THE STATE OF SOUTH CAROLINA
In The Court Of Appeals



APPEAL FROM OCONEE COUNTY
Court Of Common Pleas

J. CORDELL MADDOX JR., CIRCUIT COURT JUDGE
CASE NO: 2021-CP-37-00560

APPELLATE CASE NO.: 2021-001552

Dorothy Pierce, Appellant,

V.

Jared Adam Pierce, Respondent

# AMENDED FINAL BRIEF OF APPELLANT

**AUGUST 03, 2022.**

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## STATEMENT OF THE CASE

This case concerns the validity of a will made by the Deceased, Doyle Elton Pierce. Accordingly, on August 18, 2021, a judgment in favor of the Respondent entitled"ORDER ON MOTION TO DETERMINE VALIDITY OF WILL" was signed by the Oconee Probate Court in this case. The Appellant subsequently filed a Motion for a New Trial on August 23, 2021. Thereafter, the Appellant filed an Amended Motion for a New Trial in lieu of the already filed Motion for New Trial. On or about October 1, 2021, the Court conducted a hearing for the Appellant's Motion for New Trial. Consequently, the Court denied the said Motion. The Appellant appeals the said Order.

## STANDARD OF REVIEW

The standard of review applicable to cases originating in the probate court is controlled by whether the underlying cause of action is at law or in equity. *Howard v. Mutz*, 315 S.C. 356, 361-62, 434 S.E.2d 254, 257-58 (1993). Appellant states that this is an action at law. *NationsBank of S.C. v. Greenwood*, 321 S.C. 386, 392, 468 S.E.2d 658, 662 (Ct. App. 1996) (holding an action to construe a will is an action at law). If a proceeding in the probate court is in the nature of an action at law, review by this court extends merely to the correction of legal errors. *Townes Assocs. Ltd. v. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976), abrogated on other grounds by, *In re Estate of Kay*, 423 S.C. 476, 816 S.E.2d 542 (2018).

## FACTS

Appellant met the deceased Doyle Elton Pierce in November 2017, when she was looking for a house to rent within Upstate South Carolina. Craigslist was the only reliable platform at the time. Appellant reached out to Doyle E Pierce who had listed for rent, a room in his 3-bedroom brick house in a small city of Seneca, Oconee County, SC. However, upon house inspection, appellant realized the Deceased house needed proper cleaning before she would fully settle down. It took Appellant more than fifteen days to clean the house. During the clean-up, the Deceased helped the Appellant whenever he could. Two weeks later, the Deceased told the Appellant that he would have looked a thousand years and never found a woman like her. He asked Appellant to marry him. The two got married in February 2018.

The decedent's children were estranged from their father. Jared Adam Pierce, the respondent chased his father away from his house when the decedent and the appellant visited him in early 2018.

The Deceased's second "son", Greg Alan Pierce never talked to his "father" for over 10 years. The Deceased on the other hand, never wanted anything to do with his "son". To Doyle Elton Pierce, his "son", Greg Alan Pierce was Dead. Greg Pierce showed up in April 2020 when the Easter storm hit Seneca and destroyed almost everything the Deceased had worked for his entire life, three months before the Deceased passed away.

On or about July 7th, 2020, the Deceased executed the last will and testament in compliance with SC Code § 62-2-502 (2017). Notably, the will was in writing and was signed by at least two disinterested individuals, each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will. ***(ROA Pg. 33)***. Three months later, the decedent died at Prisma hospital, Oconee County on September 14th, 2020, at the age of 74 years, 3 months,

& 29 days.

On or about September 23rd, 2020, the Appellant was legally appointed Personal Representative of the Estate of Doyle Elton Pierce. ***(ROA. Pg.04)***

The Respondent contested the will and testament of the Deceased dated July 7, 2020, with the Probate Court. He relied on expert testimony that is time barred and failed the Daubert test. ***(ROA.Pg.283)***

On or about November 05th, 2020, the Respondent's Attorney Rick McDuff reported an incident case to Oconee County Sheriff Department on the account of counterfeiting/forgery. The sheriff department investigated the Will and Appellant thoroughly and closed the investigation, after finding NO WRONGDOING on the part of the Appellant.

On or about August 18, 2021, the Probate Court ruled to set aside the will. ***(ROA. Pg.05)***

On November 03, 2021, the appellant's appeal to the circuit court of Oconee County was heard before Judge Maddox Connell who did not give the appellant the opportunity to properly present the appeal during the hearing. He was already outright biased. **(RAO. Pg.252)**

On December 29, 2021, Judge Maddox affirmed the ruling of the Oconee County Probate court. ***(RAO. Pg. 15)***

## ARGUMENTS

## I. THE JUDGE FAILED TO CORRECTLY APPLY THE DAUBERT STANDARD FOR EXPERT TESTIMONY.

Under The Daubert Standard for Admissibility of Scientific Evidence. The first decision judges must determine, as gatekeepers of the law, is whether a witness is sufficiently qualified by "knowledge, skill, experience, training, or education" to give expert testimony. Once a judge has decided a witness is qualified to serve as an expert, Daubert requires the judge to make an independent assessment to "ensure that all scientific testimony or evidence admitted is not only relevant, but reliable. ***(ROA Pg. 69)***

The U.S. Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals Inc.*, 509 U.S. 579 (1993) set out the Daubert standard to assess whether an expert witness's scientific testimony is based on scientifically valid reasoning that can properly be applied to the facts at issue. Under the Daubert standard, the factors that may be considered in determining whether the methodology is valid are: (1) whether the theory or technique in question can be verified, refuted, and tested, (2) whether the evidence is valid and reliable, (3) whether it has been subjected to peer review and publication; (4) whether the existence and maintenance of standards controlling its operation are held to standards within the field; and, (5) whether it has attracted widespread acceptance within a relevant scientific community. ***(ROA Pg. 69)***

The Federal Rules of Evidence 702 is the crux of Article VII, as it guides the court's analysis in determining the admissibility of expert testimony. Rule 702 of the Federal Rules of Evidence makes no distinction between "scientific knowledge" and "technical knowledge" or "other specialized knowledge." Under Federal Rule 702, persons that are qualified as experts based on knowledge, skill, experience, training, or education are permitted to offer expert opinion

testimony if the following conditions have been met:

1. The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.
2. The testimony is based on sufficient facts or data.
3. The testimony is the product of reliable principles and methods; and
4. The expert has reliably applied the principles and methods to the facts of the case

It follows; the federal courts are all governed by the Daubert standard. Besides, the proponent of an expert bears the burden of demonstrating that the expert's testimony would satisfy the Daubert standard. *Lewis v CITGO Petroleum Corp.*, 561 F3d 698 (7th Cir 2009), citing *Bourjally v US*, 483 US 171, 175-76 (1987). ***(ROA Pg. 69)***

**In the instant case, on whether the theory or technique in question can be verified, refuted, and tested. The Answer is NO**. The expert evidence is not reliable, verifiable, refutable, or testable. According to the vague report of the Respondent's handwriting expert, both the report and the evidence do not show the type of document purportedly signed by the Deceased, does not show the contents of the document, the actual date it was purportedly signed or the purpose of the documents in question. The purported signature standards cannot be verified or authenticated to have been signed by Doyle Elton Pierce. To be specific, 14 purported signatures copied and pasted on one single piece of paper with an impossible way of tracing or authenticating the documents from which the purported signatures where extracted. ***(ROA Pg. 283)***. It should be noted that 4 of the 14 signatures appear to have been extracted from documents typed by the same person according to Doyle E. Pierce naming and font size. ***(ROA. Pg.301)***

**On whether the evidence is valid and reliable. The answer in NO**. Chiefly, the Respondent's handwriting expert used outdated signatures from 1971 (49 years before the Will

was signed), to 2008, (12 years before the will was signed), which fail the test of "within the proximity" of execution. The evidence is against the basic rules and guidelines of modern document examination that require that the signature samples execution date be within the proximity of the execution of questioned document. The expert evidence is therefore not relevant, valid, or reliable. The expert presented the probate court with evidence and testimonies based on irrelevant and insignificant signatures samples with notes of dates too old to be used to compare a person's signature. To put this into perspective, the signatures used from are 1971, 1972 1974 ,1975,1979 1991,1992,1994,2004,2008 ,2016, are far outside of the range of "within the proximity" ***(ROA. Pg.283)***

**On whether the method corresponds to published peer review, held to standards within the field, or generally accepted in the scientific community. The answer is NO**. The evidence relied upon by the Respondent would not gain general acceptance in the relevant scientific community because it was time barred. All published document examiners recommend that the best standards are those that most closely emulate the timeframe, circumstances, materials, and content of the questioned document. Therefore, the collected standards should be executed close in time to the questioned document. This is especially critical in cases involving illness, death, accident, mental imbalance, substance abuse, or anything likely to cause a dramatic change in the subject's handwriting. Investigators MUST find out everything possible about the circumstances under which the questioned document was allegedly prepared. Was the subject lying sick in bed, standing at a counter, holding a clipboard in his or her lap? Investigators are required to obtain standards written under similar conditions. In this instant case, the decedent was 74 years old and signed the last will and testament on the Trunk of the car. ***(ROA. Pgs.302-339)***

Furthermore, it was the court's responsibility to independently consider all the facts

presented by the expert, the court ignored important facts as per the testimony of the expert witness, Mr. John Jamieson that could not make any conclusions as to whether the initials on pages one through nine of the last will and testament of the Decedent, dated July 7th, 2020, was that of the Deceased or not.

In the instant action, the Trial Judge erroneously admitted, and relied on fraudulent, irrelevant, insignificant, unreliable, untestable, and unverifiable expert evidence, which failed the Daubert test. ***(ROA.Pg.283)***

## II. THE JUDGE'S CONDUCT AMOUNTED TO JUDICIAL MISCONDUCT.

Under S.C. App. Ct. R. 7, a Judge is said to have committed misconduct and is therefore subject to discipline if the Judge: failed to uphold the integrity of the judiciary; fails to participate in establishing, maintaining, and enforcing high standards of conduct, and personally observing those standards; fails to avoid impropriety and the appearance of impropriety; fails to act at all times in a manner that promotes public confidence in the judiciary; allows his relationships with others to influence the judge's judicial conduct or judgment; fails to perform the duties of the judicial office impartially; fails to be dignified and courteous to those with whom the judge deals in an official capacity and requiring similar conduct of persons subject to the judge's discretion and control; and fails to perform his judicial duties without bias or prejudice and by failing to cooperate with other judges and court officials in the administration of court business. South Carolina case law requires " a factual finding of judicial misconduct to be supported by clear and convincing evidence." *In re Gravely*, ___ S.C. ___, 467 S.E.2d 924 (1996).

**The trial Judge constantly engaged in improper ex parte communication with the Respondent**. During the probate hearing on August 2nd, 2021, while in recess, the Judge, the Respondent, and the Respondent's counsel had an ex parte communication before deciding to bring the Respondent as a witness after the appellant's witnesses made an irrefutable testimony validating the Will. The Respondent even called the Judge by his first name (Kenneth) while both exited the courtroom, proof that the judge has a personal connection to the Respondent.

Furthermore, several minutes before the Motion for a new trial hearing on October 1st, 2021, The Respondent's attorney, Richard McDuff, the Respondent, Jared Adam Pierce, and another lady in their company spent a considerable amount of time with the probate Judge in the judge's office before the three exited the office from the back door. The Appellant was not

informed of the subject matter of the meeting nor invited to attend the meeting.

**The trial Judge Intentionally discriminated against the Appellant based on race, color and national origin**. When the Appellant filed a motion for a new trial, neither the judge nor his clerks wanted to set up any date for the hearing of the motion for a new trail. The appellant politely asked the probate court on more than 3 different occasions to set a date, but the judge deliberately refused to set up a date claiming that the probate court did not have jurisdiction to hear the motion, NOT until Judge Sprouse, the presiding judge on the Appellant's appeal hearing advised that the pending motion in the probate court be ruled upon before Circuit Court could hear the appeal. Upon such determination, the Respondent informed the probate judge about Judge Sprouse's position, and the probate judge responded in less than two hours with possible dates for the motion hearing. **(ROA.Pg.69)**

Additionally, Weeks before the hearing of the appellant's motion for new trial, the appellant asked probate court about Power Point presentation system if court had any to aid her presentation during the motion for a New Trial Hearing but the judge and his clerks denied they had a PowerPoint presentation system, only to discover at the time of the hearing that the probate court actually had a boardroom with all PowerPoint system in place but they did not think the appellant was good enough to use the court's PowerPoint system. Surprisingly, the judge asked the appellant if she wanted to use PowerPoint at the time of the hearing of the appellant's motion to save face. The appellant had already printed her presentation on paper and did not prepare a PowerPoint presentation.

The appellant presented 9 grounds in her motion for a new trial but on his ruling, the probate judge ruled on one and completely ignored the other 9 arguments. In his Ruling, the judge wrote: *"After reviewing Rule 59, the case file and the arguments presented, I find the*

*following: Both sides had ample time for discovery, to prepare their arguments, secure witnesses and expert testimony prior to the August 2, 2021 Hearing. A continuance prior to the August 2, 2021 Hearing could have been requested and granted for additional time to prepare. The Motion for a New Trial/Hearing is denied. Mr. McDuff, please draft an Order for Ms. Pierce's review, and then my signature.* ***(ROA. Pg. 43)***

*Thank you, Kenneth E. Johns, Jr.* . When the appellant reminded the judge that Rule 59 provides grounds for granting a new trial based on significant error of the law and that Legal error and abuse of discretion were the basis of the appellant's new trial motion. The appellant, therefore, asked the Judge to provide legal grounds for each of the arguments to preserve the record. The Judge was so unfair that he did not even respond to any of Appellant's emails asking for a legal explanation to his denial of Appellant's Motion. Besides, the said Judge signed an Order, which the Respondent drafted without Appellant's knowledge. Although it is not express sole object of this Appeal to have the Judge disciplined, Appellant avers that the Judge's misconduct affected the validity of the Order issued by the Judge, which Order was issued without considering Appellant's case, and without giving any reason of the denial to Appellant. ***(ROA. Pg. 14)***

**Both The probate Judge and the Circuit Court Judge had Personal knowledge of the facts of the case and yet failed to recuse themselves from the case**. Notably, even a judge who is not serving as the finder of fact (i.e., when the case is to be decided by a jury) cannot be fair and impartial if he or she has personal knowledge of disputed facts, because the judge's evidentiary rulings (in pleadings and motions made by the parties) may be influenced by that knowledge. This is especially true when the facts known by the judge are either not part of the factual record of the case, or conflict with the evidence presented in court. According to American Bar Association Rule 2.11: Disqualification. A judge shall disqualify himself or

herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances: The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of facts that are in dispute in the proceeding. The law considers the partiality of a Judge in a case as a very sensitive matter. It follows; for example, a judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to, instances where he has a personal bias or prejudice against a party. *Murphy v. Murphy*, ___ S.C. ___, 461 S.E.2d 39 (1995). In the instant case, Appellant has several Email evidence detailing that the Respondent's attorney persistently emailed the judge about the forgery case he reported to Oconee Sheriff Department tainting the Appellant's reputation on false allegations and speculations. Even after the Sheriff Department closed the investigations, exonerating the Appellant on several false reporting, the Respondent did not inform the judge that the cases were closed. **(ROA. Pgs. 43 & 69)**

It is also worth noting that in the Emails, the Respondent was tainting Appellant's name by informing the Judge how bad the Appellant is. For example, the Respondent **falsely** stated thus: "*She is having the utilities disconnected ... for nonpayment, and is in default under the payment terms of the lease on that property... We have employee witnesses to testify that she has not paid them wages and are pursuing action with the Department of Labor.*" In another communication the Respondent wrote "*Judge John's, Sheriff Crenshaw has confirmed through the Department of Homeland Security that the PR, Dorothy Pierce, **has fled** the country and is in Uganda - not in Florida as she apparently told her attorney.* In a similar Communication the Respondent wrote: *Judge Johns: At the request of Sheriff Crenshaw, SLED performed an examination of Mr. Pierce's Last Will and Testament dated July 7, 2020. Upon examination, the*

*SLED Questioned Documents Examiner, Jack Jamieson, determined that signature on the Will is not that of the Decedent. The SLED File Number is L21-897. Sheriff Crenshaw can be contacted to confirm, and Mr. Jamieson's direct phone number is.* It is apparent that such communication sought to influence the Judge's decision to rule in favor of the Respondent, in violation of the Appellant's due process rights. For that reason, the Appellant contends that the contents in the email communications by the Respondent's attorney to the Judge corrupted the Judge's view of the case. **(ROA Pgs.43 & 69)**

## III. THE JUDGES' CONDUCT VIOLATED APPELLANT'S DUE PROCESS RIGHT.

"Procedural due process requires (1) adequate notice; (2) adequate opportunity to be heard; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses." *Moore v. Moore*, 376. S.C. 467, 657 S.E.2d. 743 (2008) (Emphasis added). *See* also *Clear Channel Outdoor v. City of Myrtle Beach*, 372 S.C. 230, 235, 642 S.E.2d 565, 567 (2007). The right to a notice and reasons for the decision is also protected under due process.

"In order to prove a denial of substantive due process, a party must show that he was arbitrarily and capriciously deprived of a cognizable property interest footed in state law." *Sloan v. S.C. Bd. of Physical Therapy Examr'*., 370 S.C. 452, 483, 636 S.E.2d 598, 614 (2006); *see Mathews e. Eldridge*, 424 U.S. 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976) (recognizing that before due process *473 guarantees are implicated, there must be a deprivation by the government of constitutionally protected interest).

**In the instant action, the Probate Judge failed to give reasons for the denial of Appellant's Motion.** Appellant is entitled, under the due process rights, to notice and reasons for the decision of the Court. Besides, the Appellant's due process rights guaranteed Appellant's right to a fair and/or impartial hearing; and to have an opportunity to be heard. Therefore, Appellant contends that the Judge ought to have provided Appellant sufficient notice and/or reasons of the Court's decision. Instead, the Judge failed to respond to Appellant's request(s) to provide the said decisions. ***(ROA Pg.14)***

The circuit court Judge restricted the appellant's oral presentation during appeal brief hearing to merely one question regarding the opinion of the appellant on why she was removed as the personal representative of the estate of Doyle E. Pierce. Appellant was not allowed to present legal errors and judicial misconduct which were the core of appellant's appeal. The circuit Court

judge also had knowledge of disputed facts and should have recused himself from the case. The appellant's due process right was seriously violated. ***(ROA Pg.252)***

**The Probate Judge abused his discretion when he impeached Appellant's witnesses by association without any factual grounds.** An abuse of discretion is to be found because the conclusions reached by the court were without reasonable factual support." *runyon v. wright*, 322 s.c. 15, 19, 471 s.e.2d 160, 162 (1996). The court's action violated Appellant's due process rights, which guarantee an adequate opportunity to be heard; the right to introduce evidence; and the right to confront and cross-examine witnesses. *See Moore*, 376. S.C. 467, 657 S.E.2d. 743 (2008).

Witness impeachment is guided by federal general rules 601, 607,608, 609 and 613. Rule 601. Competency to testify in general. Every person is competent to be a witness unless these rules provide otherwise. But in a civil case, state law governs the witness's competency regarding a claim or defense for which state law supplies the rule of decision. Rule 608. Permits impeachment based on a Witness's Character for Truthfulness or Untruthfulness. Rule 609. Impeachment by Evidence of a Criminal Conviction, Rule 613. Permits impeachment of a witness based on Prior inconsistent Statement. In this instant case, the witnesses where not impeached on the stand but on the judgment order. The Respondent did not raise any evidence or issues to impeach the witnesses during the hearing, neither did he suggest the witnesses be impeached for any reasons. The trial Judge however, at his discretion decided to impeach the witnesses on the judgment. ***(ROA Pg.05)***

The Court unfairly impeached the appellant's witnesses on the account that, they could not remember the exact name of the Church where the will was signed. Notably, SC Code § 62-2-502 does not limit the witnesses to specific location of the signing ceremony, neither does it

provide guidance on the same. The witnesses were using GPS to reach the Decedent's house and they are not natives of the local area of Six Miles, SC. hence it's only natural that they would not remember the exact name of the location. *Commonwealth v. Brusgulis, 398 Mass. 325, 329 (1986)*. Neither the inability of a witness to remember specific details of events nor inconsistencies in the testimony render the witness incompetent to testify, so long as the witness demonstrates "the general ability to observe, remember and recount. ***(ROA Pg. 05)***

The Court also unfairly impeached a witness Tammy Youngblood, on the account of prior brain surgery or bad nerve. According to a report presented to Court by Tammy Youngblood's Neurologist, Dr. Stephen Gardner, the witness is in sound mind and does not have any mental incompetence. ***(ROA Pg. 286)***

Further, In the absence of a body language expert, the Court unfairly impeached the Appellant's witnesses based on body language. The Appellant finds significant inconsistencies and lack of credibility in Court's narration on the events that transpired during the Court hearing on August 2nd, 2021. ***(ROA Pg. 05)***

## IV. THE JUDGE ERRED IN FINDING APPELLANT LIABLE FOR FRAUD UPON THE COURT AND UNFAIRLY REMOVED THE APPELLANT AS PERSONAL REPRESENTATIVE.

Fraud on the court" . . . requires a showing that one has acted with an intent to defraud the court." *Chewning v. Ford Motor Co.*, 354 S.C. 72, 78, 579 S.E.2d 605, 608 (2003) (quoting *United States v. Buck*, 281 F.3d 1336, 1342 (10th Cir. 2002))); id. at 78-79, 579 S.E.2d at 608-09.

Appellant contends that the Court erred in its conclusion that the appellant intentionally misrepresented material facts in the proceedings and had knowledge that the last will and testament was forged, leading to her appointment as personal representative. The Respondent did not present any evidence that showed that the Appellant had intent to deceive or defraud. Besides, the Appellant could possibly have no motive to defraud the Respondent. Notably, the will gave Appellant the residue of the Estate while the Respondent has 25 acres of river front land, which is the most expensive part of the Decedent's real estate. The second son is willed 8 acres of land, part of which is river front. **(ROA.Pg.33)**

The Decedent's last will and testament was duly signed and witnessed by two disinterested witnesses, Tammy Youngblood of Greenville SC. and Deana Walker, both of whom testified under oath before the probate court to the validity of the last will on August 2nd, 2021. ***(ROA. Pg. 88)***. Their testimonies were consistent with prior testimonies in their sworn affidavits dated, Dec. 07, 2020, filed with the Probate Court on December 7th, 2020, ***(ROA. Pgs. 31 & 32)***, and sworn voluntary statement to the deputy sheriff of Oconee County SC. dated February 8th, 2021. ***(ROA. Pg. 287 & 288)***. Again, On August 2nd, 2021, both witnesses testified under oath to the validity of the last will and testament of the decedent

without any contradiction of their previous sworn statement. ***(ROA. Pg.88)***

Furthermore, the appellant presented court with text messages corroborating testimonies of the witnesses before the signing event dating between July 6th 2020 to July 7th, 2020, and a handwriting Expert Report which authenticated that the signature on the Will is that of Doyle Elton Pierce. ***(ROA. Pg.289)***

Lastly, the Respondent's Attorney Rick McDuff reported an incident case to Oconee County Sheriff Department on the account of counterfeiting/forgery. The sheriff department investigated the Will and Appellant thoroughly and closed the investigation, after finding NO WRONGDOING on the part of the Appellant.

Considering all the above factors and evidence, it's unfair for the probate Court to taint the reputation of the appellant for having knowledge the will was forged and yet the Will is Valid and Authentic.

## V. THE PROBATE COURT JUDGE DID NOT HAVE THE PROPER QUALIFICATION TO PRESIDE OVER OR MAKE JUDGMENT ON THE MATTER.

According to Judicial selection in South Carolina, Judges of the South Carolina Probate Courts must be a U.S. citizen, a qualified elector of the county, older than 21 years of age, and either a bachelor's degree or four years of experience as an employee in a probate judge's office. The matter of Doyle Elton Pierce required a judge who is a qualified attorney to accurately interpret the legal arguments in order to make an informed judgment. The Oconee County Probate Judge Kenneth E. Johns is a non-lawyer judge who did not understand the legal issues involved in the appellant's case and therefore he should have recused himself from the case.

## CONCLUSION

Based upon the foregoing arguments, and each of them, it is clear that Justice will not be properly served unless the appeal is granted. Accordingly, the Appellant prays that the Court reverses the judgment of the Probate Court; and in the interest of justice, remand the case with further instructions.

**AUGUST 03, 2022.**

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