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STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
TONJI LAVONNE MEREDITH,)
)
Plaintiff,)
)
vs.)
)
TAMMY LEE GLENN,)
)
)
Defendant.)

IN THE COURT OF
COMMON PLEAS
OF THE SEVENTH
JUDICIAL CIRCUIT

TRANSCRIPT OF RECORD
2019-CP-42-00891

ORIGINAL

January 10, 2020
Spartanburg, South Carolina

B E F O R E:

HONORABLE J. MARK HAYES, II, Judge.

A P P E A R A N C E S

MICHAEL BROWN, ESQUIRE
For Plaintiff

ALBERT V. SMITH, IV,
For Defendant

RECEIVED

JUL 01 2022

SC Court of Appeals

Julie A. Cendroski,
Circuit Court Reporter III
Seventh Judicial Circuit

I N D E X

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EXHIBITS

MARKED

ENTERED

NO EXHIBITS PROFFERED

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1 TONJI LAVONNE MEREDITH VS. TAMMY LEE GLENN

2 THE COURT: All right. I've got down that this
3 is -- involves a matter that was handled by probate
4 court and it's now, I guess, an appeal. Notice of
5 appeal was filed in the circuit court and that we're
6 here on, it looks like, Mr. Smith's motion to dismiss
7 the appeal as being untimely.

8 MR. SMITH: Yes, sir, Your Honor. The -- may it
9 please the Court?

10 THE COURT: Yeah.

11 MR. SMITH: May it please the Court? This appeal
12 was dated and filed in probate court on November 27th,
13 2020 -- '19. The order that it is being appealed from
14 was filed in probate court September 16th, 2019. And
15 according to 62-1-308, that is an untimely situation and
16 this Court would be without jurisdiction to hear the
17 appeal. And I have a copy of that statute, if the Court
18 wants to see it.

19 THE COURT: And you're gonna represent the other
20 side, Mr. Brown?

21 MR. BROWN: Your Honor, I was counsel, obviously,
22 for the probate matter. And I know Ms. Tammy Glenn had
23 filed the response, I would think -- Meredith, I said
24 Ms. Glenn, Ms. Meredith in regards to the filing of Mr.
25 Smith. And I would make myself available for the

1 pertinent issues up until the appeal. That being said,
2 as I understand it, the order came back from the -- the
3 order was filed in regards to November the 7th from the
4 probate court in terms of its final order at that
5 hearing that Mr. Smith and I had before the court.

6 At such time I know there was various mailings
7 that went out, and I think Ms. Meredith would contend
8 that the families would have received their notice
9 around November 23rd.

10 MR. SMITH: Your Honor, I have a copy of the
11 clocked order. It's clocked September 16th, 2019. And
12 the proof of delivery, Your Honor, is dated September
13 24, 2000 - it looks like - '17, unless it's something
14 else. I don't know what that's about.

15 MR. BROWN: And, Your Honor, Ms. Meredith, Tonji
16 Meredith just pointed out to me in regards to the
17 September 24th, based upon, I think, her contention
18 relates to the personal representative being appointed
19 and representing the interest of the estate. She's
20 saying at the outset, throughout the time period up
21 until Mr. Smith and I had a chance to argue the merits
22 of the case, the family was never properly notified from
23 the appointed personal representative of the estate,
24 even including what was filed with the court in terms of
25 proof of delivery in this case. And that would be from

1 September 24th, 2017, until today.

2 THE COURT: Do you have a date of when she got
3 stuff or received the notice? Is there any
4 communications?

5 MR. SMITH: Your Honor, this notice of intent to
6 appeal was sworn to on November 26th, 2019. That's more
7 than two months after the date of the order.

8 MR. BROWN: Your Honor, her contention, along
9 with what would be the corroborating information from
10 the other parties, from the Meredith family, would be
11 that they received their information around November
12 23rd, which during the time period in which she did
13 contact both legal aid in terms of assisting with her
14 application for an appeal, as well as her direct contact
15 with the probate office, that she would have been given
16 ten days opportunity, as well as the interest of her
17 sister and her brother in regards to an intention to the
18 following appeal in this regard. And I think that's
19 what she's saying she's availed herself of since
20 November 23rd, Your Honor.

21 THE COURT: So there's no -- so it's not
22 contested that whatever order is being appealed, the
23 order was filed September the 16th?

24 MR. SMITH: Yes, sir.

25 THE COURT: What is contested then is the date

1 that the order was received by the appealing party?

2 MR. SMITH: That's correct.

3 THE COURT: And the appealing party says that
4 they received a copy of the order November the 23rd?

5 MR. BROWN: Yes, sir. And as I understand it,
6 which has been a point of contention throughout, even
7 now to arguing the merits of the case, of the case being
8 decided, Ms. Meredith has a contention against the will,
9 as she stated throughout the validity of the will that
10 was presented for the probating of this court.

11 Subsequent to that, I think she's informed the
12 probate court that there is a will of a later date and
13 time, which I know is not at issue in this particular
14 matter before the Court, but she is in possession of a
15 copy of a will that's of a much later date of the
16 subsequent one which was brought up in the course of her
17 challenging the case from the outset, as well as an
18 appeal, as I understand, based upon the fact that -- and
19 I -- it was her argument, not mine, Your Honor, in
20 regards to what she alleged to be some type of fraud in
21 the execution of the will.

22 Her contention was there was a notary that was
23 involved. We did argue about the aspects of the
24 supplemental will. But that being said, the notary that
25 supposedly attested and signed a notarized will was not

1 a valid notary in any way in South Carolina. The Court
2 later looked at that issue.

3 Ms. Meredith, in between the time period of the
4 court, was providing the ruling. She contacted clearly,
5 the Secretary of State's office. She's contacted the
6 clerk of court's office in Spartanburg, Cherokee.
7 There's also some proper being questioned in her
8 father's estate in Greenville.

9 And from that she says that the person that was
10 said to have been the notary involved in this, was not
11 deemed to be a notary that was valid during this time
12 period. And since that time period, this will that also
13 was being discussed as a part of the merits of the case
14 but hasn't been presented. There had been a filing
15 before the police department of various items being
16 stolen from the home that she occupied that was part of
17 the estate of Mr. Luka Leon Meredith's (phonetic)
18 estate.

19 Since that time period, a copy, and not the
20 original will that she contested was stolen from the
21 residence by whomever. I know she did allege that the
22 parties that brought forth the will to be probated for
23 their behalf, as she stated, this subsequent will had
24 been found. So for that matter she is contending the
25 merits of authentication.

1 THE COURT: Would that not be after acquired
2 evidence that she can present to the probate court?

3 MR. BROWN: In regards to that, yes, I would
4 think so. And that's why I told her I don't think the
5 exact will that she's presenting can be presented
6 towards the Court. But I know that in terms of the
7 issue that was raised, she did raise that as an aspect
8 of it by saying that in presenting information, as well
9 as testimony and evidence, that she had in deed filed a
10 police report during the interim time period of the then
11 presented will to be probated. She did provide
12 testimony during the hearing that involved this order
13 that was handed down.

14 THE COURT: So does any -- so any new information
15 couldn't be presented as a part of this appeal and has
16 to be presented down in probate court because that's the
17 trier of fact down there.

18 MR. BROWN: Yes, sir.

19 THE COURT: Yeah.

20 MR. SMITH: Your Honor?

21 THE COURT: Yes, sir.

22 MR. SMITH: She didn't even appeal on that
23 ground. Her appeal is ---

24 THE COURT: That doesn't matter.

25 MR. SMITH: Okay.

1 THE COURT: It's whatever factual information
2 that's getting decided by the probate court, not on
3 appeal by circuit court.

4 All right. So, is it when the clock starts
5 running for appellate purposes, is it when the person
6 receives or ---

7 MR. SMITH: It's when it receives.

8 THE COURT: Pardon?

9 MR. SMITH: The statute says when the person
10 receives it.

11 THE COURT: Well, according to what she's saying,
12 she didn't receive it until November the 23rd.

13 MR. SMITH: I would be interested in seeing what
14 the record says. I was under the impression that the
15 probate court was certifying the record to this court.

16 THE COURT: We don't have any records so far, so
17 this would probably be premature since we don't have a
18 record. We don't have any -- I asked my law clerk. We
19 don't have a return. We don't have anything from
20 probate court yet.

21 MR. SMITH: Okay.

22 THE COURT: So let's just reset this to get that
23 information from the probate court.

24 MR. SMITH: Will the Court request that or do we
25 need to?

1 THE COURT: Y'all have to do it.

2 MR. SMITH: Okay.

3 MR. BROWN: And, Your Honor, I also noticed that
4 I think what Mr. Smith had directly served to Ms.
5 Meredith, there was a request for a guardian. I know
6 that's gonna be, that's gonna be a contention at some
7 point in this case.

8 MR. SMITH: I didn't request a guardian.

9 MS. MEREDITH: Yes, you did.

10 MR. SMITH: No, I didn't.

11 MR. BROWN: Well, I noticed that on what was
12 served to Ms. Meredith was a request for a guardian.
13 Either way, I know that's gonna be a matter that's gonna
14 be brought before the probate court based upon this
15 later will. As the Court is aware, one of the parties
16 getting served would not be -- or alleged to have been
17 served, both for these proceedings and prior
18 proceedings, would not be in a position to even
19 understand the nature. So that would be the twin sister
20 to Ms. Tonji Meredith, who is present here today.

21 THE COURT: All right. Well, this will have to
22 be reset because we don't have any record from probate
23 court as to anything.

24 MR. SMITH: Your Honor, I'm looking at Rule 75 of
25 the South Carolina Rules of Civil Procedure, and it says

1 that upon filing of notice of appeal in an action the
2 original record shall be certified by the clerk of the
3 inferior court or administrative agency or tribunal and
4 transmitted within 30 days to the clerk of the court to
5 which the appeal is taken. So I think that is the
6 responsibility, with all due respect, of the probate
7 court to certify that.

8 THE COURT: Somebody's got to tell them.

9 MR. SMITH: Okay.

10 THE COURT: All right. We just don't have
11 anything. Okay.

12 MR. SMITH: Yes, sir. We'll ask for that
13 certification.

14 THE COURT: Yes, sir, if you would. Thank you
15 very much.

16 MR. SMITH: Thank you.

17 THE COURT: And reset this.

18 (Hearing concluded at 11:23 a.m.)

19

20 --- THIS ENDS REQUESTED TRANSCRIPT ---

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COURT REPORTER CERTIFICATE

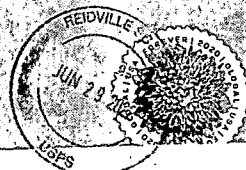
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I, the undersigned Julie A. Cendroski, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that to the best of my ability, the foregoing is a true, accurate, and complete transcript of record of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court of Common Pleas for Spartanburg County, South Carolina, on the 10th day of January, 2020.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

s/Julie A Cendroski
Julie A. Cendroski
Circuit Court Reporter III
Seventh Judicial Circuit

From: Tonji L. Meredith
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