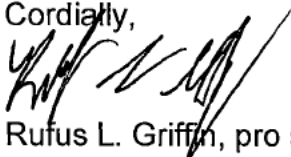
RE: PETITION FOR REHEARING (Case No. 2019-001428)

Dear Ms. Kitchings,

I received the decision of the Court of Appeals (in the above referenced case), filed June 15, 2022, and in response, I'm submitting my *Petition for Rehearing*, in accordance with Rule 221(a), SCACR.

Along with the Petition is the \$50.00 filing fee, and *Proof of Service* certificate. Please provide confirmation of receipt and filing.

Cordially,



Rufus L. Griffin, pro se

Rufus L. Griffin
313 5th Ave
McCormick, SC 29835



RECEIVED

JUN 29 2022

SC Court of Appeals

The South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211