

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

**APPEAL FROM THE KERSHAW COUNTY
Court of Common Pleas**

Robert E. Hood, Circuit Court Judge

**UNPUBLISHED OPINION NUMBER 2022-UP-243
(S.C.Ct. APP. FILED JUNE 8, 2022)**

In the Matter of Almeter B. Robinson (Deceased)
Laverne Robinson,

Petitioner,

v.

Willene Brooks, Mary
Green, Ronnie Robinson,
Almeter P. Harrison, Herbert
Robinson, James Robinson,
Leroy Robinson and Mary Aiken,

Defendants,

Of Whom, Mary Green, Ronnie
Robinson, Almeter P. Harrison,
Leroy Robinson and Mary Aiken are
Respondents,

Respondents.

APPENDIX

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S.C. SUPREME COURT

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Robert E. Hood, Circuit Court Judge

Case No. 2018-CP-28-00726

Appellate Case No. 2020-000063

Laverne Robinson,

Appellant,

v.

Willene Brooks, Mary
Greene,
Ronnie Robinson, Almeter
P. Harrison, Herbert
Robinson, James Robinson,
Leroy Robinson and Martha
Aiken,

Defendants,

Of whom, Mary Greene,
Ronnie Robinson, Almeter
P. Harrison, Leroy Robinson
and Martha Aiken are
Respondents.

Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF KERSHAW

CASE NUMBER: 2017-ES-28-316

IN THE MATTER OF:

Almeter B Robinson (decedent)

Laverne Robinson,

Plaintiff

v.

Willene Brooks, Mary Greene, Ronnie
Robinson, Almeter P. Harrison, Herbert
Robinson, James Robinson, Leroy Robinson,
And Martha Aiken,

Defendants.

ORDER

Date of Hearing:	July 9, 2018
Presiding Judge:	Honorable Debra B. Branham
Plaintiff's Attorney:	John W. Wells, Esquire
Defendant's Attorney:	Moultrie B. Burns, Jr., Esquire
	Leonard R. Jordan, Esquire
Court Reporter:	Nadine Garrett, Creel Court Reporting

FILED
2018 AUG 10 PM 2:54
DEBRA B. BRANHAM
JUDGE OF PROBATE
KERSHAW COUNTY, S.C.

This matter comes before the Court upon Petition for Appointment of the Laverne Robinson for formal appointment and to admit a will for probate. An Answer was filed by Moultrie B. Burns, Jr., Attorney for Mary Greene, Ronnie Robinson, Almeter P. Harrison, Leroy Robinson, and Martha Aiken requesting the disallowance of the will submitted by the Plaintiff. Subsequently, a Notice of Appearance was filed by Attorney Leonard R. Jordan notifying the Court of his representation of Martha Aiken.

Present and Appearing at the Hearing on July 9, 2018, were the Plaintiff, Laverne Robinson accompanied by his attorney John W. Wells; Mary Greene, Ronnie Robinson, Almeter P. Harrison, and Leroy Robinson accompanied by their attorney Moultrie B. Burns, Jr.; Martha

A CERTIFIED COPY:

ATTEST *Debra B. Branham*
PROBATE JUDGE
KERSHAW COUNTY, S.C.

Aiken accompanied by her attorney Leonard R. Jordan. Also present and appearing were Willene Brooks and James Robinson, pro se.

Testimony was taken and based upon testimony, pleadings and evidence, the Court makes the following findings of fact and conclusions of law.

1. That jurisdiction is proper in this court.
2. That the decedent Almeter B. Robinson died on February 25, 2017 and she was domiciled at 2986 Stephens Road, Bethune, South Carolina at the time of her death.
3. That during her lifetime, the Decedent executed three Last Will and Testaments, on June 14, 1994, April 2, 2009 and February 15, 2015,
4. The latest will dated February 15, 2015, was admitted for Probate by the Plaintiff, Laverne B. Robinson.
5. The Defendants excluding Willene Brooks and Herbert Robinson, answered the Petition of the Plaintiff alleging that the 2015 Will was invalid due to the lack of sufficient capacity or undue influence by the Plaintiff.
6. Testimony presented by Plaintiff's witness, Deborah Butcher, the attorney who prepared the 2015 Will, the Court finds that the will was properly executed in accordance to South Carolina Code Ann. § 62-2-502.
7. There was not sufficient evidence presented that would prompt this Court for a finding that the decedent lacked sufficient capacity to execute the 2015 Will.

Courts look for the following when deciding whether a testator was unduly influenced at the time the Will was executed:

- a.) An unjust distribution made to a beneficiary
- b.) motive and opportunity by the beneficiary to influence the testator

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- c.) A confidential or fiduciary relationship between the testator and the beneficiary
- d.) The susceptibility of the testator to be unduly influenced.

Unjust Distribution

The Court compared the distributions made by the decedent in the 2015 Will with the 2009 and 1994 Wills. In the 2015 Will, the Plaintiff beneficiary receives one additional acre of land than in the previous will. What stood out with the Court and is considered an unjust distribution is the distribution of the entire rest and residue to the Plaintiff beneficiary instead of being divided by 9 and 10 children as in the previous wills.

Motive and Opportunity by Beneficiary to Influence Testator

Throughout the trial, evidence and testimony presented to the Court clearly showed that the Plaintiff beneficiary wanted total control of his mother, prohibiting or limiting visitation and conversation between the Decedent and her other children. Testimony of Mary Green, Ronnie Robinson, Leroy Robinson and Martha Aiken substantiated the total control he had over her from the time he moved into her house to take care of her in May of 2014 until her death. Ronnie Robinson, Decedent's son who lived beside her, cooked for her and cut her grass testified that "Laverne changed everything." Leroy Robinson testified "He controlled her until the day she died." Martha Aiken testified that Plaintiff told her to call before she came to visit the decedent. He changed the locks on the house. During cross-examination by Attorney Jordan, Plaintiff beneficiary did not deny that he was "basically out to have all of the control that you can possibly have." His response was "I took care of my mom." The court finds that based upon all the testimony presented including testimony of the Plaintiff beneficiary, the Plaintiff beneficiary had total control of his mother's person, excluding or limiting his siblings' visitation

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and conversations with the decedent from the time he moved in with his mother of May of 2014 until her death.

**A Confidential or Fiduciary Relationship
Between the Testator and the Beneficiary**

This circumstance is very important for the Court to look at because if a confidential or Fiduciary Relationship between the Testator and the Beneficiary exist, the burden of proof rebutting undue influence falls on the beneficiary. During the trial, testimony of the Plaintiff beneficiary showed that a Durable Power of Attorney existed. In fact, testimony showed that the Plaintiff Beneficiary drew the document up himself and had it witnessed at a law firm of which he could not recall the name. The existence of this document coupled with the fact that he was the primary caretaker of his mother from May of 2014 up to her death, shows the Court that a confidential and fiduciary relationship did exist between the Plaintiff, a beneficiary, and the decedent. In looking at the allegations of undue influence in this case, the Court considered the asserted rebuttal by the Plaintiff beneficiary through testimony presented by Deborah Butcher, the Attorney who prepared the will. The Court finds that the Plaintiff Beneficiary made the appointment with the Attorney, provided the Attorney with copies of the 2009 and 1994 Wills of the Decedent for which he had to go and retrieve copies at the law office who prepared the 2009 Will, and then gave the information to the Butcher Law Firm to draft the 2015 Will. Testimony of Attorney Butcher and the Plaintiff substantiated this finding. Argument was made on behalf of the Plaintiff that the burden of proof was met to rebut undue influence by testimony of the Attorney Butcher wherein she testified that she did not believe that the decedent was under any undue influence of the Plaintiff beneficiary. The Court finds that the burden to rebut undue influence was not met in as much as Attorney Butcher testified that she could not recall whether or not she met with the decedent before the will execution or if her staff took the information and

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prepared the documents. The Court further finds that the 2015 Will was drafted upon the information provided solely by the Plaintiff beneficiary. Attorney Butcher basically went over the prepared 2015 Will with the decedent and the will was prepared based upon the information provided to the attorney by the Plaintiff beneficiary. The Court finds that the preparation of the 2015 Will based solely on the instructions of Plaintiff beneficiary took away Decedent's free will, choice and directions for the will preparation. Even though it was brought out in testimony that the decedent did correct a name in the 2015 Will at the execution of the will, that was not enough to rebut undue influence in this case. The Court looked carefully at the evidence of undue influence in the testimony of the Plaintiff beneficiary and upon cross examination he was asked why he did not disclose to Attorney Butcher that there was a trust and that all of the property mentioned in the will was not vested in the decedent's name, his reply was "it was not my job." Furthermore, Attorney Butcher testified that she would not have prepared the 2015 Will if she had known that the property was in trust. The court finds that as a fiduciary, the Plaintiff beneficiary had a duty to disclose this information to Attorney Butcher which could have revealed more information to Attorney Butcher who testified that she would not have prepared a will had she known. Furthermore, the Court finds that the Plaintiff beneficiary was present at the execution of the 2015 Will.

8. The Court finds that the 2015 Will is invalid due to undue influence by the Plaintiff Beneficiary.
9. The Court finds that the 2009 Will cannot be considered for probate as requested by the Defendants until a proper petition is before the Court.

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MOTION BY PLAINTIFF
PAYMENT OF COURT REPORTER FEES

Following closing arguments, a motion was made by Attorney Wells requesting that the Court Reporter fees for the hearing be paid out of estate funds being held in his trust account from a civil claim against the funeral home. With no objection from opposing counsel, the Court granted the Motion and authorized Attorney Wells to pay the Court Reporter Fees out of estate funds he is holding in his trust account.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The 2015 Will presented to the Court to Probate is invalid due to undue influence by the Plaintiff beneficiary;
2. The 2009 Will as mentioned in Defendant's Answer cannot be considered until it is presented to the Court with a proper petition;
3. That Attorney Wells is authorized to pay the Court Reporter fees for this Court hearing out of the estate funds that he is holding in his trust account; and,
4. There shall be no transfer of any property or disposal of any assets, probate or non-probate, relating or subject to the litigation herein and the related actions pending before this Court.

AND IT IS SO ORDERED.


 DEBRA B. BRANHAM
 PROBATE JUDGE

August 10, 2018

Camden, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

IN THE CIRCUIT COURT
(Appeal from Probate Court for
Kershaw County: 2017-ES-28-316)

IN THE MATTER OF:)
Almeter B. Robinson)
(Decedent))
Laverne Robinson,)
Appellant,)
vs.)
Willene Brooks, Mary Greene, Ronnie Robinson,)
Almeter P. Harrison, Herbert Robinson, James)
Robinson, Leroy Robinson, and Martha Aiken,)
Respondents.)

CASE NO.: 2018-CP-28-00726

**ORDER AFFIRMING PROBATE
COURT ORDER**

This matter came before me on the Notice of Intent to Appeal to Circuit Court filed by Appellant on August 17, 2018. A hearing was held on September 23, 2019, attended by John W. Wells, Attorney for Appellant, Leonard R. Jordan, Jr., Attorney for Respondents, Martha Ann Robinson Aiken and Martha Ann Robinson Aiken as Trustee; and Moultrie B. Burns, Attorney for Respondents, Ronnie Randolph Robinson, Almeter Patricia Robinson Harrison and Mary Alice Robinson Green.

This appeal is from an Order issued by the Honorable Debra B. Branham, Kershaw County Probate Judge, which was filed on December 7, 2018. The said Order declared the 2015 Will of Almeter B. Robinson to be invalid due to undue influence by the Plaintiff beneficiary (Appellant).

Judge Branham's Order thoroughly explained her findings with regard to circumstances surrounding the Will, which was executed by Almeter B. Robinson on February 15, 2015, and which was submitted for probate by Appellant following the testatrix's death on February 25,

2017, to wit: (1) unjust distribution of the rest and residue solely to Appellant; (2) Appellant's total control of his mother, including limiting his siblings' visitation and conversations with their mother; (3) Appellant's confidential or fiduciary relationship with the testatrix; and (4) Appellant's failure to inform the drafter of the Will (Deborah Butcher, Esquire) that all of the property mentioned in the Will was not vested in the testatrix's name. The Order also thoroughly explained Judge Branham's conclusions that Appellant, by virtue of his confidential relationship with the testatrix, had the burden to rebut undue influence and that such burden to rebut was not met.

Although the case of *Howard v. Nasser*¹ was not mentioned by name in the Order, it is clear that Judge Branham was aware of, and followed the precedent of, that case, which held:

We interpret the foregoing to mean that if the contestants of a duly executed will provide evidence that a confidential/fiduciary relationship existed sufficient to raise the presumption, the proponents of the will must offer evidence in rebuttal. We emphasize that although proponents of the will must present evidence in rebuttal, they do not have to affirmatively disprove the existence of undue influence. Instead the contestants of the will still retain the ultimate burden of proof to invalidate the will.

Said case also cited favorably the Restatement (Third) of Property, as follows:

A presumption of undue influence arises if the alleged wrongdoer was in a confidential relationship with the donor and there were suspicious circumstances surrounding the preparation, formulation, or execution of the donative transfer, whether the transfer was by gift, trust, will, will substitute, or a donative transfer of any other type. *The effect of the presumption is to shift to the proponent the burden of going forward with the evidence, not the burden of persuasion. The presumption justifies a judgment for the contestant as a matter of law only if the proponent does not come forward with evidence to rebut the presumption.*

It is noted that *Howard v. Nasser* (at 286-287) cited several cases for the proposition that a deed or will is presumed to be invalid where a confidential or fiduciary relationship existed between a grantor and a grantee or between a testator and a beneficiary and that the proponent of

¹ 364 S.C. 279, 288, 613 S.E.2d 64, 68-69 (Ct.App. 2005).

the instrument must affirmatively show the absence of undue influence.

The application of the presumption of undue influence is not contested, and it appears to me that Judge Branham properly applied the law with regard to the shift of the burden to the proponent of the Will to rebut such presumption.

It further appears to me that Judge Branham's decision that Appellant failed to meet the burden of overcoming the presumption of undue influence was supported by the evidence and was within the Judge's discretion. Further, Judge Branham made a finding of undue influence upon the testamentary act based on factors including Appellant's control of his mother's person, his control of the information provided to (and withheld from) the Will preparer, his presence at the execution of the Will and the significant change the Will made to his mother's estate plan.

I disagree with Appellant's claim that the allowance of testimony involving events, which transpired after the 2015 Will was executed, was improper. Undue influence may be proved by circumstantial evidence. See *Howard v. Nasser, supra*, at 286. Both the 911 command log from March 29, 2016, and the recorded telephone conversation from April 18, 2017, are only cumulative to the evidence of Appellant's control of his mother prior to the execution of the 2015 Will, including the fact of Appellant's misplaced understanding of his authority under the 2014 Power of Attorney, which he prepared.

Based upon the foregoing, I find that the appealed Order should be affirmed.

WHEREFORE, it is

ORDERED that the Order issued by Judge Branham, which was filed on December 7, 2018, be and it is hereby AFFIRMED.

AND IT IS SO ORDERED.



Kershaw Common Pleas

Case Caption: Laverne Robinson VS Willene Brooks , defendant, et al

Case Number: 2018CP2800726

Type: Order/Other

So Ordered

s/ R.E. Hood #2164

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STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

IN THE CIRCUIT COURT
(Appeal from Probate Court for
Kershaw County: 2017-ES-28-316)

IN THE MATTER OF:)
Almeter B. Robinson)
(Decedent))

CASE NO.: 2018-CP-28-00726

Laverne Robinson,)
Appellant,)

**AMENDED
ORDER AFFIRMING PROBATE
COURT ORDER**

vs.)

Willene Brooks, Mary Greene, Ronnie Robinson,)
Almeter P. Harrison, Herbert Robinson, James)
Robinson, Leroy Robinson, and Martha Aiken,)
Respondents.)

This matter came before me on the Notice of Intent to Appeal to Circuit Court filed by Appellant on August 17, 2018. A hearing was held on September 23, 2019, attended by John W. Wells, Attorney for Appellant, Leonard R. Jordan, Jr., Attorney for Respondents, Martha Ann Robinson Aiken and Martha Ann Robinson Aiken as Trustee; and Moultrie B. Burns, Attorney for Respondents, Ronnie Randolph Robinson, Almeter Patricia Robinson Harrison and Mary Alice Robinson Green.

This appeal is from an Order issued by the Honorable Debra B. Branham, Kershaw County Probate Judge, which was filed on December 7, 2018. The said Order declared the 2015 Will of Almeter B. Robinson to be invalid due to undue influence by the Plaintiff beneficiary (Appellant).

S.C. Code Ann. §62-3-407 states that the burden of establishing undue influence is on the contestants of a Will. Although this statute is not specifically cited in her Order, a review of Judge Branham's detailed evaluation of the circumstances of the 2015 Will shows that she not only

considered the facts of undue influence presented by Respondents but that she found that Respondents produced sufficient evidence to support a finding of undue influence by Appellant.

Judge Branham's Order discussed individually the following facts: (1) unjust distribution of the rest and residue solely to Appellant; (2) Appellant's total control of his mother, including limiting his siblings' visitation and conversations with their mother; (3) Appellant's confidential or fiduciary relationship with the testatrix; and (4) Appellant's failure to inform the drafter of the Will (Deborah Butcher, Esquire) that all of the property mentioned in the Will was not vested in the testatrix's name. The Order also thoroughly explained Judge Branham's conclusions that, by virtue of his confidential relationship with the testatrix (which raised a presumption of undue influence, which presumption was uncontested), Appellant had the burden to rebut undue influence and that such burden to rebut was not met.

The said Order separately discusses the proof of undue influence by Respondents and the burden on Appellant to rebut the presumption of undue influence. Contrary to Appellant's argument, these legal concepts were not conflated. Judge Branham made a finding of undue influence upon the testamentary act based on factors including: Appellant's control of his mother's person, his control of the information provided to (and withheld from) the Will preparer, his presence at the execution of the Will and the significant changes the Will made to his mother's estate plan. Further, Judge Branham's decision that Appellant failed to meet the burden of overcoming the presumption of undue influence was supported by the evidence and was within the Judge's discretion.

Although the case of *Howard v. Nasser*¹ was not mentioned by name in the Order, it is clear that Judge Branham was aware of, and followed the precedent of, that case, which held:

¹ 364 S.C. 279, 288, 613 S.E.2d 64, 68-69 (Ct.App. 2005).

We interpret the foregoing to mean that if the contestants of a duly executed will provide evidence that a confidential/fiduciary relationship existed sufficient to raise the presumption, the proponents of the will must offer evidence in rebuttal. We emphasize that although proponents of the will must present evidence in rebuttal, they do not have to affirmatively disprove the existence of undue influence. Instead the contestants of the will still retain the ultimate burden of proof to invalidate the will.

Said case also cited favorably the Restatement (Third) of Property, as follows:

A presumption of undue influence arises if the alleged wrongdoer was in a confidential relationship with the donor and there were suspicious circumstances surrounding the preparation, formulation, or execution of the donative transfer, whether the transfer was by gift, trust, will, will substitute, or a donative transfer of any other type. *The effect of the presumption is to shift to the proponent the burden of going forward with the evidence, not the burden of persuasion. The presumption justifies a judgment for the contestant as a matter of law only if the proponent does not come forward with evidence to rebut the presumption.*

It is noted that *Howard v. Nasser* (at 286-287) cited several cases for the proposition that a deed or will is presumed to be invalid where a confidential or fiduciary relationship existed between a grantor and a grantee or between a testator and a beneficiary and that the proponent of the instrument must affirmatively show the absence of undue influence. Judge Branham directly addressed this issue, finding that the burden to rebut undue influence was not met.

In *Howard v. Nasser* (at 290), the court points out that, not only did the Appellants (the contestants of the Will) show a confidential/fiduciary relationship, but they, among other things, “additionally offered the following evidence in support of their claim of undue influence: “(1) Nasser was physically infirm . . . ; (2) the disposition of Nasser’s estate was significantly different from his two prior wills; (3) Respondent was present at the meetings with the attorneys to discuss the context of the new will; and (4) Nasser’s relationship with his nephews became strained and the frequency of family visits was limited” These points were quite similar to the findings made by Judge Branham in the present case: (1) Appellant was the primary caretaker of his mother; (2) Appellant had total control of his mother’s person; (3) Appellant excluded or limited his

siblings' visitation and conversations with decedent; (4) the 2015 Will was drafted upon information provided solely by Appellant; and (5) Appellant was to receive the entire rest and residue of the estate instead of its being divided by 9 and 10 children as in previous wills.

I disagree with Appellant's claim that Judge Branham erred in considering the unequal distribution of assets as evidence of undue influence. This is a proper consideration when evaluating whether or not undue influence played a role in the testamentary act.

I also disagree with Appellant's claim that Judge Branham erred in concluding that Appellant had a duty to disclose to the drafter of the Will that the property mentioned in the Will was not vested in Mrs. Robinson. This is a proper consideration since Appellant was a fiduciary of the testatrix.

I also disagree with Appellant's claim that the allowance of testimony involving events, which transpired after the 2015 Will was executed, was improper. Undue influence may be proved by circumstantial evidence. See *Howard v. Nasser* (at 286). Both the 911 command log from March 29, 2016, and the recorded telephone conversation from April 18, 2017, are only cumulative to the evidence of Appellant's control of his mother prior to the execution of the 2015 Will, including the fact of Appellant's misplaced understanding of his authority under the 2014 Power of Attorney, which he prepared.

Based upon the foregoing, I find that the appealed Order should be affirmed.

WHEREFORE, it is

ORDERED that the Order issued by Judge Branham, which was filed on December 7, 2018, be and it is hereby AFFIRMED.

AND IT IS SO ORDERED.



Kershaw Common Pleas

Case Caption: Laverne Robinson VS Willene Brooks , defendant, et al
Case Number: 2018CP2800726
Type: Order/Other

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2020-01-02 15:17:00 page 5 of 5

ATTEST Debra B. Branham
PROBATE JUDGE
KERSHAW COUNTY, S. C.

STATE OF SOUTH CAROLINA)

COUNTY OF KERSHAW)

Almeter B. Robinson as Settlor and
Beneficiary by her agent, Laverne Robinson
under a Durable Power of Attorney
dated August 22, 2014,
Plaintiff,)

vs.)

Laverne Robinson individually, Martha Ann
Robinson Aiken, Mary A. Green,
Ronnie Robinson, James Robinson,
Leroy Robinson, Willene Brooks,
Herbert Robinson, Almeter Patricia
R. Harrison, Martha Ann Robinson
Aiken as Trustee of the October 22, 1977
Trust Agreement, Leroy Robinson and
James Robinson as Trustees of the January
12, 1987 Trust Agreement, and
Ronnie Randolph Robinson and Leroy
Robinson as Trustees of the April 22, 1993
Trust Agreement,
Defendants.)

STATE OF SOUTH CAROLINA)

COUNTY OF KERSHAW)

Laverne Robinson,
Plaintiff)

vs.)

Martha Ann Robinson Aiken, Martha
Ann Robinson Aiken as Trustee,
Ronnie Randolph Robinson, Almeter
Patricia Robinson Harrison and Mary
Alice Robinson Green,
Defendants.)

IN THE PROBATE COURT

MEDIATION ORDER
RULE 5(b)(2)(B) SC

CA# 2016-ES-28-00054

CA# 2017-ES-28-00106

FILED
2017 MAR 28 PM 3:48
DEBRA B. BRANHAM
JUDGE OF PROBATE
KERSHAW COUNTY, S.C.

The parties to the above captioned actions are engaged in a dispute involving several
alleged trusts created for the benefit of Almeter B. Robinson. Almeter B. Robinson, died on or

about February 18, 2017. The death of Almeter B. Robinson has brought about the following changes in the status of this litigation:

1. According to the current pleadings, Almeter B. Robinson was the primary beneficiary of all the trusts involved in this litigation during her lifetime. The trusts property was to be held by the various trustees to be used for the benefit of Almeter B. Robinson during her lifetime for her care.
2. According to the current pleading, the care for Almeter B. Robinson during her lifetime was a material purpose of each of the trusts involved in this litigation.
3. That with the passing of Almeter B. Robinson on February 18, 2017, any material purpose of the trusts to provide care for Almeter B. Robinson during her lifetime has been served, for better or for worse, and is no longer a consideration for the court.
4. The only remaining material purpose of the trusts is to distribute the assets of the trusts according to the law and the facts surrounding the creation and administration of the trusts.
5. That all of the possible distributees from the various trusts and all trustees are parties to action number 2016-ES-28-00054, so the court has jurisdiction over all trustees and all distributees to make a final determination, distribution of the trust assets and terminate all of the trusts without removing or changing any of the trustees.
6. That because of the death of Almeter B. Robinson, another party must be substituted as the Plaintiff in this action for the litigation in action number 2016-ES-28-00054 to continue.

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7. That before the substitution of a new party as the Plaintiff in that action or dismissal of the action for lack of a Plaintiff occurs, the ends of justice and the best interests of all the parties would be served by the appointment of a mediator, and court ordered mediation under Rule 5(b)(2)(B)SCRPC. to seek a settlement on the issue of the distribution of the trust assets.

8. I find and conclude that all parties would benefit from conducting mediation at this time prior to spending any further resources on the substitution of parties and the continuation of this litigation.

9. That a second action involving some of the parties from the first action and involving one of the trusts involved in the first action has been filed and given case 2017-ES-28-00106.

10. I find that the issues raised in the second action case number 2017-ES-28-00106, would be resolved by a settlement of the issue of the distribution of the trust assets in the first action if such a settlement could be reached.

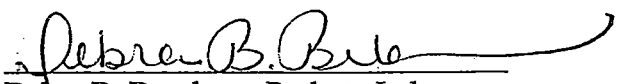
11. That Dennis Cannon would be a qualified person to serve as mediator in this action.

Based on the foregoing, it is hereby ordered:

1. That all parties are ordered to participate in a mediation conference that will encompass all remaining issues raised in case number 2016-ES-28-00054 and case number 2017- ES-28-00106 within thirty (30) days of this Order.

db

2. That Dennis Cannon is hereby appointed as the mediator in these actions. If Dennis Cannon is unable to serve as mediator, then the attorneys of record shall select another qualified mediator to serve.
3. That the costs of the mediator shall be born as follows, one-half (½) to be paid by Laverne Robinson, and one-half (½) to be paid by Martha Ann Robinson Aiken, Ronnie Randolph Robinson, Almeter Patricia Robinson Harrison and Mary Alice Robinson Green.
4. That the Motion to Extinguish All Claims or Toll Time for Answer to Third Amended Complaint filed by Moultrie B. Burns Jr. on behalf of the Defendants that he represents on March 10, 2017 shall be continued, and no hearing set on that Motion until thirty (30) days after the mediation conference is held.
5. That the time for filing an Answer in the action with case number 2017-ES-28- 00106 or any responsive pleading in that action shall be tolled until the later of thirty (30) days after the Summons and Complaint is served on each Defendant or thirty days after the medication conference is held, whichever is later.
6. That all litigation in the two (2) actions that have already been filed, 2016-ES-28- 00054 and 2017-ES-28-00106 an any subsequent actions that may be filed concerning the estate of or trusts involving Almeter B. Robinson are hereby continued until after the mediation conference can be held as ordered above.


Debra B. Branham, Probate Judge
for Kershaw County

Camden, SC

Date: March 28, 2017

STATE OF SOUTH CAROLINA)

COUNTY OF KERSHAW)

IN THE MATTER OF:)
Almeter B. Robinson (decedent))

Laverne Robinson)
Plaintiff,)
vs.)

Willene Brooks, Mary Greene, Ronnie)
Robinson, Almeter P. Harrison, Herbert)
Robinson, James Robinson, Leroy)
Robinson, Martha Aiken)
Defendants.)

IN THE PROBATE COURT

CASE NUMBER: 2017-ES-28-00316

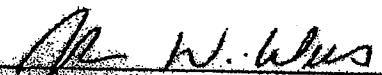
SUMMONS

TO THE RESPONDENTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the subscriber, at the address shown below, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgment by default will be rendered against you for the relief demanded in the Petition.

Lugoff, South Carolina

Dated: 7/21/17


John W. Wells
Attorney for the Petitioner
3 The Common
PO Box 10
Lugoff, SC 29078
(803) 438-4200
(803) 438-5090 fax
jwells@baxleywells.com

FILED

2017 AUG 14 PM 3:21

DEBRA B. BRANNAM
JUDGE OF PROBATE
KERSHAW COUNTY, S.C.

COUNTY OF: KERSHAW

IN THE MATTER OF:
ALMETER B. ROBINSON
(Decedent)

CASE NUMBER: 2017-ES-28-

*COMPLETE THIS SECTION ONLY IF FILING PETITION
FOR FORMAL TESTACY AND/OR FORMAL APPOINTMENT

*LAVERNE ROBINSON,
Petitioner(s)

vs.

*WILLENE BROOKS ET AL.,
Respondent(s)

APPLICATION FOR INFORMAL

☐ PROBATE OF WILL
☐ APPOINTMENT

(check any that apply)

*PETITION FOR FORMAL

☐ TESTACY
☒ APPOINTMENT

If this is a formal filing, please explain on page 3 or attach pleadings pursuant to SC Rules of Civil Procedure.

*NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF \$150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.

1. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Applicant/Petitioner(s): Laverne Robinson
Address: 2986 Stephens Road, Bethune, SC 29009
Telephone (Work): _____
(Home): (803) 424-0388
(Cell): (240) 676-2709
Email: lc3730@gmail.com
Relationship to Decedent: Son

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DEBRA B. BRANHAM
JUDGE OF PROBATE
KERSHAW COUNTY, S.C.

2. Decedent Information:

Full Legal Name
(including all known names): Almeter B. Robinson
Date of Birth: 4/25/1928
Date of Death: 2/25/2017
Age at Date of Death: 88

3. Venue for this proceeding is proper in this County because:

- ☒ Decedent was domiciled in this County at date of death:
Address: 2986 STEPHENS ROAD, BETHUNE, SC 29009 County: KERSHAW State: South Carolina.
- ☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this County
at date of death at:
Address: _____ County: _____ State: South Carolina
- ☐ Decedent has a right to take legal action in this County because:

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address of the Decedent prior to entering a facility:

FORM #300ES (04/2017)

62-2-594, 62-3-102, 62-3-203, 62-3-301, 62-3-302, 62-3-303, 62-3-308, 62-3-311, 62-3-401, 62-3-402,
62-3-404, 62-3-409, 62-3-414, 62-3-601, 62-3-602, 62-3-704, 62-3-804, 44-23-1090, 44-23-1120

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent
Mary Greene	1959	1605 Barrett St, Camden SC 29020	Daughter
Ronnie Robinson	1961	2996 Stephens Road, Bethune, SC 29009	Son
Laverne Robinson	1963	2986 Stephens Road, Bethune, SC 29009	Son
Almeter P. Harrison	1965	1012 Cokabury Dr, Columbia, SC 29203	Daughter
☒ See attached for additional devisees (check if applicable).			

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Relationship to Decedent

☐ See attached for additional intestate heirs (check if applicable).

4(c). Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☒ YES ☐ NO If no, please explain on page 3.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☒ NO ☐ YES If yes, please explain, on page 3.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 3.

7. Has a Guardian or Conservator ever been appointed by a Court for this person?

☒ NO ☐ YES If yes, please explain on page 3.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 3.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including names and addresses on page 3.

Devisees (cont'd)

Willene Brooks	1947	1912 Medfield Drive, Camden SC 29020	Daughter
Herbert Robinson	1949	1509 Malvern Hill Drive, Camden SC 29020	Son
James Robinson	1950	3028 Stephens Road, Bethune, SC 29009	Son
Leroy Robinson	1955	2906 Stephens Road, Bethune, SC 29009	Son
Martha Aiken	1959	3056 Maplewood Drive, Augusta, SC 29841	Daughter

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.

11(a). Did the Decedent own probate real estate?

☐ NO ☒ YES If yes, an approximate value of \$0. (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(b). Did the Decedent own probate personal property?

☐ NO ☒ YES If yes, an approximate value of \$10,000.00 (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

12. After the exercise of reasonable diligence, are you aware of any unrevoked Will and/or Codicil(s)?

☒ YES If yes, then proceed to Section II.
☐ NO If no, then proceed to Section III.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

- ☐ The original is attached.
☐ The original is in the Court's possession.
☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
☒ The original of the Will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached. (for formal proceeding, explain below or attach supplemental pleadings)

2. The execution date of the Will was: February 3, 2015
Codicil(s): _____

3. Is there a memorandum that disposes of tangible personal property pursuant to 62-2-512?

☒ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☒ YES ☐ NO If no, please explain on page 3.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to witness, a witness's spouse, or a witness's issue)?

☒ NO ☐ YES If yes, please explain on page 3.

COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I and II HERE.
(If more space is required, use additional sheets.)

After a diligent search of the decedent's home and the law office of the Butcher Law Firm where the February 3, 2015 will was prepared and executed, the original cannot be located.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:

- ☒ named as Primary Personal Representative in Will
☐ named as Alternate Personal Representative in Will
☐ nominee of Primary Personal Representative in Will
☐ nominee of Alternate Personal Representative in Will
☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
☐ other devisee of Decedent (describe): _____ or nominee of said devisee
☐ surviving spouse of Decedent or nominee of said spouse
☐ other heir of Decedent (describe): _____ or nominee of said heir
☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
☐ other (describe): _____

3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative:

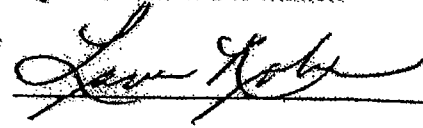
IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 8 day
of August 2017

Notary Public for South Carolina
My Commission Expires: _____

Signature of
Applicant/Petitioner: 

SWORN to before me this _____ day
of _____ 20____

Signature of Co-
Applicant/Co-Petitioner: _____

Notary Public for South Carolina
My Commission Expires: _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a Will executed _____ and

- ☐ Codicil executed _____ and
☐ Memorandum

be informally ☐ GRANTED ☐ DENIED.

Executed this _____ day of _____, 20____.

_____, Probate Court Judge

☐ For formal probate of Will, see separate order executed _____.

ORDER OF INFORMAL APPOINTMENT

IT IS HEREBY ORDERED that the above Application for Appointment be granted upon the filing of an appropriate bond, if applicable, and upon the signing of the Qualification and Statement of Acceptance of appointment.

Bond

- ☐ Fiduciary Bond in the amount of \$ _____
☐ Bond not required for Personal Representative nominated by Will
☐ Bond not required as Personal Representative is sole heir or sole devisee
☐ Bond not required as Personal Representative is state agency, bank, or trust company
☐ Bond waivers filed
☐ See order dated _____
☐ Other: _____

Notice to Creditors

- ☐ Required
☐ Not Required

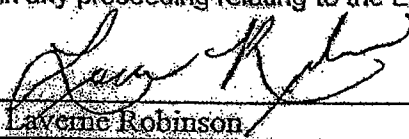
Executed this _____ day of _____, 20____.

_____, Probate Court Judge

☐ For formal appointment of Personal Representative, see separate order executed _____.

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: 
Print Name: Laverne Robinson

Address: 2986 Stephens Road
Bethune, SC 29009

Telephone (Work):
(Home): (803) 424-0388
(Cell): (240) 676-2708
Email:

Signature:
Print Name:
Address:

Telephone (Work):
(Home):
(Cell):
Email:

*Attorney: John W. Wells
Address: P.O. Box 10
Lugoff, SC 29078

Telephone: (803) 438-4200
Email: jwells@badcywells.com

*By completing this information, attorney is designated as attorney of record for assisting Personal Representative until proper withdrawal.

LAST WILL AND TESTAMENT

OF

ALMETER ROBINSON

I, Almeter Robinson, a resident of Kershaw County in the state of South Carolina, do hereby make, publish, and declare this instrument to be my Last Will and Testament. I hereby expressly revoke all Wills and Codicils made by me heretofore.

ITEM I

I direct that my Personal Representative pay out of my residuary estate without apportionment all estate, inheritance, and like taxes imposed by the government of the United States, or any state or territory thereof, in respect of all property required to be included in my gross estate, inheritance, or like tax purposes by any of such governments, whether the property passes under this will or otherwise, without contribution by any recipient of such property.

ITEM II

I hereby give and devise the ten (10) acres in Kershaw County that I was given by my mother, Mary Boyd as follows: two (2) acres each to my daughters Willene Brooks and Patricia A. Watson and one and one-half (1 ½) acres each to my sons Herbert B. Robinson, James Jr. Robinson, Leroy Robinson, and Ronnie Robinson.

h

R

ACR

DRK



ITEM III

I hereby give and devise the eight (8) acres in Kershaw County given to me by my father Eugene Boyd as follows: Three (4) acres to my son Lavern Robinson and one (1) acre each to my daughter Willene Brooks, to my son Herbert D. Robinson, to my son James Jr. Robinson, to my son Leroy Robinson.

ITEM IV

I hereby give and devise the five (5) acres in Kershaw County I purchased from my father, Eugene Boyd as follows: one (1) acre to my son Laverne Robinson, one and one-half (1½) acres to my daughter Willene Brooks and one and one-fourth (1 ¼) acres each to my son Ronnie R. Robinson and my daughter Martha A. Aiken.

ITEM V

I give, devise and bequeath all of the rest, residue, and remainder of my estate, real, personal, and mixed, of every kind and description, (including lapsed legacies and devisees) wherever situate and whether acquired before or after the execution of this Will absolutely in fee simple to Laverne Robinson.

ITEM VI

I hereby appoint my Laverne Robinson as personal representative of this, my Last Will and Testament, and I direct that they be permitted to serve without bond or surety thereon and without the intervention of any court or courts, except as required by law, and that no appraisal of my estate be required. I hereby authorize and empower my said personal representative, in his

A. R. acc
JMR 2 of 4



absolute discretion, to retain, sell, exchange, convey, transfer, assign, mortgage, pledge, lease, or rent the whole or any part of my real or personal estate, to invest, reinvest, or retain investments of my said estate, and to perform all acts and to execute all documents which my said personal representative may deem necessary, convenient, or proper in regard to my property. I hereby declare that my personal representative herein above named shall be the one vested with the power to decide the division of real estate and have complete control of all decisions related to my funeral arrangements and all insurance policies.

In the event my personal representative predeceases me or shall, for any reason, refuse or be unable to serve or to continue serving as personal representative hereof, I hereby nominate, constitute, and appoint as substitute or successor Personal Representative, Willene Brooks of Camden, South Carolina.

ITEM VII

Whenever the word "Personal Representative" or any modifying or substituted pronouns are used in this my Last Will and Testament, such words and respective pronouns shall be held and taken to include both the singular and the plural, the masculine, feminine, and neuter thereof, and shall apply to the personal representative herein and any successor or substitute personal representative shall possess all the rights, powers and duties, authority, and responsibility conferred upon my personal representative originally named herein.

ITEM VIII

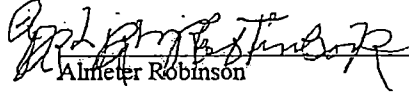
If any beneficiary and I should die as a result of a common accident or calamity or otherwise die under such circumstances as would render it doubtful whether the beneficiary or I died first, then

A R ~~AK~~ 3 of 4

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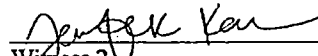
it shall be conclusively presumed for the purposes of this my Will that said beneficiary predeceased me.

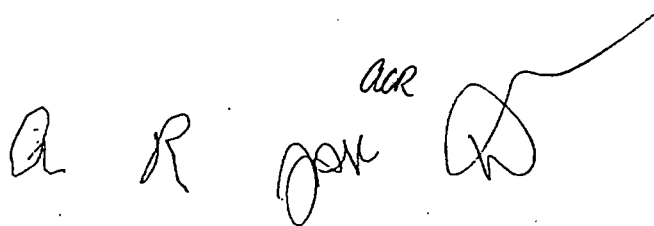
IN WITNESS HEREIN, I, Almeter Robinson, set my hand and seal this 3rd day of February, 2015, in Camden, South Carolina, and, in the presence of two witnesses, declare this to be my Last Will and Testament.


Almeter Robinson

We, the undersigned witnesses, sign our names to this instrument, and at least one of us, being first duly sworn, does hereby declare, generally, and to the undersigned authority that the Testatrix signs and executes this instrument as her Last Will and that she signs it willingly, and that each of us, in the presence and hearing of the Testatrix, hereby signs this Will as witness to the Testatrix's signing, and that to the best of our knowledge the Testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.


Witness 1


Witness 2

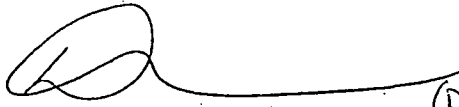


STATE OF SOUTH CAROLINA)

COUNTY OF KERSHAW)

Subscribed, sworn to, and acknowledged before me by the Testatrix, and subscribed and sworn to before me by Amber Rider, witness, this 3rd day of February, 2015.

Amber C. Rider
Witness 1


(Deborah Butcher)
NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires 4-27-16

OK ACR

5 of 4

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

IN THE PROBATE COURT
CASE NO. 2016-ES-28-00316

Laverne Robinson,

Plaintiff,

vs.

ANSWER

Willene Brooks, Mary Greene,
Ronnie Robinson, Almeter P.
Harrison, Herbert Robinson,
James Robinson, Leroy Robinson,
and Martha Aiken,

Defendants.

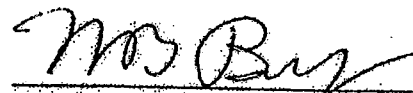
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DEBRA B. BRAHAM
JUDGE OF PROBATE
KERSHAW COUNTY, S.C.

In response to the Petition, Mary Greene, Ronnie Robinson, Almeter P. Harrison, Leroy Robinson, and Martha Aiken allege:

- 1) The allegations of the Petition which are not specifically admitted are denied and proof thereof is demanded.
- 2) In Section I, Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 are admitted.
- 3) Paragraph 11(a) is denied.
- 4) Paragraph 11(b) is admitted, but the value is unknown.
- 5) Paragraph 12 is denied and strict proof thereof is demanded.
- 6) In Section II, Paragraphs 1, 2, 3, 4, and 5 are denied and strict proof thereof is demanded.
- 7) In Section III, Paragraphs 1, 2, and 3 do not require a response.
- 8) Further answering the Petition, Respondents are informed and believe the decedent revoked the purported Will dated February 3, 2015, it was executed when decedent lacked sufficient capacity or was under undue influence by Petitioner, or both; therefore, said will is invalid.

- 9) Respondents are informed and believe that decedent's Will dated April 2, 2009 (a copy of which is attached hereto as Exhibit A), should be probated upon the court's rejection of said 2015 Will.
- 10) Respondents are informed and believe that Petitioner is recklessly and/or intentionally trying to subject non-probate real estate assets to the claims of creditors, including Medicaid, as evidenced by the letter dated April 28, 2017, from the "estate recovery department" for Medicaid attached hereto as Exhibit B, Petitioner being aware thereof.

WHEREFORE, the answering Defendants pray that the court inquire into the matters alleged and disallow the Will submitted by Petitioner and for such other relief as the court deems proper.



Moultrie B. Burns, Jr.
Attorney for Defendants Mary Greene,
Ronnie Robinson, Almeter P. Harrison,
Leroy Robinson, and Martha Aiken
Savage, Royall & Sheheen, LLP
P. O. Drawer 10
Camden, South Carolina 29021
803-432-4391

September 15, 2017

STATE OF SOUTH CAROLINA)

COUNTY OF KERSHAW)

IN THE COURT OF COMMON PLEAS

Appeal from Probate Court in Kershaw
County

IN THE MATTER OF:)

Almeter B. Robinson (decedent))

CASE NUMBER: 2018-CP-28-00726

Laverne Robinson)

Appellant,)

vs.)

MOTION TO ALTER OR AMEND
A JUDGMENT RULE 59(e) S.C.R.C.P.

Willene Brooks, Mary Greene,)

Ronnie Robinson, Almeter P.)

Harrison, Herbert Robinson, James)

Robinson, Leroy Robinson, Martha)

Aiken,)

Respondents.)

TO: LEONARD R. JORDAN, JR., AND MOULTRIE B. BURNS, JR., ATTORNEYS
FOR THE RESPONDENTS:

You will please take notice that four (4) days from the service hereof or as soon thereafter as soon as council may be heard, the undersigned attorney for the Appellant in the above captioned Appeal from the Kershaw County Probate Court will move for an Order to Alter or Amend the Order Affirming the Probate Court Order of the Honorable Robert E. Hood signed and dated on October 3, 2019. This Motion is made under Rule 59(e) South Carolina Rules of Civil Procedure on the following grounds:

1. The Order Affirming Probate Court Order does not address or rule on the four (4) issues raised by the Appellant in the Statement of Issues on Appeal dated September 20, 2018.

2. As to issue one (1) on the Statement of Issues on Appeal, the Order Affirming Probate Court Order conflates two (2) separate, and distinct legal concepts, the burden of proof and the burden of going forward to present evidence, and treats these two (2) separate and distinct legal concepts as interchangeable terms meaning the same thing.

3. As to issue one (1) on the Statement of Issues on Appeal the Order Affirming Probate Court Order cites case law imposing on the Appellant the burden of going forward to present evidence as authority for affirming the Probate Judge's ruling imposing on the Appellant the burden of proof on the issue of undue influence.

4. As to issue one (1) on the Statement of Issues on Appeal, the court abused its discretion by affirming the Probate Judge's ruling that the proponent of the will had the burden of proof on the issue of undue influence.

5. As to issue one (1) on the Statement of Issues on Appeal, the court abused its discretion by affirming the Probate Judge's ruling that the sworn testimony of an officer of the court who supervised the execution of the 2015 will to the affect that no undue influence was exerted by the Appellant over the testatrix at the time and place of the testamentary act (Record on Appeal pg. 34, lines 1-14, p35, lines 3-8) was insufficient to satisfy the Appellant's burden of going forward to present evidence. The testimony of attorney, Deborah Butcher is set out below:

1. Q: Okay. Now, did you see any evidence of undue
 2. influence exerted by the relative that was with
 3. her?
 4. A: No.
 5. Q: Were you sensitive to that?
 6. A: Yes. Matter of fact we -- sometimes people
 7. will say, I want to make sure I did this all
 8. right. I'm actually taking one that's going on
 9. now.
 10. Q: Did you see the person that was with her
 11. threaten her in any way?
 12. A: No. She was very comfortable. That's one
 13. thing I do look for, is how comfortable
 14. they are with whoever brings them in.
- (Record on Appeal p.34)
3. Q: Did you see the person that was with Mrs.
 4. Robinson do anything that would destroy her
 5. free agency in the execution of that will?
 6. A: No.
 7. Q: Now, did Almeter Robinson sign the will?
 8. A: Yes.

(Record on Appeal p.35)

6. The controlling law of the State of South Carolina as to the burden of proof in will contests involving undue influence, §62-3-407 S.C. Code of Laws Ann., which was raised by the Appellant in his brief and on oral argument, was ignored by the court and appears nowhere in the Order Affirming the Probate Court Order.

I SO MOVE.

BAXLEY, PRATT & WELLS, P.A.

BY: S/John W. Wells

John W. Wells, SC Bar 6019
Attorney for the Plaintiff
3 The Common at Lugoff
Post Office Box 10
Lugoff, SC 29078
(803) 438-4200 Office
(803) 438-5090 Fax
Jwells@baxleywells.com

Lugoff, SC
Date: October 8, 2019

1 A: Yes, I did.

2 Q: All right. Do you remember when she came --
3 Mrs. Almeter Robinson came to your office to
4 sign the will?

5 A: I do.

6 Q: Okay. And did you talk to her?

7 A: I did.

8 Q: Did she ask for changes in the will that you
9 had preparing?

10 A: I can't remember what it was, but as I was
11 going over it with her from what we had
12 prepared, there was a change, which my
13 paralegal corrected and then we continued on.

14 Q: Tell me what happened when she came into the
15 office, tell me how that went.

16 A: I believe it was one of her sons or nephew that
17 accompanied her. It was another family member
18 came in and we talked. I talked to her in and
19 without and -- and out of the presence of the
20 other family member. She was older and went
21 over our unusual steps of, you know, finding
22 out what she wanted. And then I believe they
23 came back to sign.

24 Q: Okay. Do you read the will to the person, how
25 do you discuss with her what's in it?



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: I -- you know, if it's a younger person and
2 stuff, I'll let them look over it and then I'll
3 just, you know, go over it. When it's an older
4 person, I actually read it and explain along
5 the way whether they frankly want me to or not,
6 but just to make sure they understand it.

7 Q: Did you do that with Ms. Robinson?

8 A: I did.

9 Q: Is that your custom that you do?

10 A: It is. It is.

11 Q: How do you -- in your practice how do you
12 evaluate clients for mental competency?

13 A: I always ask them what year it is, the
14 president, month, and just questions --
15 general questions like that, where they live.
16 And in this it's -- if they seem a little bit
17 slower, I'll ask them more questions, but just
18 -- but always go over the basics.

19 Q: Okay. Now, on that day did Almeter Robinson
20 seem competent?

21 A: Yes.

22 Q: Did you have any concern with her competency?

23 A: I had no concerns. I -- like I said, I went
24 over the usual questions and she appeared
25 competent, yes.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

- 1 Q: Okay. Now, did you see any evidence of undue
2 influence exerted by the relative that was with
3 her?
- 4 A: No.
- 5 Q: Were you sensitive to that?
- 6 A: Yes. Matter of fact we -- sometimes people
7 will say, I want to make sure I did this all
8 right. I'm actually taking one that's going on
9 now.
- 10 Q: Did you see the person that was with her
11 threaten her in any way?
- 12 A: No. She was very comfortable. That's one
13 thing I do look for, is how comfortable they
14 are with whoever brings them in.
- 15 Q: Okay.
- 16 A: And another thing I do always ask is, has the
17 physician declared them to be incompetent. And
18 I'll ask the person as well.
- 19 Q: So, you're checking for like an incompetency
20 order maybe coming from the probate court?
- 21 A: Or just their doctor.
- 22 Q: Did you do that with Almeter Robinson?
- 23 A: Oh, yeah.
- 24 Q: And had she been declared incompetent by a
25 physician or by a court?



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1 A: Not to my knowledge. If they're older, I do
2 that as a matter of practice.

3 Q: Did you see the person that was with Mrs.
4 Robinson do anything that would destroy her
5 free agency in the execution of that will?

6 A: No.

7 Q: Now, did Almeter Robinson sign the will?

8 A: Yes.

9 Q: Now, if you turn back I think to page three or
10 four, the signature line. Is that her
11 signature?

12 A: Yes, it is.

13 Q: Okay. Now, was the will subscribed by two
14 witnesses?

15 A: Yes, it was.

16 Q: Okay. Under your supervision, do you ---

17 A: Yes.

18 Q: You watch them do that; is that right?

19 A: Yes.

20 Q: And witness, I believe Amber Rider, she signed
21 the acknowledgment on page four?

22 A: Yes. And we typically sit and go over pages
23 and pass them and everybody initials whether we
24 need to or not.

25 Q: So, that is -- the will was executed the way



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1 she came in and we took notes and then she came
2 back or not.

3 Q: Could it have been Laverne that brought her to
4 your office?

5 A: He brought me to -- her to the office, yes. It
6 seems like he actually called me when I first
7 spoke to him to make sure we do wills and that
8 sort of thing. It seems like the next time --
9 I honestly don't remember if she came in and
10 then came back or if she came in and told us
11 everything, we wrote it up then.

12 A: And did Laverne provide the older wills that
13 you could use for a guide?

14 A: Yes.

15 Q: Before she came in?

16 A: That I don't remember.

17 Q: Okay. So, he indicated that they were to be
18 used as guides?

19 A: I always -- I asked if there were old wills.

20 Q: Okay.

21 A: If there are only a few changes, that's written
22 down and easy for us to go by.

23 Q: The change between the 2009 will and the 2015
24 will were right significant, weren't they?

25 A: I don't recall specifically.



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1 Q: Now, you had mentioned something earlier about
2 having received some deeds. Do you have any
3 deeds in your file?

4 A: And, you know, I -- the ones I handed you,
5 that's what ---

6 Q: Okay.

7 A: Well, those -- that was the will, but I don't
8 have it in my file, no.

9 Q: All right. Are you aware that Mrs. Robinson
10 actually owned none of these properties?

11 A: She owned none of them?

12 Q: None of those properties.

13 A: No, I would not be aware of that.

14 Q: Okay. Now, was it your purpose in preparing
15 the will, that these particular properties
16 would pass through her estate? In other words,
17 that they were her properties and she was
18 disposing of them through the will.

19 A: If she owned them.

20 Q: Okay. Now, but, again, you did not discuss with
21 her whether in fact she owned them or not?

22 A: Well, she gave me the impression she owned
23 them.

24 Q: Okay. Now, wasn't it in fact Laverne Robinson
25 that gave you that impression?



1 it very well with her and followed her
2 instructions and actually made change of some
3 sort.

4 Q: Okay. Let me restate it. I said put together,
5 but prepared or drafted by you solely with the
6 instruction from Laverne Robinson?

7 A: Initially it could be, yeah.

8 Q: All right. Now, especially in light of the
9 fact that she was appointed as personal
10 representative in the 2009 will, do you think
11 it was unusual at all that Mary Green would not
12 be even mentioned in the will that you
13 prepared?

14 A: Like I say people's relationships change. I
15 don't really question that that much.

16 Q: And when you have one child out of nine that's
17 not mentioned, you wouldn't put some provision
18 in the will to clarify that this is the
19 intention of the testatrix to omit her child --
20 her one child?

21 A: Typically I believe them something very minor.

22 Q: Was the instruction from Laverne Robinson
23 actually to name only eight of the nine
24 children in the will and to omit Mary Green
25 altogether?



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1 A: The instructions I followed would have been
2 from Almeter Robinson.

3 Q: Well, let me ask a question again. When you
4 prepared the will, when you drafted this will
5 for the purpose of Mrs. Robinson's signature on
6 the will, had you met with her or received any
7 instructions directly from her with regard to
8 the content of the will?

9 A: I don't recall if she came in beforehand and we
10 went over everything and I said okay come back,
11 or if she came in, went over it, made changes
12 and signed that day.

13 MR. JORDAN: That's all the question I have.

14 MR. WELLS: Where is the 2000 -- the 1994.

15 THE WITNESS: Right in my lap.

16 MR. JORDAN: The judge has one that's been marked.
17 Is that the one.

18 THE WITNESS: This was in my ---

19 MR. JORDAN: That's it.

20 MS. BUTCHER - REDIRECT EXAMINATION BY MR. WELLS:

21 Q: Ms. Butcher, the wills that you go -- that you
22 used I think to draft the 2015 included the
23 1994 will and the 2009 will, is that right?

24 A: I had them both.

25 Q: Okay. And as to the eight acre tract and the



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1 ten acre tract, all three wills make
2 dispositions of both tract, isn't that true?

3 A: Correct.

4 Q: So, if it was a mistake for you to include
5 them, everybody else made the same booboo,
6 right?

7 A: Correct.

8 Q: And if she was incompetent for including those
9 tracts in 2015, she was also incompetent back
10 in 1994 because that includes the same tracts,
11 right?

12 A: She didn't own them then either, correct.

13 Q: And it didn't matter who took her in to see the
14 lawyer, those tracts got included in 1994 and
15 in 2009; is that ---

16 MR. BURNS: Your Honor, I'm going object to her
17 having an opinion about whether she was
18 incompetent in 1994. She didn't know her in
19 1994.

20 MR. WELLS: I think she rendered an opinion that she
21 was -- that if she was incompetent ---

22 MR. BURNS: Let me read for you.

23 MR. WELLS: Let me rephrase that question.

24 Q: If the inclusion of the 8-acre track in 2015 is
25 an indication that she was incompetent, then



1 the 1994 will has that same indication, doesn't
2 it?

3 A: It would also indicate she didn't understand or
4 that she didn't own it.

5 Q: Okay. And the 2009 will has the same piece of
6 property, doesn't it?

7 A: Correct. I don't know that I'd say that goes
8 directly to her being incompetent as to her
9 mistakenly ---

10 Q: But she did the same thing all three times?

11 A: Yes, exactly.

12 Q: Now, do you have the 1994? And the 1994 will
13 actually gives away the five acres that were
14 omitted from the 2009 will; is that right?
15 Check item five in the 1994 will.

16 A: It gives away five acres in '94.

17 Q: Okay. And I believe you testified that, had
18 you known the trusts were involved, you would
19 not have done this will?

20 A: I would have probably sent them to someone
21 else.

22 Q: Okay. And explain why you would have done
23 that.

24 A: I do simple wills and that's it. If you have
25 a business or anything, I don't divide up that



1 kind of stuff. That's why.

2 Q: But not knowing that, you did do the will,
3 right?

4 A: Correct.

5 Q: And she did come in and sign it?

6 A: Correct.

7 Q: And she did talk to you about it?

8 A: Correct.

9 Q: And you did not see any evidence of undue
10 influence coming from the family member; is
11 that correct?

12 A: Right.

13 Q: And you talked to her about this and she knew
14 how to talk to you about the will.

15 A: Correct.

16 Q: And she even requested a change?

17 A: Yes. And she seemed very comfortable.

18 MR. WELLS: That's all I have on redirect.

19 THE COURT: I have a couple of questions.

20 MS. BUTCHER - QUESTIONS BY THE COURT:

21 THE COURT: Ms. Butcher, when you actually met with
22 Ms. Robinson, the decedent, did she -- did you
23 ask her what were her assets?

24 THE WITNESS: Well, I mean we talked about the land.
25 I didn't ask her much farther than that. I



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1 think I asked her if she owned any other
2 property, other than, you know, what I was
3 told.

4 THE COURT: Okay.

5 THE WITNESS: I mean, I didn't -- I probably asked
6 her any cars or anything like that, you know,
7 that kind of stuff, just basic.

8 THE COURT: But did you ask her what real estate she
9 owned, was she able to say I've got a tract
10 here or a tract there?

11 THE WITNESS: We went over every tract.

12 THE COURT: You went over the will that you
13 prepared?

14 THE WITNESS: Yeah, very specifically.

15 THE COURT: Was there anyone -- was Mr. Robinson
16 present when she executed the will in the room?

17 THE WITNESS: I honestly don't recall.

18 THE COURT: Do you recall what corrections she
19 wanted to make on the will that you prepared?

20 THE WITNESS: I don't know if it was someone's name
21 that I didn't include or -- I don't remember.
22 I'd just be guessing.

23 THE COURT: Okay. Thank you.

24 MR. WELLS: I move this witness be excused.

25 THE COURT: All right.



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1 MR. BURNS: No objection.

2 MR. JORDAN: No objection.

3 THE COURT: No objection? Okay. Thank you, Ms.
4 Butcher. All right. Mr. Wells.

5 MR. WELLS: I call Laverne Robinson.

6 THE COURT: Okay. Mr. Robinson.

7 LAVERNE ROBINSON, having been duly sworn, testifies
8 as follows:

9 MR. ROBINSON - DIRECT EXAMINATION BY MR. WELLS:

10 Q: Mr. Robinson, state your full name for the
11 record.

12 A: Laverne Robinson.

13 Q: And how do you know Almeter Robinson?

14 A: She's my mother.

15 Q: Now, at the time of the February 2015 will,
16 where were you living?

17 A: Between my mother's house, 2986 Stephens Road,
18 and my house in Maryland.

19 Q: Okay. And how much time did you spend with
20 your mother?

21 A: Well, I completely took care of my mother from
22 2014 until she passed. And prior to that my
23 sister, Mary, took care of her for about nine
24 months. I came home from Maryland anywhere
25 from two to four times a month. So, out of



1 those nine months that she took care of her, I
2 took care of her probably 30, 40 percent of
3 that time. Because when I came home, I brought
4 her to her house so that she would be
5 comfortable and can continue her normal life.

6 Q: All right. Now, in 2015 why did she decide to
7 do a new will?

8 A: Because in 2014 I think I became -- I got power
9 of attorney. And I went to her previous
10 attorney and requested a copy of her will to
11 make sure it was her will. So, after I got a
12 copy of the will and I read it, I explained to
13 her what was in it. And when I explained to
14 her that Mary had one of her sons getting two
15 and a half acres of land, more than any of her
16 children, she went berserk. She was like,
17 what, Jeremy's like getting the land -- no, no,
18 no, let's go change it right now, you know.
19 So, that's when she decided -- she said, I want
20 to make sure we change it back to exactly what
21 it was. So, that's when we started the process
22 with the 2015 will.

23 Q: Now, the will that you retrieved from the
24 lawyer's office that she looked at, was that
25 the 2009 will?



1 A: It was actually the 2009 will. But I knew my
2 mom had done a will in 1994. Not only did I
3 know, all ten children knew, you know, because
4 she as very clear and very specific in terms of
5 what she was doing. And in 1994 when she did
6 the will, she specifically told all of us,
7 said, I'm doing this will because I don't want
8 any fighting, I don't want any bickering, you
9 know, any other ---

10 MR. BURNS: Your Honor, I feel like he's quoting his
11 mother. And it seems like a dead man's statute
12 would preclude that.

13 THE COURT: Sustained.

14 Q: Did you take her to do the 1994 will?

15 A: I did not.

16 Q: You don't know who -- do you know who took her?

17 A: Mary Green took her. And she was not included
18 in the 1994 will, so I don't know why the 2015
19 is an issue.

20 Q: Okay.

21 A: She was the one who took my mom to do the will.

22 Q: Well, you say the will, did -- who took her in
23 1994, if you know?

24 A: Mary Green.

25 Q: Who took your mother to the lawyer's office to



1 do the 2009 will, if you know?

2 A: Mary Green.

3 Q: Okay. Did you go to the lawyer's office with
4 your mother to prepare the 1994 will?

5 A: I did not.

6 Q: Or the 2009 will?

7 A: I did not.

8 Q: Before you got power of attorney, did you know
9 that the 2009 will had been executed?

10 A: I knew there was another will that was
11 executed, yes.

12 Q: Now, without quoting your mother's statements
13 and all, what did you do in 2015?

14 A: In 2015, once I explained to her what I felt
15 was discrepancies of what she would not be in
16 agreement with in terms of giving a grandchild
17 property -- one grandchild when she has
18 probably about 50, you know, I knew that wasn't
19 her wish, so I explained to her everything that
20 was in the 2009 will. And she was very upset
21 about it. And she said, let's go get it
22 changed right away. And actually this was the
23 like -- I think I got the will on Friday. I
24 didn't really read it until Saturday. I
25 explained it to her on Sunday. She wanted to



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1 go like right then. I said, Mama, we have to
2 wait, you know. So, then we had to go pay
3 taxes and I just so happened to see Deborah
4 Butcher's office.

5 Q: You talking about property taxes?

6 A: Yes, property taxes, I'm sorry. And that's how
7 we got to Deborah Butcher and that's when she
8 changed her ...

9 Q: Now, did she exert influence over your mother
10 to execute the 2015 will?

11 A: I have never exerted any type of my opinion or
12 anything like that to my mom. My mom has
13 always been very strong willed. She know
14 exactly what she wanted. She made all of us
15 aware of it, made it very clear to all of us.
16 So, there was no need for any undue influence.

17 Q: All right. Now, on February the 3rd, 2015 did
18 you take her to Deborah Butcher's office that
19 day?

20 A: I did.

21 Q: Okay. On that day did she understand her
22 property?

23 A: Yes, she did.

24 Q: Let's get to that now. Did she under -- did
25 she believe that she owned the eight acres and



1 the ten acres and the five acres?

2 A: Not only did she believe it, I knew it and all
3 the rest of the other children knew it. So,
4 this is no secret. I mean, my mom was very
5 clear with all of us and she made it very clear
6 her intentions of doing this will and she did
7 not want any fighting or bickering between
8 anybody. Everybody knew exactly what property
9 they were getting.

10 Q: Okay. So, she did not understand that
11 properties were deeded into a trust?

12 A: My mom understood that she had deeded the
13 properties into trust and that's why she did
14 it, because she trusted her children that she
15 had as trustees to do exactly what she had
16 designated for them to do. At no point in time
17 would she have ever thought that one of her
18 children would betray her and not do exactly
19 what she had asked them to do for years. And
20 there was a trust agreement to the eight and
21 ten acres of land, and my sister, Mary and
22 Martha, stole the safety deposit box out of the
23 house that included those trust agreements and
24 they still have not produced them. I mean,
25 they actually produced a trust agreement to the



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1 house, but the other two trust agreements that
2 spells out exactly what my mom's will says they
3 have in the trust -- out of the safety deposit
4 box.

5 Q: Now, did you exert any influence over Almeter
6 Robinson on February the 3rd, 2015?

7 A: No, sir. There was never any need for me to
8 exert any type of influence on my mom. And if
9 you look at the will, if I was going to exert
10 any undue influence, I would have gained
11 something. I mean, she gave me three acres of
12 land in 1994. That's all I have in the 2015
13 will, except she also in 1994 designated me as
14 a trustee of my brother, Freddie Robinson, who
15 died to make sure that I take care of him. And
16 she left him that one-acre land right beside
17 the house. And she said she -- when she
18 passed, she wanted to make sure -- because he
19 had a drinking problem and she wanted to make
20 sure I took care of him.

21 MR. JORDAN: Your Honor, objection to this line.
22 Unless you've got some written documentation
23 signed by his mother, I mean, he's testifying
24 for her.

25 THE WITNESS: It's in the 1994 will.



1 THE COURT: Sustained.

2 MR. JORDAN: What you have we just saw briefly -- we
3 just saw that one briefly a few minutes ago.

4 THE WITNESS: Well, do you have the rights to it.

5 MR. JORDAN: If we knew existed, yeah.

6 THE WITNESS: Well, you should talk to your client.

7 THE COURT: All right.

8 Q: Now, let me show you the 2015 will marked as
9 Plaintiff's 1. On page four, does that look
10 like your mother's signature?

11 A: This is my mother's signature. However, my mom
12 had what's called PMR, Polymyalgia. And at
13 times she had arthritis in her hands. Her
14 hands were actually, you know, curved like
15 this. And there were times where she had the
16 perfect signature and there were times, as she
17 got sicker, it wasn't as perfect.

18 Q: All right. On February the 3rd, 2015 did you
19 take your mama to Deborah Butcher's office?

20 A: I did.

21 Q: And on that day, could she converse with you?

22 A: My mom could converse with me up until her
23 death very coherently.

24 Q: Was she coherent on February the 3rd, 2015?

25 A: 100 percent.



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1 Q: And did you exert any influence over your
2 mother?

3 A: Absolutely not.

4 Q: Now, you have expressed through some of these
5 other lawsuits that you wanted to take
6 possession of her house. The 2015 will does
7 not give you the house, does it?

8 A: It does not.

9 Q: So, if you were going to exert influence, you
10 didn't do a very good job, because you didn't
11 get the house, did you?

12 A: Correct.

13 Q: Now, they have talked about the residuary
14 clause. Do you know of any residuary assets
15 other than these pieces of land, what did she
16 own?

17 A: Well, I mean she owned some furniture inside
18 the house in which I gave her all the money to
19 buy it. So, in addition to that, when my mom
20 got sick when she was 85 years old and she went
21 to stay with Mary for a brief period, about
22 nine months, my sisters, Mary and Martha, stole
23 lots of her stuff out of the house. So, when
24 I brought her back to the house to live, she
25 recognized and realized a lot of her assets --



1 quilts, just a lot of assets were gone.

2 Q: Let me stop you there and just ask you -- ask
3 it this way. The other assets other than the
4 land consisted of a household goods?

5 A: Yes.

6 Q: And furniture?

7 A: Right.

8 Q: Pots, pans?

9 A: Correct.

10 Q: Towels and pillow cases?

11 A: Right.

12 Q: Is that about it?

13 A: That's it.

14 Q: Any big 401k?

15 A: No.

16 Q: Any big bank account?

17 A: There were two insurance policies in which Mary
18 and Martha received those. So, I took care of
19 her, but those ---

20 Q: Those are not probate assets.

21 A: Okay.

22 Q: So, was it just limited to the stuff in the
23 house?

24 A: Yes, sir.

25 Q: All right.



1 MR. WELLS: Those are all the questions I have.

2 THE COURT: Mr. Burns.

3 MR. ROBINSON - CROSS-EXAMINATION BY MR. BURNS:

4 Q: Mr. Robinson, you said that you got your
5 mother's power of attorney. And I show you
6 this document and ask if you can identify this
7 as the power of attorney that you got. Can you
8 identify that, is that your power of attorney?

9 A: That's correct.

10 Q: Okay.

11 MR. BURNS: And it's recorded in book 3302 page 249.
12 I'd like to offer this as an exhibit, Your
13 Honor.

14 THE COURT: Okay. Mr. Wells any objection?

15 MR. WELLS: No objection.

16 (Defendants' Exhibit Number 4 was marked and admitted
17 into the record.)

18 Q: All right. I find it kind of interesting the
19 power of attorney at the upper left-hand corner
20 says prepared by Laverne Robinson. You
21 prepared it?

22 A: I did.

23 Q: Are you an attorney?

24 A: I am not, but there is online forms that you
25 can go on and do it through an attorney's



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1 office and that's what I did.

2 Q: Online through an attorney's office?

3 A: That's correct.

4 Q: Okay. But when you say through an attorney's
5 office, your mother didn't see an attorney, did
6 she?

7 A: Yes, my mother saw an attorney when she signed
8 this.

9 Q: What attorney?

10 A: I don't recall. It's a Camden law firm right
11 down the street.

12 Q: Where right down the street?

13 A: It's literally right down the street on the
14 right-hand side where -- I don't recall the
15 name of the law firm, but, I mean, it's right
16 down the street on the right-hand side.

17 Q: What street?

18 A: Is this Dekalb? I'm not familiar. On the
19 right-hand side.

20 Q: The court house is on Broad street.

21 A: There's only one major law firm on the right-
22 hand side. It's a huge white building. I
23 don't recall the name at the moment. Right
24 before you get to the library.

25 Q: The old white building?



1 A: That's correct.

2 Q: Isn't that a CPA's firm?

3 A: No, it's not a CPA. It's a law firm. I mean,
4 if you'd like, I can use my phone and google it
5 for you if you need it.

6 Q: So you -- you printed the form and then you say
7 you took it to a law firm?

8 A: That's correct.

9 Q: The form that you printed?

10 A: That's correct.

11 Q: And the law firm witnessed her -- notarized her
12 signature?

13 A: That's correct. I think if you look at he
14 back, it shows the commission and the witnesses
15 that witnessed it. And it's from that law
16 firm.

17 Q: Well, the commission is just the -- every
18 notary has a commission that expires on a
19 certain day. But did the lawyer witness it?

20 A: I'm not sure whether it was a lawyer of his --
21 I'm not sure. When I took it there, this is
22 the person that witnessed her signing this
23 power of attorney. Are you questioning the
24 power of attorney?

25 Q: No, I'm questioning -- who explained it to her?



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1 A: What do you mean who explained it to her?

2 Q: Did you explain it to her?

3 A: I'm her son, of course, as well as the law
4 firm. I am an engineer.

5 Q: No, but you explained the power of attorney to
6 her?

7 A: That's correct.

8 Q: And you feel like she understood the power of
9 attorney?

10 A: I'm sorry?

11 Q: She understood the power of attorney?

12 A: My mom understood when I explain anything to
13 her 100 percent. And, yes, I made clear -- I
14 made sure she understood what was going on.

15 Q: But, I mean, did she understand that -- did you
16 explained it to her? I mean, earlier you
17 testified that you looked at the 2009 will and
18 you knew that was not her wish, didn't you?

19 A: Absolutely. I mean, that's not going to
20 change.

21 Q: So, the lawyer that witnessed it made a mistake
22 in the 2009 will?

23 A: I don't know anything about the 2009 will in
24 terms of who witnessed what. I wasn't there.

25 Q: I thought you said you got it from Jeff



1 Tzerman.

2 A: Exactly.

3 Q: Didn't he witness it?

4 A: I'm assuming he did.

5 Q: Okay.

6 A: I -- he just gave me a copy.

7 Q: But are you saying you -- you said you knew
8 that was not her wish when you read the 2009
9 will, didn't you?

10 A: Yeah. I know my mom wouldn't give one
11 grandchild more property than she would her own
12 children when she has 50 other grandchildren.
13 She just wouldn't do it.

14 Q: Back to the power of attorney. Who went over
15 the power of attorney with your mother, other
16 than you?

17 A: I took her to the law firm down the street on
18 the right-hand side. Like I said, I got my
19 phone. I can Google it for you, if you like.

20 Q: Well, I mean, I'm curious. The witnesses are
21 ---

22 A: Well, I mean, you've been doing law in this
23 area for a long time.

24 Q: Dwayne Gary and Justin Michigan (phonetic).
25 Those names don't ring a bell and Gale Magnum



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1 (phonetic). But you printed the power of
2 attorney, you reviewed it with your mother and
3 you don't know where it was witnessed; is that
4 right?

5 A: I know exactly where it was witnessed, I just
6 can't recall the name. And I don't think a
7 commissioner would sign it along with witnesses
8 if there -- if she wasn't there present and
9 signed it herself.

10 Q: I'm not questioning whether she signed it. I'm
11 questioning the process of obtaining the power
12 of attorney. It's a significant -- it creates
13 a fiduciary relationship between you and your
14 mother. You under that?

15 A: I understood prior to my doing it.

16 Q: Okay. When you took your mother to Deborah
17 Butcher's were you present when the will was
18 signed?

19 A: I'm pretty certain I was.

20 Q: Okay. Why didn't you tell Deborah Butcher
21 about the lot that you owned that's part of the
22 five acres?

23 A: Because it wasn't my will, it was my mother's
24 will.

25 Q: And why didn't you show Deborah Butcher the



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1 plat that the five acres had been divided?

2 A: That's not my job.

3 Q: Why didn't you tell Deborah Butcher that
4 actually all of the property had been deeded to
5 trustees?

6 A: That's not my job.

7 Q: So, you realized that your mother was -- that
8 a will had been prepared disposing of ten
9 acres, eight acres, and five acres. You were
10 present when it was signed and you realized
11 that somebody had prepared a will and that your
12 mother was signing it and that they weren't
13 your mother's property. You realize that ---

14 A: They were my mother's property and they still
15 are. And every child in here knows that. And,
16 yes, she had prepared trust agreements. And,
17 as she said to John when she met with John, I
18 trusted the wrong children. So, it's the ---

19 MR. BURNS: I object to her quoting her -- his
20 mother.

21 THE COURT: Sustained.

22 A: I mean, that's the purpose of a trust
23 agreement, so that the trustee will honor the
24 person's will. And, as I've stated before, my
25 mom was very thorough, very meticulous, and



1 kept all her paperwork. And all that paperwork
2 was in her safety deposit box that Mary and
3 Martha was so eager to get in the house and
4 steal from up under the bed. I placed the
5 safety deposit box up under the bed. I lowered
6 it, so that nobody would be able to get it.

7 MR. BURNS: Your Honor, I don't think he's
8 responding to my questions.

9 Q: Have you sworn out a warrant?

10 A: (No response).

11 Q: You said that your mom lived with Mary for
12 about nine months and you visited often.

13 A: Correct.

14 Q: But your mom lived with Mary and she was the
15 primary caregiver during that time frame?

16 A: For approximately nine months.

17 Q: Okay. And then you moved down -- did you move
18 down on a more permanent basis so you could
19 take her over to her house; is that what you
20 did?

21 A: That's correct. I mean, my mom was very
22 coherent and getting along well. So, after I
23 brought her to the house and realized she was
24 doing quite well, I was able to maintain my job
25 for a certain period of time, and I hired aides



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1 24 hours around the clock to stay with her
2 because -- well, let me back up. My oldest
3 sister, Willene, helped me take care of her for
4 about nine months after we -- well, basically
5 after Mary said that she wasn't going to take
6 care of her anymore. If we didn't take care of
7 her, she was going to a nursing home. So, at
8 that point Willene and I, joint duties, took
9 care of my mom. When I had to go to work,
10 Willene filled in and took care of her. When
11 I came home, she went home. Well,
12 unfortunately, I mean, she had a unfortunate
13 situation herself in October of I think it was
14 2014 that she could no longer help me take care
15 of my mom. So, then at that point I knew that
16 I had to move home permanently to take care of
17 my mom. And I asked my three sisters, Mary,
18 Martha, and Pat, to care of her for two weeks
19 while I went back and wrapped up all my
20 affairs, to get somebody to rent my house and
21 leave of absence all this stuff. And they
22 would not even do that. So, yes, I had to move
23 home ---

24 Q: How about try to answer my questions.

25 A: --- and hire aides to take care of my mom.



1 Q: When your mother was living with Mary, did you
2 visit often?

3 A: I believe I said I came home two to four times
4 a month. And when I came home, I brought her
5 to her house and I took care of her.

6 Q: Okay.

7 A: Which is about 30, 40 percent of that nine
8 months that ---

9 Q: And did your siblings, including Mary, help
10 out?

11 A: My older brothers and sisters did.

12 Q: Did Mary visit your mother in your house?

13 A: Occasionally.

14 Q: And on one of those occasions did you call the
15 police?

16 A: Oh, absolutely.

17 Q: And I'll show you this, the 911 log of December
18 16, 2014, and it looks like 1:18 in the
19 afternoon. And over on page two it says that
20 sister, Mary Green, causing problems, asked her
21 to leave and won't leave. Was that your call
22 to 911?

23 A: Absolutely. Mary Green and my sister, Pat, had
24 called my mom's social worker and made all kind
25 of allegations, false allegations should I say,



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1 about my care for my mom. And that's what
2 precipitated this call. The case manger was at
3 the house at the time and Mary so happened to
4 walk in. And the case manger just had
5 completed telling me all the lies that they
6 called and told her about ---

7 MR. BURNS: I object to ---

8 A: Well, do you want me to tell you exactly what
9 she said?

10 Q: I don't. That's hearsay.

11 A: Well, you brought the police report up.

12 Q: That's hearsay.

13 A: You brought the police report up, so this is
14 what the police report is about.

15 Q: No, I simply asked you if you called the police
16 to have ---

17 A: Absolutely, because she called the case manager
18 and the case manager was present at the house
19 at the time that she showed up at the house.
20 And I was very professional. I went in the
21 room where she was with my mom. I asked her to
22 come sit in the kitchen with my mom and I -- I
23 meant, with the case manager and me, because
24 they case manager -- because I just couldn't
25 believe the allegations. I said, you need to



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1 come in here and correct all the lies with this
2 case manager that you've told.

3 Q: Did Mary come to visit your mother?

4 A: Occasionally.

5 Q: Did she come that day to visit your mother?

6 A: No, she didn't, as a matter of fact. Because
7 the case manager told me she had called her on
8 several occasions because she wanted -- well,
9 she did not come to visit my mother. She came
10 because the case manager was there. The case
11 manager told her -- she called several times.
12 she wanted to know when she was coming out
13 because she tried to demand that she come out
14 on an emergency visit. And she told her, I
15 will not come out on an emergency visit because
16 every time I've been there, your mom is well
17 taken care of. So, until I have a reason to
18 feel that I need to come out on an emergency
19 visit, I'm not coming out. So -- and she told
20 her when she was coming, so that's why she
21 showed up.

22 Q: Okay. That's not the only time you called the
23 police involving Mary Green, is it?

24 A: Oh, no. Mary's been a real pain in my butt
25 trying to take care of my mom.



1 Q: Okay. Let me let me show you an E-911 command
2 log dated March 29, 2016.

3 MR. WELLS: Your honor, I object to this coming in
4 because this is after the execution of the will
5 and cannot bear on competency or undue
6 influence, which are the two issues before The
7 Court.

8 THE COURT: Sustained.

9 MR. BURNS: Your honor, I would point out and will
10 be able to show that Laverne tried to exercise
11 control over his mother at that time based on
12 this power of attorney. I mean, the report
13 says that sister has taken her 87-year-old
14 mother without permission. Complainant has
15 power of attorney.

16 MR. WELLS: Your Honor, there again I object to it
17 coming in because this is after -- the issue is
18 did he exert undue influence on February 3rd,
19 2015. This is a year later. And even if he did
20 exert undue influence in 2016, that has no
21 bearing on the validity of the 2015 will.

22 MR. BURNS: The power of attorney was in 2014. And
23 that power of attorney, coupled with the fact
24 that he controlled his mother's finances and
25 lived with her creates a confidential



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1 relationship, a fiduciary relationship. And
2 the way he used the power of attorney
3 subsequently shows what he believes the
4 authority of the power of attorney gives him,
5 which is not what a power of attorney gives
6 him. He's arguing that he has control of his
7 mother based on a power of attorney, when the
8 power of attorney has nothing to do with her
9 person, solely with the business stuff. And
10 that's the way he has treated his authority
11 over his mother since before the will was
12 signed. So, yes, we are asking that the will
13 be denied based on undue influence. But that
14 undue influence and the confidential
15 relationship are tied together with the power
16 of attorney. And this is how he used the power
17 of attorney improperly. So, I'm asking that it
18 be admitted for the purpose of showing his use
19 of the power of attorney. And the use of the
20 power of attorney was to control his mother and
21 limit visitation. And that is a factor that
22 can be considered by The Court for undue
23 influence. And I think the undue influence
24 continued until she died. I mean she -- so, I
25 don't know why the undue influence after you



1 sign the will is not still relevant.

2 THE COURT: I'm going to allow it.

3 Q: Okay. Laverne, so, at about 10:59, one minute
4 shy of a 11:00 o'clock, you called the police
5 and said that your sister had taken your 87-
6 year-mother without permission, you had power
7 of attorney, and the sister was Mary Green; is
8 that correct?

9 A: Absolutely.

10 Q: Okay. And what were the circumstances of that?

11 A: The circumstance was I was paying an aide 24
12 hours to take care of my mom and she came down
13 to the house -- and I repeated asked them, all
14 of them, my five -- younger brothers to help me
15 take care of my mom. They didn't want to have
16 any -- they didn't want to have anything to do
17 with it. So, I personally had to hire an aide
18 24 hours when I was away with the assistance of
19 my other older brothers and sisters financially
20 to take care of my mom. So, if I'm paying an
21 aide to take care of my mom, why is she taking
22 her from the house without informing me? When
23 I got home from Maryland that night, I had no
24 idea where she was. I had to call around to
25 find out. And that's how I learned she was at



1 my -- at Mary's house. And I made it very
2 clear to her, you know, if she didn't want to
3 take care of my mom, she didn't have to, that
4 we will do that. And that's what we did.

5 Q: Didn't the aide get sick?

6 A: I'm sorry?

7 Q: Didn't the aide get sick?

8 A: The aide called me about -- if I recall
9 correctly, around 8:00 o'clock. And I said,
10 well, I'm on my way, I'll be there by 11:00 or
11 something of that nature.

12 Q: Didn't the aide feel bad, get sick?

13 A: I'm not sure if she was sick or she was playing
14 -- Mary had a habit of every aide that I hire,
15 she would try to defend them and kind of take
16 over the household while I was away. But when
17 I was there, she wouldn't help. So ---

18 Q: Didn't the aide get sick?

19 A: I'm not sure, no.

20 Q: If the aide got sick and had to leave, does
21 that change the story?

22 A: No, because I got a brother right down the
23 street.

24 Q: Why can't ---

25 A: He would have been happy to come in and do it,



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1 if that was the case. I had spoken to the aide
2 and she said she wasn't feel well. At no point
3 in time did she tell me that Mary was there and
4 Mary was going to take my mother to her house.
5 That's why I was hustling to get home. So,
6 when I got home, the aide was not there, nor
7 was my mom. So, who takes some 87-year-old
8 woman without informing the person that's
9 taking care of her? It wasn't that difficult
10 for her -- Mary to make a phone call to me.

11 Q: You told the police that you had power of
12 attorney?

13 A: I do.

14 Q: Okay. What in that power of attorney gives you
15 the authority to keep your mother from staying
16 at Mary's house, her daughter, when the aide is
17 sick? What in that power of attorney gives you
18 that authority?

19 A: It gives me that authority when I am her
20 caretaker and I need to know where she is and
21 that she safe at all times.

22 Q: Where in the power of attorney does it say
23 that? You ---

24 A: You tell me.

25 Q: It's not in there.



1 A: Okay. Then as caregiver I have that right.

2 Q: But you told the police the power of attorney
3 gave you that right.

4 A: Well, and you may use that, but you know as
5 care -- as a caregiver, I have the right to
6 know where my mother is at all times.

7 Q: And in fact didn't you call Mary -- didn't you
8 find out a lot earlier than 8:00 o'clock that
9 ---

10 A: I don't recall ---

11 Q: --- that your mother was at Mary's?

12 A: No. I didn't find out until I got home.

13 Q: Didn't you call Mary on the phone and say,
14 Mary, it's me. I want to know mama at your
15 house. You don't ever do anything for mama.
16 You don't every invite her to your house, you
17 don't ever do nothing until I leave and I don't
18 want you coming here to get her when I'm away.
19 And you better not ever come here again and get
20 her without my permission. Now, when I get
21 home this evening, mama better be home. That's
22 all I got to say. Is that -- are those your
23 words?

24 A: Absolutely. Wouldn't you do that if it was
25 your mother?



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1 I leave them in the hands of my mom?

2 MR. BURNS: Your Honor, I'd like to introduce -- he
3 said these were his words earlier in the day.
4 A message that he left her on the phone record
5 -- we got the phone message, we can play it for
6 The Court.

7 THE COURT: You'd like to put it in as an exhibit?

8 MR. BURNS: As an exhibit, right.

9 THE COURT: Mr. Wells?

10 MR. WELLS: No objection.

11 MR. JORDAN: No objection.

12 MR. BURNS: And the 911 command logs that I -- that
13 he identified -- that he agreed those were his
14 calls on March -- I'm sorry, December 16, 2014
15 and on March 29, 2016, I'd like to introduce
16 those.

17 THE WITNESS: And would you also include in the
18 first police report she was so belligerent with
19 the police officer, the police officer ---

20 THE COURT: Mr. Robinson, don't speak unless you're
21 asked a question.

22 MR. BURNS: As an aside ---

23 COURT REPORTER: Give me just a second, Mr. Burns.

24 MR. BURNS: I'm sorry, I'm sorry.

25 COURT REPORTER: I have five is the voice mail, Mr.



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1 Q: How many properties do you own in Kershaw
2 County?

3 A: At that time I owned five acres.

4 Q: Unrelated to the acreage we're -- we've been
5 talking about here?

6 A: One is related.

7 Q: One is related. Which one is that?

8 A: The one that my mom gave me beside her house.

9 Q: Okay. That was one acre?

10 A: That's correct.

11 Q: And you paid taxes on that property?

12 A: I do.

13 Q: Constantly since you got title to the property,
14 right?

15 A: Well, no, because my brother, Ronnie, had the
16 property in his name in which he had planned to
17 take from me until my mom discovered it. And
18 she said, Sonny, I want to make sure you get
19 your deed to that property.

20 Q: Okay. Answer my question, please.

21 A: Let me finish.

22 Q: Since you owned the property, okay, which you
23 got title in 2004 ---

24 A: But I owned it before then.

25 Q: Well, you got title -- do you understand in



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1 trust agreement, as soon as practical after the
2 death of the survivor of the trustee -- of the
3 survivor, the trustee is directed to convey the
4 trust property equally to five children now
5 living at home; Martha, Mary, Ronnie, Laverne,
6 and Almeter, correct?

7 A: Correct.

8 Q: And your understand that that five-acres tract
9 that we've been talking about doesn't contain
10 five acres, don't you? You've seen the survey,
11 the 2002 survey and it includes a total of 4.2
12 acres.

13 A: I think that's to be debated, because my mom
14 owned the acre of land that we're living on.
15 She then bought the acre of land that the
16 current house is on. The five-acre tract
17 actually includes my lot, Ronnie's, and the two
18 acres that Mary stole from my mama that my
19 brothers and sisters paid for. That's the
20 actual five acres.

21 Q: Okay. Well let me show you two plats here.
22 Here's a four-acre plat.

23 A: I'm very familiar with it.

24 Q: Okay. You're familiar with ---

25 A: Yes.



1 to be controlled -- as to the disposition of
2 it, to be controlled by her will?

3 A: Well, I think that would be a legal matter.
4 But in reference to representing my mom's
5 position, yes.

6 Q: And even if a large Medicaid lien moves out
7 there and would attach to her property and her
8 estate, that'd be what you'd want?

9 A: That's why my mom was smart enough to put these
10 properties in trust.

11 Q: Bingo.

12 A: You know. So, there's nothing illegal about
13 that.

14 Q: Well, of course it's not, but what you're doing
15 is done.

16 A: So, there's nothing illegal about it.

17 Q: So, what you're saying now ---

18 A: And I said before, she said she trusted her
19 children to honor her will. And that's what
20 she expect today. And they all are very
21 familiar with it. And your client, Ronnie, had
22 a copy of the will under his bed mattress, so
23 it's no secret.

24 Q: So, now are you in agreement that the trust
25 deeds that were issued in 1977 and 1987 and



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1 1993 are valid deeds?

2 A: They are valid deeds with -- they're valid. If
3 you read the deed, it specifically says that
4 there's a trust agreement to those eight and
5 ten acres of land, which is exactly her will.

6 Q: Well, my -- what I'm trying go get to the point
7 is, you're not trying to somehow pull this
8 property into the estate of your mother and to
9 have those properties controlled by the will,
10 are you?

11 MR. WELLS: Your Honor, I object to that because
12 that is not why we're here today. We're not
13 here to settle what's in the estate. We're
14 here to settle if the will -- if Almeter
15 Robinson ---

16 THE COURT: Excuse me. There's too much talking in
17 here.

18 MR. WELLS: --- if she was competent when she signed
19 the will and was there undue influence. Now
20 we're talking about what's in the estate, which
21 is not before you today.

22 MR. JORDAN: Your Honor, in response to that, I
23 would certainly say that if we planned -- if
24 the ultimate result is you're appointing Mr.
25 Laverne Robinson as personal representative,



1 see what they said?

2 A: Because I'm her child and it's my position to
3 protect her.

4 Q: In fact, you were her attorney in fact, right?
5 So, therefore, you're the ---

6 A: I've been very close to my mom all my life.

7 Q: Okay.

8 A: Very, very close.

9 Q: So, you went to attorney Jeff Tzerman's office
10 to get copies of the will?

11 A: That's correct.

12 Q: All right. Why did you ask Mr. Tzerman to
13 prepare a will?

14 A: Why would I?

15 Q: Because that was her attorney.

16 A: After seeing the mess ---

17 (Multiple voices at once.)

18 A: After seeing that he had given Jeremy Green,
19 Mary's son, two and a half acres of land in
20 2009, clearly that says to me he did not
21 thoroughly go over that will with my mom
22 because she would have never have allowed that,
23 never.

24 Q: She signed the will.

25 A: My mom has a eighth-grade education. She



1 that's the change was speaking in reference to
2 and said, Willene is taking care of me. I want
3 to make sure -- Willene is the oldest child and
4 I want to make sure that Willene is taking care
5 of. That's the only change in that will my mom
6 made.

7 Q: Now, well why was the 1994 will utilized by Ms.
8 Butcher to transfer -- or to prepare the 2015
9 will when a much more recent will was available
10 to utilize and for the same reason?

11 A: I believe Ms. Butcher testified she had both
12 wills.

13 Q: Why would she effectively ignore the 2009 will?

14 A: I think you have to ask her that.

15 Q: And you realize the 2009 will did not mention
16 the five-acre tract.

17 A: Well, as I said, I'm certain that my twin
18 sisters, as they have done throughout my mom's
19 life and the record will show, have done
20 whatever they wanted to do, so they
21 intentionally left it out. But it was her wish
22 in 2015 to include it.

23 Q: Isn't it the case, Mr. Robinson, that you're
24 basically out to have all the control in this
25 situation that you can have?



1 A: I took care of my mom.

2 Q: Okay. And you wanted to take that control and
3 turn it into an absolute control?

4 A: I wanted to make sure my mom has the absolute
5 best care available to her and that she was not
6 taken advantage of. And that's what was
7 happening with some of my sibling since 1978,
8 she was taken advantage of. And I was going to
9 make sure that it no longer exist.

10 Q: Let me ask you this. Did your mother ever
11 bring a lawsuit or anything of that nature when
12 she found out that she was being taken
13 advantage of?

14 A: Well, I'm a big boy, I can take care of myself.

15 Q: I'm asking about your mother.

16 A: You'll have to ask her.

17 Q: Okay. Well, do you know of any lawsuits she
18 ever brought to complain about the handling of
19 the trust?

20 A: The one she brought with John, of course.

21 Q: Okay. And now your mother was alive at that
22 stage, but you were the motivating part of
23 that team, weren't you?

24 Q: Actually my mom was the motivator. . Because
25 when she learned that Martha and Ronnie had



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1 Defendants' Number 1, in here you're stating
2 that these properties, the three tracts we're
3 talking about are, in fact, owned -- or were
4 owned by trustees and your mother, right?

5 A: That's correct.

6 Q: That's your firm position at this point, that
7 that is, in fact, the facts?

8 A: There's law and there's common sense.

9 Q: Well, no. We're talking about the facts right
10 now of this case, okay. And you've made
11 certain allegations and I just want to make
12 sure you're bound to those allegations. And
13 the allegations are that your mother or other
14 -- I think James actually was one of the
15 grantors, but ---

16 A: That plans to honor her will.

17 Q: Okay. You know, but the bottom line is that
18 your -- that the properties are owned or were
19 titled of record in someone's name other than
20 your mother's.

21 A: Correct.

22 Q: Okay. So, at the time of her death she did not
23 own these properties, she had no fee simple
24 interest in these properties, correct?

25 A: Legally.



1 A: Two time a month.

2 Q: Okay. And even when Laverne was living with
3 his mother?

4 A: I still was cutting the grass.

5 Q: Okay. When Laverne moved in with your mother,
6 did your opportunities to visit change in any
7 way?

8 A: Altogether.

9 Q: Well, would you tell the Judge briefly if you
10 can how it changed?

11 A: Well, it changed, when you go there, you take
12 breakfast -- I used to get up early in the
13 morning. I'll take breakfast to her house 3:00
14 or 4:00 o'clock in the morning, get the wood
15 and make a fire. All of a sudden, I don't want
16 no more breakfast. I don't want no fire built.

17 Q: Are you saying Laverne didn't want you to take
18 breakfast and build a fire?

19 A: Stop -- build a fire, stopped all of that from
20 happening, you know. When he came, it made a
21 big change.

22 Q: When your mother was living with Mary for the
23 nine months before she moved back home, did you
24 visit with her at Mary's house?

25 A: Yeah.



1 Q: And did -- were you able to visit like that
2 when Laverne moved in?

3 A: To -- no. Because, you know, his attitude.
4 His attitude was so bad. He still got it. You
5 see it. He ain't changed.

6 Q: Given your -- well, the will -- your mother's
7 will, 2015 will that they're trying to
8 introduce, doesn't mention your -- the fact
9 that you own the lot. Did your mother know you
10 owned a lot?

11 A: Yeah, she know it. She know it because she was
12 with me. She was with me at the time -- the
13 five acres, I'm the one that got it surveyed.
14 I paid for it to be surveyed.

15 Q: You said she went with you?

16 A: She went with me.

17 Q: To the surveyors?

18 A: To the surveyor.

19 Q: Okay. And you paid for that?

20 A: I paid for lot three, four -- I paid for all of
21 it. I got my money back from two of them. The
22 other two I never got it back.

23 Q: Okay.

24 A: Then he said I took the land. The land was in
25 my name. His land, lot three, was in my name.



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1 A: I'm serious. We already talked about that.

2 Q: So, in June of 2018, we're talking about last
3 month.

4 A: Yeah.

5 Q: You decided you wanted to get the dining room
6 suit out of the Almeter's house.

7 A: I didn't decide. My daughter called him and
8 told me to get that suit. He gets anything he
9 want out that house and do anything he want.
10 He put things in, he take things out. That
11 ain't his house. We ought to do what we can do
12 -- want to do.

13 Q: So, did you just take the diningroom suit?

14 A: I took the diningroom suit.

15 Q: All right.

16 A: But I told him I was going to get it. It
17 wasn't his. I need to get the bedroom suit.

18 Q: Now, I don't think anyone here says it's his.
19 It was -- it's in the estate. That's what
20 we're here to talk about.

21 MR. WELLS: Those are all the questions we have.

22 THE COURT: Mr. Jordan.

23 MR. R. ROBINSON - CROSS-EXAMINATION BY MR. JORDAN:

24 Q: When we're talking about the ten-acre tract,
25 that's also referred to as a 10.67 acre tract;



1 is that right?

2 A: Right.

3 Q: And it's known as lot four on some plat?

4 A: Right.

5 Q: Okay. Now, you and the Leroy Robinson as
6 trustees received title to that property,
7 right?

8 A: Correct.

9 Q: Did you get that from your mother or did it
10 come from James Robinson?

11 A: It came from James Robinson.

12 Q: All right. I'll hand you a -- hand you a copy
13 of a deed ---

14 A: James and Leroy.

15 Q: --- recorded April 26th, 1993. And is that the
16 deed where you and Leroy got title to the
17 property?

18 A: Correct.

19 Q: That's the property where you're talking about
20 that you'd been dividing up?

21 A: Yeah.

22 Q: Okay. All right. Is there anything in that
23 document that indicates that your mother has
24 any say so about what happens to that property?

25 A: She didn't have no say so.



1 Q: Okay. Wasn't her property to start with, was
2 it?

3 A: Her name wasn't on that.

4 Q: I'd like to introduce this particular deed as
5 defendant's exhibit.

6 MR. WELLS: No objection.

7 MR. JORDAN: That's Defendants' 9.

8 (Defendants' Exhibit Number 9 was marked and admitted
9 into the record.)

10 Q: Okay. Now, lot four is your property.

11 A: Correct.

12 Q: And you deeded lot three to Laverne.

13 A: Correct.

14 Q: In 2004.

15 A: Yes.

16 Q: Okay. Lot two in 2004 was owned by whom?

17 A: Martha.

18 Q: Okay. Now she was actually named on the deed
19 as trustee of the whole tract -- the whole five
20 acre parcel.

21 A: Right.

22 Q: Okay. But the main question I want to ask here
23 is the house itself that was built on lot two,
24 who caused that house to be built?

25 A: Martha and Mary.



1 Q: Who paid for the house to be built?

2 A: Martha and Mary.

3 Q: All right. How old was Laverne when the house
4 was completed?

5 THE WITNESS: How old you is now?

6 A: Young. He didn't do nothing in the house.

7 Q: Young teenager or something like that?

8 A: I was 15, because I did a little work. I ain't
9 did nothing to want no house.

10 Q: Okay. Are you aware of any work that Laverne
11 did on the house?

12 A: None.

13 Q: Okay. So, the entire expense of building that
14 house was Martha and Mary's expense?

15 A: Martha and Mary.

16 Q: And the house now is titled in Martha's name --
17 I mean -- yes, in Martha's name.

18 A: Yeah.

19 Q: Okay. All right.

20 A: Matter of fact they paid taxes 40 years on the
21 house. If it ain't there's, they should be.

22 Q: Okay. Now, you talked about your strained
23 relationship with you Laverne, okay. Are you
24 the only one that has strained relationships
25 with him?



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1 THE COURT: Sustained.

2 MR. JORDAN: That's all the questions I have.

3 MR. WELLS: Nothing further.

4 MR. BURNS: I'll call Leroy.

5 THE COURT: I'm sorry. Hold on one second. Mr.
6 Jordan, do you have our Exhibit 2?

7 MR. JORDAN: Exhibit 2.

8 COURT REPORTER: There's one up there, Your Honor.

9 MR. WELLS: Exhibit 2 is right here.

10 THE COURT: Okay. All right. Just making sure.

11 MR. WELLS: Let's put them back up here in order.

12 THE COURT: Thank you.

13 LEROY ROBINSON, having been duly sworn, testifies as
14 follows:

15 MR. L. ROBINSON - DIRECT EXAMINATION BY MR. BURNS:

16 Q: Leroy, you too are one of Almeter's children,
17 correct?

18 A: I am.

19 Q: And how old are you?

20 A: I'm 63 years old.

21 Q: Okay. Are you -- I can't remember if you were
22 retired.

23 A: I am retired.

24 Q: Okay. And what did you do before retiring?

25 A: I worked for -- I work in management for 34



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1 years with a large corporation.

2 Q: And you're living now in Kershaw County?

3 A: I currently live in Kershaw County.

4 Q: Okay. All right. And when your mother -- did
5 you visit your mother -- you were living
6 elsewhere, but did you visit your mother?

7 A: Prior to moving back home, I lived in Barnwell,
8 South Carolina. And I did move back. I
9 visited mama very often. And of course at that
10 time her health was beginning to fail. And at
11 times -- I can recall times that I would cook
12 for her and take food to her prior to Laverne
13 coming home.

14 Q: Okay.

15 A: And we had a very good relationship.

16 Q: Did you visit your mom when she moved in with
17 Mary?

18 A: Oh, yes.

19 Q: Okay. So, you were living in Kershaw County?

20 A: I was living -- I visited Mary on a very
21 frequent basis. Did not have to make appoints
22 to come to see her.

23 Q: Did not have to make appointments?

24 A: Did not.

25 Q: Okay. And did you -- were you able to see your



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1 mother as much after Laverne came and took her
2 back to her home?

3 A: No. I felt like my mom was in jail. When you
4 would call there, wouldn't answer the calls.
5 When you go there, wouldn't answer the door.
6 And not only that, felt somewhat threatened to
7 go there. Because in the hospital, when mama
8 went there, he did threaten to knock me out,
9 made such a commotion in the hospital they
10 asked him to leave out of the room while I
11 visited because he would be there 24 hours a
12 day. It was very ---

13 Q: Let me put that in context. When was -- was
14 this your -- your mother's hospital visit near
15 the end of her life?

16 A: Well, during -- near the end, because it was a
17 progressional stage. And then I'll never
18 forget the Saturday morning he wouldn't allow
19 me to be in the room when the doctor called in.
20 He asked me to leave out when she was dying.
21 So, in the hospital on the Thursday afternoon,
22 we didn't know she was going through the last
23 stage of death. The doctor called in, I forced
24 to leave out. I went out and talked to the
25 nurse. I said, what's going on? She said,



1 well, they didn't think she was going to make
2 it through the night. She did. She made it to
3 that Saturday morning. I called Mary and then
4 Mary called Ronnie and Pat and Martha. It was
5 pretty sad when somebody, knowing this was her
6 last breath, and won't allow you to stay in
7 here and see what was going on. And that
8 happened the entire time under his care. We
9 could not get any information from the doctor
10 or nurses unless you could make a relationship
11 with them and they would tell you stuff
12 actually they weren't supposed to tell you.

13 Q: You said that Laverne threatened you in the
14 hospital?

15 A: He did.

16 Q: Why? What was the threat?

17 A: Well, I kneeling down talking to my mom and he
18 whaled back to hit me in the top of the head.
19 And Mary's a witness to that.

20 Q: But why?

21 A: I don't have a clue. I don't have a clue.

22 Q: You were trying to talk to your mother on your
23 knees?

24 A: Right. And then he went berserk and he brought
25 the security guard in as well. Didn't say a



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1 thing to him. I didn't say a word to him.

2 Q: Based on your experience with Laverne and
3 you're relationship with your mother, do you
4 feel like he has exercised undue influence in
5 her most recent estate planning?

6 A: I believe he did because when you can't see
7 nobody and keep them captive where you couldn't
8 talk to them, he's the only person that had
9 access to her.

10 Q: Was there a reason for that that you can
11 articulate?

12 A: I don't understand why he would have done
13 something like this. Even had mom's wake, she
14 could not have a proper wake because the door
15 wasn't open for us to collect friends to come
16 to the house. My brother James came down there
17 one night and forced him to open the door. She
18 didn't have a proper wake. He locked the door,
19 people would come and bring food to the house,
20 but the house was locked and we couldn't get in
21 the house, we was outdoors. I was totally
22 embarrassed for my friends to come see me with
23 my mom dead and this happened. He controlled
24 her until she died.

25 MR. BURNS: No further questions, Your Honor.



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1 MR. WELLS: Your Honor, I guess it's my turn.

2 MR. L. ROBINSON - CROSS-EXAMINATION BY MR. WELLS:

3 Q: Mr. Robinson, the hospital event that you've
4 just described was in 2017. Is that when she
5 passed away?

6 A: No, it was 2017 because she was dead then. I
7 can't recall the dates.

8 Q: Was this the last illness?

9 A: It wasn't the very last because they moved her
10 from Palmetto Richland for some reason or
11 another, that because of this power of
12 attorney, we was getting no information, no
13 nothing about ---

14 Q: Was it in 2016?

15 A: I would only assume the dates because I can't
16 give you the dates. I don't recall.

17 Q: So, you don't know when it was exactly?

18 A: I know she was in the hospital at Palmetto
19 Richland.

20 Q: Okay. So, you don't know what her mental state
21 was on February the 3rd, 2015, correct?

22 A: I can't tell you her mental -- I know her
23 mental state was deteriorating. I do know that
24 she was on patches for dementia.

25 Q: Now ---



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1 A: Prior to Laverne taking mama, because she was
2 diagnosed with dementia and she was on dementia
3 patches.

4 Q: Prior to him taking her, you mean taking her to
5 his house?

6 A: From my sister.

7 Q: Now, at that time though you were living in
8 North Carolina?

9 A: No. I was not living in North Carolina.

10 Q: When did you move out of state?

11 A: I never moved out of state, sir.

12 Q: Where do you live?

13 A: I've always lived in the state of South
14 Carolina.

15 Q: Now, did you join in these deeds with Ronnie?

16 A: Did I join ---

17 Q: Did you sign them also as trustee?

18 A: I was on the 18 acres of land. And the reason
19 why I was on, because I felt the -- yes, I was
20 on both deeds.

21 Q: Okay. So, these are the deeds that were done
22 in April of this year, do you remember that?

23 A: Correct.

24 Q: Did you go to Mr. Tzerman's office?

25 A: I did and I -- allow me to explain the reason



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1 why his son is on that deed. My name is not on
2 the two acres of land because I agreed to
3 disperse it to Rodney, which was Ronnie's son.
4 Ronnie agreed to deed it into his daughter.
5 And then it was dispersed into the other three
6 equally. And the other eight acres are in
7 James and my name as well. And it -- and we
8 informed him that they can disperse that
9 equally and it all be complete.

10 Q: Did the deeds that you did track any 2009 will
11 that your mother had done?

12 A: Listen, I haven't seen any wills. I mean, I'm
13 just telling you. All these wills that you are
14 talking about here today, I'm not familiar with
15 all these tracking of deeds.

16 Q: You weren't involved in those wills?

17 A: No, I was not.

18 MR. WELLS: All right. Those are all the questions
19 I have.

20 MR. L. ROBINSON - CROSS-EXAMINATION BY MR. JORDAN:

21 Q: Mr. Robinson, we've already put into evidence
22 the -- this is Defendants' Exhibit Number 9.
23 And your name is listed on there as grantee as
24 a trustee, correct?

25 A: That's ---



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1 Q: That's on the 10.76-acre parcel?

2 A: That's correct.

3 Q: I'm going to also hand you another deed that
4 has to do with the eight acres ---

5 A: My name is on this as well.

6 Q: You're on there as well. Now, who deeded the
7 property to you and the other trustee?

8 A: Clara Magazine (phonetic).

9 Q: The three grantors?

10 A: Almeter Robinson and Mae Haggins, those were my
11 mom's sisters.

12 Q: Okay. So, this property came from three
13 different people?

14 A: Correct.

15 Q: Your mother only one -- was only one of them.

16 A: Correct.

17 Q: Okay. Now, is it your assumption that your
18 mother owned a one third interest in the eight-
19 acre tract?

20 A: That was an assumption.

21 Q: Okay. Do you have any idea whether or not
22 there was ever a trust agreement, at least one
23 that could be found, that explains how this
24 property, this eight-acre tract, was to be
25 distributed?



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1 A: I do not have.

2 Q: Okay.

3 A: I never seen a trust.

4 Q: Is it your plan as trustee that that eight-acre
5 parcel is to be divided up among Laverne,
6 Willene, James, and Herbert?

7 A: That's correct.

8 Q: Okay. And the other -- the ten-acre parcel
9 among the five ---

10 A: That's correct.

11 Q: -- of the other -- the five other children.

12 MR. JORDAN: I'd like to introduce this deed as
13 Defendants' Exhibit 10.

14 THE COURT: Any objections, Mr. Wells?

15 MR. WELLS: No objection.

16 (Defendants' Exhibit Number 10 was marked and
17 admitted into the record.)

18 Q: Now, Mr. Robinson did Laverne Robinson often
19 use the power of attorney we've spoken about as
20 the means of taking control of the situation
21 with the hospital and other matters?

22 A: He did. We did not -- I personally did not get
23 any information from him as related to my mom's
24 health. The only information we could get is
25 what tidbits we could get through a nurse,



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1 talking to a nurse. And it had to be very
2 discreet at that time.

3 Q: Do you know whether or not he had instructed
4 them not to speak with you?

5 A: Of course he did.

6 Q: And ---

7 A: Because they said he had the power ---

8 MR. WELLS: Your Honor, I object to the hearsay
9 coming in from the nurses.

10 THE WITNESS: Well, I couldn't talk.

11 THE COURT: Sustained.

12 Q: When the power of attorney was signed by your
13 mother in 2014, were the other -- were you and
14 the other siblings aware of this power of
15 attorney?

16 A: No, I was not. I was under the impression that
17 Mary -- not only that, I know for a fact
18 because I heard my mom asked Mary, which is my
19 sister, Mary Green and her husband, like I
20 said, she was really proud, how much would
21 y'all charge for me to stay with you. Because
22 at that time she recognized that her health was
23 declining. And they told her nothing and Mary
24 took her in, my sister Mary, Mary Green at that
25 time. And we thought it was a perfect idea



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1 because all the rest of us was working.

2 Q: When the house on lot two was built for your
3 mother and actually your father too, who
4 actually was in charge of that project?

5 A: Mary and Martha. They -- as far as the
6 financial piece of it, Mary and Martha. As to
7 the limited amount of labor, which was very
8 limited, with my brother, James, he helped with
9 the labor. But as far as the financial portion
10 of it, Mary and Martha. And it was very well
11 known it was their house.

12 Q: And the house was now recognized as being in
13 the name of Martha Aiken?

14 A: Right.

15 MR. JORDAN: No further questions.

16 THE COURT: No further ---

17 MR. WELLS: Nothing.

18 THE COURT: Okay. All right. Mr. Burns.

19 MR. BURNS: Mary Green.

20 MARY GREEN, having been duly sworn, testifies as
21 follows:

22 MS. GREEN - DIRECT EXAMINATION BY MR. BURNS:

23 Q: Ms. Green, you're also one of Almeter's
24 children, correct?

25 A: Yes.



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1 Q: And just while I'm thinking about it,
2 Defendants' Exhibit 5 was the statement that I
3 read to Laverne. And he said, yes, that did
4 accurately reflect his call to you before he
5 came to the house, do you remember the date?

6 A: It was March the 29th, 2016.

7 Q: 2016, right. And about what time did you get
8 that call?

9 A: About 3:00 o'clock.

10 Q: In the afternoon?

11 A: Yes.

12 Q: Okay. And then the Defendants' Exhibit 7 shows
13 that he called at almost 11:00 o'clock at
14 night. So, there was seven or eight hours ---

15 A: Correct.

16 Q: Do you know where he was when he called?

17 A: No, I don't know.

18 Q: Okay. And when the police came, was your
19 mother in bed?

20 A: Yes, my mother was in bed sleep.

21 Q: And ---

22 A: And when he came, he came -- when he came he
23 came to garage door. And he bammed on that
24 door, bam. My husband and my son was sleep.
25 Then he went around to the front and he bammed



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1 on the front door, he bam on it. So, I got up.
2 I said, well, let me go ahead and dress mama
3 because I don't want him to come in acting like
4 a fool. So, at that time I got mama up out of
5 bed. I went in the room, I said, mom, you got
6 to get up. I said -- she said, what. I said
7 Sonny here bammng on the door and the garage.
8 So, my husband, he had to get up at 4:00
9 o'clock to go to work to Charleston. He got up
10 and put his robe on and he went to the door --
11 went to the garage. He let the garage up. And
12 him and my husband had words while I was
13 dressing mama and he say, told my husband,
14 well, I'm going to call the police. And I was
15 dressing mama. So, next thing you know by the
16 time I dress mama, he called the police again.
17 My husband came back in the house and said he's
18 calling the police again. I said, well, I'm
19 going ahead and let mama go, him acting like
20 that. At that time I dress mama, she got in
21 the car, and she -- they was getting ready to
22 pull off. Then here were two police pulling
23 up. I look on my camera there were two police
24 in my yard. And if the police had came and
25 knocked on my door, I would have explained it



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1 to him. But they didn't knock on my door.
2 They just left on ...

3 Q: Why was your mother there that day? Tell the
4 judge why.

5 A: About 8:30 that morning on March the 29th the
6 caregiver called me and told me, say that she
7 had the virus and she was up all night. And I
8 told her, I said well, Judy, if you need me, I
9 will come get mama. I said, but did you call
10 the power of attorneys because Willene and
11 James Robinson and Laverne was supposed to be
12 the power of attorney. So, she told me, said,
13 I done called Willene twice and she said that
14 she cannot get in touch with Laverne. I told
15 her, I said, you need me, I will be there. So,
16 I kept calling her and she would call me. So,
17 around 12:00 o'clock, she told me, she said,
18 Mary, I'm sick. Even though my pastor -- back
19 up. My pastor, he went to see mom. And Judy
20 came to door, say, I got a virus, say you -- he
21 said, no, well, I don't want to come in if you
22 got a virus. He said, why don't you call Mary.
23 She said, yeah, I've been calling Willene, I've
24 been trying to call Sonny. And Willene told
25 me, say that Laverne, he got work a double



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1 today, so that's probably why he not answering
2 the phone. So, finally she called me back.
3 about 12:00 o'clock, 12:30. She said, Mary,
4 would you please come and get your mama? She
5 said, I am sick. I said, okay, I'm on my way.
6 And I went and picked mama up. And by the time
7 I got mama to my house, my sister-in-law,
8 Trish, she called me. She said, Mary, said,
9 Junior went to your mother house, said Sonny
10 called and told Laverne -- told James to go to
11 mama house to see was mama home. And James
12 called back and said, no, mama not home, mama
13 gone with Mary. And then that's when he called
14 me and say that -- left a message on my voice
15 mail that I better have mama home when he get
16 there. And so, Trisha asked James, said, well,
17 James would you keep your mama? And James
18 said, no, because I got to go to Florence.
19 Sonny just told me to come here and check and
20 see was mama home.

21 Q: Mary, you had your mother solely because a
22 caregiver said she was sick and ---

23 A: Right.

24 Q: --- and you took your mother in, right?

25 A: Right. Right.



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1 Q: And isn't it that simple?

2 A: It's simple. Right.

3 Q: Okay. And do you have -- you saved that
4 recording that you had on your phone.

5 A: Right. I have it on my phone, yes.

6 Q: Yeah.

7 A: Yes.

8 Q: Okay. And then you were visiting your mother
9 another time after Laverne took her home
10 December 16 of 2014. And he testified, Laverne
11 testified that he called the police then
12 because you wouldn't leave. What were you
13 there for?

14 A: I went there to visit my mother. And when I
15 went in, the caseworker and Laverne was in the
16 kitchen and my mother was in the den. And I
17 went in the den to talking with her. So, he
18 came in the den and said Mary I want you to
19 leave. I said, I'm not leaving. The
20 caseworker's here and I want you to leave. I
21 said, well, I'm not interfering with you and
22 the caseworker. I'm in the den with mama. He
23 said, well, I'm going to call the police. Call
24 the police.

25 Q: Was this in your mother's house?



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1 A: Yeah.

2 Q: Is this the house that ---

3 A: Yeah.

4 Q: --- you paid for?

5 A: Yeah. We built it.

6 Q: You built it?

7 A: We built it. So, then the police finally came.
8 The caseworker left. The caseworker left. And
9 then me and him still had words. So, he jumped
10 on the phone again, I'm going to call the
11 police again. So, he called the police the
12 second time. They said we have somebody on the
13 way. So, when the officer got there he knocked
14 on the door. And I got ready to go open the
15 door, he went around me and opened the door.
16 And so, the officer told me, you stay back, let
17 him come out. So, he came out. And then after
18 he told the officer whatever, then he told --
19 the officer told me to come out. So, I went
20 out. He say, you got to leave. I said, I got
21 leave why? I said, I'm just here visiting my
22 mother. Laverne don't want you here. He say,
23 this is a -- and then at that time Laverne went
24 to his car and pulled out a paper and gave it
25 to the officer. Are you Martha Aiken? I said,



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1 no, that's my sister. Me and my sister built
2 this house. This is Martha Aiken house and you
3 got to leave. I said, so you saying that I
4 can't visit my mother? He say, no, if Laverne
5 don't want you here, you can't come. And if
6 you don't leave, I'm going to take you back
7 with me. And I had to walk off. But the next
8 day I came back because my uncle and aunt was
9 coming to visit my mom. And he was upset, but
10 I didn't leave.

11 Q: So, is it reasonably to say that you hardly
12 ever saw your mother without having a
13 confrontation?

14 A: Yeah.

15 Q: When she -- your mother was living at your
16 house, did people visit?

17 A: All the time. All the time.

18 Q: Family?

19 A: Family, friends, niece, nephews, all the time.

20 Q: Did they have to make an appointment?

21 A: No. No.. One particular day mama was having so
22 much company, she said, oh, my, I hope I don't
23 have no company today. I said, well, mom you
24 got a lot family, you got children, you got
25 grands, you got nieces, they just love you



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1 mama. She said, yeah, you're right.

2 Q: It was hard taking care of your mother I
3 imagine, wasn't it?

4 A: Well, no, it was hard.

5 Q: And would have kept on doing it?

6 A: Yes, I would kept doing it.

7 Q: So, what happened where you didn't keep doing
8 it?

9 A: On Tuesday something came up that afternoon
10 that me and my husband had to go to the next
11 day. So, I called my sister, Willene, by 7:00
12 o'clock that afternoon. I said, Willene, mama
13 appointment is Wednesday. It was at 2:30. I
14 said, would you ---

15 Q: Is this a doctor appointment?

16 A: A doctor appointment. I say, would you take
17 her to the doctor? And she told me, she said,
18 well, I have someone coming to my house and
19 they supposed to do a countertop from 8:00 to
20 1:00. I said, well, you still got plenty of
21 time, you know, an hour and a half to get her
22 to the doctor in Columbia. She said, well,
23 I'll take her, I'll take her. I said, well, if
24 you can't take her, just reschedule, just
25 reschedule and I'll take her. So, that was on



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1 a Wednesday and Friday I was at the beauty
2 parlor and I looked at my phone, it's Laverne
3 calling. When I answered the phone, Mary, you
4 are no kind of caregiver. I'm going to call
5 DSS on you. You would not take mama to her
6 doctor appointment. And I couldn't respond
7 back to him because I was up under the dryer --
8 my beautician was doing my hair. So, afterward
9 I called him back and he would never answer the
10 phone. So, then that Monday he called me. He
11 said, Mary, I will be there tomorrow to pick
12 mama up and I am going to take her home. And
13 have everything ready when I get there. So,
14 that Tuesday, he did, he came and picked her up
15 and he carried her on. And I told mama about
16 a hour or two hours before. I said, mom, I
17 said, Sonny coming to get you and take you
18 home. She said ---

19 MR. WELLS: Your Honor, I object to what Almeter ---

20 A: --- I hope Sonny do not come here showing off
21 because I did not give her my bath ---

22 MR. WELLS: --- hearsay --- Your Honor, I object to
23 what Almeter says.

24 COURT REPORTER: I can't take two at one time or
25 three.



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1 THE COURT: All right. When someone objects, you
2 need to ---

3 THE WITNESS: Okay.

4 THE COURT: Sustained, Mr. Wells.

5 Q: All right. So, that's how you stopped being
6 her main caregiver?

7 A: Right.

8 Q: Because Laverne came and took her away.

9 A: Right. And then when he start talking about
10 DSS and all of that. Because he came -- one
11 particular time he wanted to fight my husband
12 in the house because he didn't want ---

13 Q: Who's that?

14 A: In my house, in me and my husband house.
15 Because he didn't want the nurse to come to my
16 house. Because it was orders from the hospital
17 for six weeks for the nurse to come to house.

18 Q: Is it like home health?

19 A: Home Health, right.

20 Q: This was in your ---

21 A: In my house.

22 Q: --- house?

23 A: In my house.

24 Q: And there was a confrontation ---

25 A: Right.



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1 Q: --- between your husband ---

2 A: Yeah, and Laverne because he did not want the
3 nurse to come to the house -- the ---

4 Q: What was the reason?

5 A: I don't know. He said mama didn't need no
6 nurse. Said it ain't nothing but about money,
7 money. Mama don't need no nurse.

8 Q: But the doctor thought she did?

9 A: Yeah. And when mama went to home, a nurse
10 never went to mama house. When mama was on her
11 death bed and needed hospice, no hospice or
12 nobody came to mama house. Mama just stayed
13 locked up in the house and didn't get no kind
14 of care.

15 MS. AIKEN: Right.

16 A: No kind of care. It was awful.

17 MS. AIKEN: The last days were the worst days.

18 A: We couldn't go see her like we wanted to,
19 wouldn't open the door. I went there knocking
20 on the door I could hear her calling my name.

21 MS. AIKEN: Yep.

22 A: I hear her calling my name when I was knocking
23 on the door and not -- he wouldn't answer the
24 door. I went to the window and knocked and he
25 wouldn't open the door. And when I would go



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1 there sometimes she would tell me, she said,
2 Mary, I'm so glad to see you, I'm so glad to
3 see you. I've be calling for you and Laverne
4 told me, yeah, that's all she do, call your
5 name, your name. One of these days I'm going
6 to put her in the car and take her to you and
7 I ain't never coming back. It was awful.

8 MR. AIKEN: Yeah.

9 Q: Leroy said that in the hospital y'all were able
10 to go see her there?

11 A: Right.

12 MS. AIKEN: That was the only time.

13 Q: And were you there when Laverne threatened
14 Leroy?

15 A: Yes. Because mama, when I walked in, she said,
16 Mary, come on and sit right here to the --
17 said, come on. Said, I'm so glad to see you.
18 And about 20 minutes later Roy came in. And
19 Roy was kneeling down talking to mama and
20 Laverne was sitting on the bed. And all of
21 sudden like a demon came out of him. He said,
22 I want y'all to leave. I want y'all to leave
23 right now. And he went to Leroy and revved his
24 hand back to hit him and then he took off out
25 of the room. He said, y'all got to leave here.



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1 And then he came back in and he told the nurse,
2 he said, tell Dr. Dingle I'm taking mama home
3 now, not tomorrow. She supposed to go home
4 tomorrow, but I'm taking her home now. And
5 when I get her home, I bet you y'all won't see
6 her.

7 Q: Laverne said that?

8 A: Yes, he said it.

9 Q: After your mom passed away, did you receive
10 this letter from Medicaid indicating that they
11 wanted some information about her estate? It's
12 dated April 28, 2017. It's addressed to you.
13 Did you receive that?

14 A: Yes.

15 Q: Okay. And then you ---

16 A: And I brought it to you.

17 Q: You brought it to me, yeah. And I guess you
18 don't know why they picked your address, do
19 you?

20 A: Right. Right.

21 Q: Okay. But your mother did receive Medicaid?

22 A: Right.. Correct.

23 Q: Okay. So, that letter indicates there might be
24 a Medicaid claim against any probate assets?

25 A: Right.



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1 admitted into the record.)

2 MR. BURNS: No further questions, Your Honor.

3 THE COURT: Mr. Wells.

4 MS. GREEN - CROSS-EXAMINATION BY MR. WELLS:

5 Q: Ms. Green, would it be fair to say that you do
6 not like Laverne Robinson?

7 A: I love my brother.

8 Q: You love your brother?

9 A: Yeah, I love my brother.. My brothers, sisters,
10 love my siblings. I don't like some of the
11 ways.

12 Q: But you would have arguments with him
13 throughout the last five years, would you agree
14 with that?

15 A: Yeah, we don't had -- yes, some words.

16 Q: Okay. And you claim that he called the police
17 on you twice?

18 A: Yes, even after mama died. Come to my house
19 and called the police.

20 Q: Did you call DSS on Laverne?

21 A: No, I never called DSS on Laverne, never.

22 Q: You deny that?

23 A: I deny that. I never.

24 Q: And the first 911 call that you have talked
25 about here today was December 16th, 2014?



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1 A: Yes.

2 Q: Okay. And the second one was March the 29th,
3 2016?

4 A: Correct. And May of -- the May 26 of 2017.
5 After mama died, he came to my house and called
6 the police.

7 Q: You don't think he exerted any undue influence
8 over her after she died, do you?

9 A: No, but I'm jut saying every time you turn
10 around it's the police, the police, the police.
11 I never called the police on him the way he
12 showed off with my husband. The neighbor next
13 door was wondering what was going on at the
14 house, the way he was carrying on at my house
15 after -- in 2014. It was August of 2013. My
16 neighbor next door wanted to know what was
17 going on the way he was carrying on. But I
18 didn't call the police, my husband didn't call
19 the police.

20 MR. WELLS: Objection. That's not responsive to any
21 question I've asked her.

22 THE COURT: Sustained.

23 Q: Now, I think you testified that when your mom
24 was in the hospital and saw you, she said, I'm
25 glad to see you?



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1 A: Yes.

2 Q: Come sit right down beside me?

3 A: Yes.

4 Q: And so, your mama loved you, didn't she?

5 A: Yes, she did.

6 Q: And she continued to love you, didn't she?

7 A: Correct.

8 Q: And if Mr. Robinson was trying to influence her
9 to dislike you, he was unsuccessful, wasn't he?

10 A: Right. She couldn't do it.

11 Q: So, he didn't have any influence over her, did
12 he?

13 A: Yeah. Yeah.

14 Q: She continued to love you.

15 A: Yeah. She -- yeah, by loving me, yeah. She
16 couldn't -- he couldn't stop that.

17 Q: Well, she continued to want to see you; isn't
18 that correct?

19 A: Right.

20 Q: So, he did not break the relationship between
21 you and your mom. It was still strong even
22 until the end, wasn't it?

23 A: Right. When I could see her.

24 Q: Now, this 2009 will, how did that happen?

25 A: My mom wanted a new will because the way she



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1 had -- well, what it was, her in-laws, she
2 said she wanted her land to go to her children.
3 And then when it leave the children, she wanted
4 it to go to her grands. And my name was not on
5 the land. I put my son. And, instead of
6 putting my name, I put my son name on it.

7 Q: You put your son's name?

8 A: Yeah, yeah. I told mama to put my son's.

9 Q: So, actually in the 2009 will you told her what
10 to put, didn't you?

11 A: Well, yeah, because I didn't want to put mine.
12 She put every one of the children on there and
13 then she put the grand, because I was going to
14 end up leaving it to my son anyway. I was
15 going to change it anyway, so I told her to go
16 ahead and put it in my son name.

17 Q: So, the 2009 will was kind of done the way you
18 told her to do it?

19 A: No. She did it the way she wanted, the way she
20 wanted.

21 Q: Did you take her to the lawyer's office that
22 day?

23 A: Yes, I did.

24 Q: All right.

25 A: And two -- and the 1994 will I didn't know



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1 about until last year, March the 4th when
2 Laverne had called us, said he wanted to read
3 the will. I don't know nothing about that 1994
4 will.

5 Q: Now, in 2018 did you commission a plat to be
6 done of the ten-acre tract?

7 A: Yes. My name on it.

8 Q: February 28th, 2018, is that a plat that you
9 asked to have prepared?

10 A: February, yes.

11 Q: And who got property from that plat?

12 A: It was Martha Aiken, it was Pat, and myself
13 where our land would be joined together. And
14 Pat said she didn't want hers, so she told me
15 I could have hers where you see the four acres.

16 Q: But does that plat track the 2009 will where
17 you took your mother to the lawyer's office and
18 he told -- she told him -- or you told him
19 what to put?

20 A: She told him, she told him even though she
21 asked each one of the children who they wanted
22 their land to go to when they die. And Laverne
23 say he wanted Willene to have his and then Pat
24 on the 2009 will, if you look at it.

25 Q: All right. And by the land you're talking



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1 about, you're talking about the ten acres and
2 eight acres was all included in that will?

3 A: Uh-huh (affirmative response).

4 Q: So, did your mama have control of that or not?

5 A: Yeah, yes.

6 Q: She did?

7 A: Yeah, she the one said it, yeah.

8 Q: Yeah. And her ---

9 A: Said even though she didn't have no land in her
10 name and she was steady making wills with no
11 land in her name.

12 Q: But you say she controlled that land in 2009.

13 A: Yeah. She the one said who she wanted to have,
14 like I said. But she didn't no deed in her
15 name.

16 MR. WELLS: I would offer this as Plaintiff's
17 Exhibit Number 5.

18 MR. JORDAN: No objection.

19 (Plaintiff's Exhibit Number 5 was marked and admitted
20 into the record.)

21 A: Mama was making a lot of wills with no land.

22 Q: But would you agree or disagree with me that
23 her wishes should have been followed with
24 regard to the 18 acres?

25 A: That she wanted all of us to have the two acres



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1 of land.

2 Q: Okay. And would you agree with me that her
3 wishes in that regard should be followed?

4 A: Yes, everybody get two acres.

5 Q: Let's look at the 2009 will. This is
6 Defendants' Exhibit 2. You said everybody got
7 two acres?

8 A: Yeah. Whenever Attorney Burns and all --
9 Attorney Burns and you, we got together and
10 everybody agreed to two acres out of the 18
11 acres of the nine children.

12 Q: But you're not talking about what was happening
13 in the 2009 will?

14 A: No.

15 Q: Because it gave Laverne a life interest in an
16 acre and a half, correct?

17 A: Right.

18 Q: So, that's not a ---

19 A: Right. That's the 2009, yeah.

20 Q: That's not two acres.

21 A: Right.

22 Q: And Jamon Green got two and a half acres.

23 A: Right.

24 Q: And that's not two acres either.

25 A: Right. Right. But Martha Aiken and myself



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1 was, the two acres and a half was a acre that
2 we was going to end up giving Fred. She said
3 because Fred drank and he wouldn't work or
4 nothing like that.

5 Q: Now, your lawyer has filed an answer in this
6 case and he's asked the judge to probate the
7 2009 will that you assisted your mother in
8 making. Is that what you want?

9 A: Yeah.

10 Q: Okay. But that's not what you're doing with
11 this plat, so which is it? Do you want to do
12 what you've done with the plat or what was done
13 in the 2009 will?

14 A: Well, we decided after mama had passed just to
15 do -- give everybody the two acres a piece,
16 equal. Like I say, mama didn't own the land.
17 Mama just was writing wills.

18 Q: Okay. But you don't have any evidence to offer
19 about what happened on February the 3rd, 2015?

20 A: No. I don't know nothing about that.

21 Q: Okay. Answer any questions that Mr. Jordan may
22 have.

23 MS. GREEN - CROSS-EXAMINATION BY MR. JORDAN:

24 Q: Mary, when Laverne Robinson had a power of
25 attorney done in 2014, were you aware of that?



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1 A: No.

2 Q: He didn't discuss that with you at all?

3 A: No.

4 Q: The 2009 will made you the personal
5 representative though, right?

6 A: Correct.

7 Q: The 1994 will also named you as a personal
8 representative I believe. Are you aware of
9 that?

10 A: What year?

11 Q: The 1994 will.

12 A: '94?

13 Q: Uh-huh. Let's see if we can find it to make
14 sure here.

15 A: I didn't have a copy of the two thousand -- I
16 mean, 1994 will. I don't even recall that.

17 Q: Item seven.

18 A: I had forgot.

19 Q: You didn't know that?

20 A: No.

21 Q: Okay. So, you were named a personal
22 representative in item seven of the will that
23 is Defendants' Exhibit 3. And also included in
24 the 2009 will. Okay. After the 2009 will, did
25 you have some kind of confrontation with your



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mother so that she would not want to put you in the will, the will that she got signed in 2015?

A: No.

Q: Are you aware that you are not mentioned at all in that will?

A: No.

Q: Now, but you did have confrontations all the time it seemed like with Laverne Robinson.

A: Yeah. Yes.

Q: Okay. Isn't it likely that Laverne Robinson had you excluded from the will?

A: Yes.

Q: Okay. Now, on the ten-acre tract, which is 10.76 acres, that tract was never owned by you or your mother at any point in time?

A: No.

Q: Okay. That came from James.

A: James Robinson.

Q: Okay. And so, in other words, it was not put into trust by your mother?

A: No.

Q: Whatever your mother might have wanted to do to control that property, she really had no right to do?

A: No right, right.



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- 1 Q: But the family wanted to honor her wishes, is
2 what I'm hearing you say.
- 3 A: Uh-huh (affirmative response).
- 4 Q: Okay. Is that a correct statement?
- 5 MR. WELLS: Your Honor, he's saying it for her. I
6 think we have too much leading here.
- 7 Q: Okay. What did you -- and, you know, with your
8 mother, what did you glean from that with
9 regard to her wishes with regard to the ten-
10 acre tract?
- 11 A: Everybody get two acres of land.
- 12 Q: Okay.
- 13 A: Two acres.
- 14 Q: And the plan is that the ten-acre tract was
15 divided among five of the children?
- 16 A: Correct.
- 17 Q: And the other -- the eight-acre tract was going
18 to get divided by four?
- 19 A: Correct.
- 20 Q: So, every -- just mathematically works out very
21 well?
- 22 A: Correct. Because when we came here October the
23 18th before the Judge, when Laverne left here
24 he went to James and told James to go ahead and
25 survey the land. And James said he wasn't



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1 going to survey nothing. He wasn't going to
2 pay no one to survey no land. So, therefore
3 that's why it wasn't surveyed in October of
4 last year.

5 Q: Okay. Now, let's talk about the five-acre
6 tract of land. That was surveyed and divided
7 up in 2002, correct?

8 A: Correct.

9 Q: And Martha Aiken was the trustee.

10 A: Correct.

11 Q: She was in charge of the property.

12 A: Correct.

13 Q: Now, did someone instruct her on how to
14 distribute the property? I mean, did ...

15 A: Martha knew that Ronnie was supposed to get one
16 acre.

17 Q: How did she know?

18 A: My mother told her.

19 Q: Okay.

20 A: That she wanted Ronnie to get an acre of land,
21 Laverne get an acre, and me, Pat and Martha
22 get the other two acres.

23 Q: And the other two acres included the house?

24 A: Uh-huh (affirmative response).

25 Q: Okay. You actually received a deed to an



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1 interest in the house property plus another
2 lot.

3 A: Uh-huh (affirmative response).

4 Q: Okay. Now, subsequent to that you deeded your
5 interest ---

6 A: Interest.

7 Q: --- to Martha, so Martha is the total ---

8 A: Right, me and Pat.

9 MR. JORDAN: All right. No further questions.

10 THE COURT: Mr. Burns.

11 MR. BURNS: Nothing else, Your Honor.

12 THE COURT: Mr. Wells?

13 MR. WELLS: Nothing.

14 THE COURT: Okay. Thank you.

15 MR. BURNS: This is Almeter Harrison.

16 ALMETER HARRISON, having been duly sworn, testifies
17 as follows:

18 MS. HARRISON - DIRECT EXAMINATION BY MR. BURNS:

19 Q: Ms. Harrison, you go by Pat; isn't that right?

20 A: Yes.

21 Q: Almeter Patricia Harrison. And you also are
22 one of Almeter's children?

23 A: I'm the baby girl.

24 Q: You the baby?

25 A: The baby of all.



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1 Q: All right. And where do you live, in Kershaw
2 ---

3 A: I live in Columbia, South Carolina.

4 Q: In Columbia? Okay. There's been some
5 testimony about somebody calling DSS. Did you
6 call DSS?

7 A: Yes, I did.

8 Q: Okay. Would you explain that to the Judge?

9 A: The reason I called DSS is because, when
10 Laverne brought my mother -- prior to him
11 saying that he wanted -- he asked the three of
12 us to take care of mama for two weeks, he asked
13 us probably two or three days ahead and we had
14 jobs, so we couldn't just take off our jobs.
15 However, a Sunday afternoon our oldest sister,
16 Willene, was in the hospital and I was there at
17 the hospital, Richland Memorial. Laverne
18 brought our mother there I guess to visit. But
19 anyway I saw this big burn mark on her arm,
20 which I have a picture of it you'd like -- if
21 you'll allow me to let you see it. So, that
22 raised a big concern of mine, why is she burnt.
23 And when I asked her, she said, he say he
24 sorry. That was the only response. He say he
25 sorry. So, I was concerned about, you know,



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1 her being neglected because we couldn't visit
2 to even know what was going on in the house or
3 even -- and I'm going to go back to the
4 dementia part. I went to every doctor's
5 appointment with Mary. Her appointment was in
6 Columbia and I met her there. Mama was
7 diagnosed with dementia early ---

8 MR. WELLS: Your Honor, I object to any medical
9 testimony coming in because we don't have a
10 doctor here to substantiate that.

11 THE WITNESS: Well, I say that he say that to say
12 mama wasn't ---

13 THE COURT: Hang on.

14 MR. WELLS: We don't have a doctor here to say
15 dementia or no dementia, the degree of
16 dementia. I can't cross-examine a document.

17 THE WITNESS: Am I allowed to speak?

18 THE COURT: Hold on. Okay. You can't -- sustained.
19 So, no testimony about what -- what she was
20 diagnosed on, what she gets and ...

21 MR. BURNS: Your Honor, I would ask her, there might
22 be an objection, if she knows whether her
23 mother was prescribed medication for dementia.

24 MR. WELLS: Same objection.

25 THE COURT: Overruled.



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1 Q: Do you know if your mother was prescribed
2 medication for dementia?

3 A: She was. She was prescribed a patch.

4 Q: And she was pretty old then, wasn't she?

5 A: Yes.

6 Q: And so, her mental condition was deteriorating
7 like a lot of older people?

8 A: It was. And that was when she was in Mary's
9 care. And the only reason I wanted to mention
10 it is because she wasn't competent. She had
11 dementia prior to that will of 2015.

12 Q: Did -- when Laverne moved in -- moved your
13 mother back to her house, did that impact your
14 ability to visit your mother?

15 A: Substantially.

16 Q: Substantially?

17 A: Substantially.

18 Q: Can you think of an example that you could
19 share with The Court?

20 A: On one occasion my son was with me. And
21 Laverne apologized to my son stating that the
22 reason he left the home when he saw him there,
23 he thought that I was with my son to visit my
24 mother. So, that's why he turned around in the
25 yard and left. He apologized to him and said,



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1 had I known it was just you, I would have
2 stayed.

3 Q: Were you able to see your mother a lot less
4 after ...

5 A: A lot less.

6 Q: Were you able to see her at the hospital?

7 A: That was basically the only time we really got
8 a chance to see her.

9 MR. BURNS: I have no further questions.

10 THE COURT: Mr. Wells.

11 MR. WELLS: Nothing for this witness.

12 THE COURT: Mr. Robinson, back there, remove your
13 hat for me, please. Mr. Jordan.

14 MR. JORDAN: Just a couple questions.

15 MS. HARRISON - CROSS-EXAMINATION BY MR. JORDAN:

16 Q: Were you aware of the power of attorney that
17 was prepared by Laverne Robinson and signed by
18 your mother back in 2014?

19 A: No.

20 Q: Okay. And did you -- were you aware when your
21 mother was having a will done in 2015?

22 A: No.

23 Q: Laverne did not discuss that with you?

24 A: No.

25 Q: Or to your knowledge any of your other



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1 siblings?

2 A: No, sir.

3 Q: Okay. Did he -- you described your mother's
4 mental condition. Was she at a point where she
5 was -- could be subject to his influence?

6 A: Yes, sir.

7 Q: And that would be undue influence as well?

8 A: Yes.

9 MR. JORDAN: All right. That's all the questions I
10 have.

11 THE COURT: Mr. Wells?

12 MR. WELLS: Nothing further.

13 THE COURT: Okay.

14 MR. BURNS: That's all from me.

15 THE COURT: All right.

16 MR. JORDAN: Call Martha Aiken.

17 MARTHA AIKEN, having been duly sworn, testifies as
18 follows:

19 MS. AIKEN - DIRECT EXAMINATION BY MR. JORDAN:

20 Q: Please state your full name?

21 A: Martha Ann Robinson Aiken.

22 Q: And you live in North Augusta, South Carolina?

23 A: Yes.

24 Q: Okay. And we've discussed today in your
25 presence the house where your mother resided



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1 until her death.

2 A: Right.

3 Q: And that house is the house in your name?

4 A: Yes.

5 Q: Okay. And you and your twin sister, Mary,
6 built the house or had the house built?

7 A: Yes.

8 Q: At your expense?

9 A: Yes.

10 Q: Okay. And in 1977 the property -- the five-
11 acre tract was deeded to your -- by your mother
12 to you as trustee?

13 A: Right.

14 Q: And you served as trustee from 1977 until the
15 property was actually deeded out in 2002?

16 A: Yes.

17 Q: In 2002 the property was deeded by you to Mary
18 and Pat, that was one and two acres?

19 MR. WELLS: Your Honor, I have to object right now.
20 We're not anywhere near the 2015 will or the
21 competency or undue influence in this
22 testimony. Now we're trying the 2017 case on
23 the trust division for the two thousand -- I
24 mean, the 1977 trust. So, we're trying two
25 cases at once.



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1 THE COURT: Sustained. Mr. Jordan are you getting
2 to a point?

3 MR. JORDAN: Yeah. I'm trying to get to the point
4 where Mary -- where Martha got the title to the
5 property, so she is --

6 Q: She wasn't deeded the property yourself until
7 2004?

8 A: Right.

9 Q: And since 2004 you have owned this property?

10 A: Yes.

11 Q: Okay. Regardless of the fact that you've owned
12 the property, you have not possessed the
13 property at any point in time since you've
14 moved out?

15 A: No.

16 Q: Okay. And the property now is occupied by who?

17 A: Laverne.

18 Q: Laverne? Does he pay rent or anything?

19 A: No.

20 Q: Okay. Well, let's talk about this relationship
21 that you had with your brother, Laverne. Back
22 in I believe it was in May in 2014 he came back
23 and moved into the house?

24 A: Yes.

25 Q: Okay. What happened then that was different



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1 than what was happening before then?

2 A: Well Laverne got my mother on May 13th. On the
3 24th of May 2014, I went to the house. It was
4 on a Saturday. The next Saturday I went back
5 there and he told me, he said, hey, look,
6 Martha, when you come, why don't you call
7 before you come. So, about three weeks later
8 I went back to my mama. But I called him that
9 Thursday night and I told him I was coming
10 Saturday morning. I got there about 10:00,
11 10:30. He wasn't home. He wasn't home. So,
12 then I said, well, I done came all the way from
13 North Augusta. I went in my brother, Leroy,
14 house. Him and his finance was at his house.
15 And I stayed there about five hours, no
16 Laverne. So, I had to go back to Laverne -- go
17 back to North Augusta without seeing my mom.
18 So, I went back to my mom -- I called him again
19 maybe two or three weeks prior to that. And
20 when I got there, he had done changed the locks
21 on the house.

22 Q: This is your house?

23 A: My house. He changed the locks.

24 Q: And he informed you that he did that?

25 A: He didn't let me know nothing about him



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1 changing the locks.

2 Q: Okay. On that trip were you able to see your
3 mother?

4 A: No.

5 Q: Okay. Do you some audio available to ---

6 A: Yes.

7 Q: --- have The Court listen to, a phone
8 conversation?

9 A: Now, this conversation was last year April.
10 April 18. He didn't pay the light bill, so --
11 he had done moved out ---

12 MR. WELLS: Your Honor, I object to anything that
13 happened after she died. Can't possibly ---

14 THE WITNESS: Well, still he need to listen ---

15 COURT REPORTER: I can only take one person at a
16 time.

17 MR. WELLS: --- to her competency or undue influence
18 because he cannot undue influence her after
19 she's already deceased.

20 THE COURT: Sustained. And, Mr. Robinson, if you
21 throw that pen down one more time, I'm going to
22 hold you in contempt, okay? So, control it.

23 MR. JORDAN: Your Honor, it's our point that much of
24 what we've listened to today has to do the
25 interaction between the siblings and Mr.



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1 Laverne Robinson. And the fact that it is
2 after the will was signed or even after the
3 mother died, it still shows a practice that he
4 had to be overbearing and effectively
5 controlling on everything that went on with
6 regard to his mother -- their mother. So,
7 that's the reason for bringing up these things.
8 I think it's to show a pattern of his activity.
9 And the fact they're having this conversation
10 after the will was signed, you know, again this
11 is circumstantial evidence of his attitudes
12 with regard to his siblings and in connection
13 with their interaction with their own mother.
14 So, I think testimony like this is going to,
15 you know, shed a good light I think on Mr.
16 Laverne Robinson's, you know, really
17 maliciousness. And that's -- I think that will
18 be completely evident when you listen to the
19 audio.

20 THE COURT: This is audio on?

21 MR. JORDAN: Telephone conversation.

22 MR. WELLS: Judge, we would say they want to present
23 testimony to prejudice The Court against Mr.
24 Robinson that he was a bad guy and they want to
25 present every bad thing that he's ever done,



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1 but it has nothing to do with undue influence
2 or competency of Almeter Robinson. I mean,
3 they have no evidence of undue influence or
4 competency to use in this trial, so they're
5 just beaten Laverne up with all this testimony
6 about bad acts, even after Almeter Robinson
7 died. So, there's no way it can be relevant.

8 **THE COURT:** Well, it's -- it may not be relevant to
9 the undue influence, but it's relative to
10 whether or not this Court feels like he's the
11 proper person to be appointed the personal
12 representative if this will is admitted. Am I
13 not correct, Mr. Wells?

14 **MR. WELLS:** You're correct.

15 **THE COURT:** Okay. Mr. Jordan.

16 **MR. JORDAN:** You've got the audio and volume turned
17 up? This is short I think.

18 **AUDIO:** Greg (phonetic), this is Sonny. I
19 understand you were down at the house today.
20 If you every fucking come back to the house
21 again to do anything, that's mama's house, it's
22 going to be you and me. And I am going to go
23 take a restraining order out on your black ass
24 tomorrow. Don't you ever come back to mama's
25 house for nothing. You have no right there and



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1 you better not ever fucking come back.

2 MR. LAVERNE ROBINSON: He locked me out.

3 Q: All right. How would you describe Laverne's
4 relationship with the other -- the non-
5 testifying children that are here today? Can
6 you speak to his relationship with, say, James
7 and Willene?

8 A: He was very close with James. Because, like,
9 when we came here on the 18 of October, he said
10 that James had a key to the house. He had a
11 key and he'd watched the house whenever I go
12 there. And his niece, which is James'
13 daughter. And like when my mom died, James
14 wanted to get a key so when the people come to
15 be setting up whatever, bring the food, he the
16 one to control the house. He'll lock it up and
17 everything after we leave.

18 Q: Okay. Do you -- going to the 2015 will again.
19 Do you know of any reason that your mother
20 would have excluded Mary from that will
21 altogether?

22 A: No.

23 Q: And has Mary had any kind of confrontation with
24 your mother, so your mother was maybe angry
25 with her at the time or anything like that?



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1 A: No, because my mama always said if she gets
2 sick, she wanted to live with Mary because we
3 was working.

4 Q: Okay.

5 A: And Mary wasn't working.

6 Q: And based on what you know about your brother,
7 Laverne, and your sister, Mary's, interaction,
8 would that be the reason she was left out of
9 the will?

10 A: No.

11 Q: Do you think that Laverne's ---

12 MR. WELLS: Your Honor, that's asked and answered.

13 A: Yes.

14 THE COURT: Sustained.

15 MR. JORDAN: All right. That's all the questions I
16 have.

17 MS. AIKEN - CROSS-EXAMINATION BY MR. WELLS:

18 Q: Ms. Aiken, you say you are the owner of the
19 house property?

20 A: Yes.

21 Q: But in fact you're the owner of the house
22 property because you deeded it to yourself;
23 isn't that right?

24 A: Mary and I built the house. And I went and we
25 had it recorded.



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1 Q: But it was deeded to you in trust, right?

2 A: Trust?

3 Q: In trust, as trustee.

4 A: I paid for the house.

5 Q: And are you aware of the 1977 trust agreement?

6 A: Yeah.

7 Q: And are you aware that you were supposed to
8 hold that property in trust until your mother
9 passed? Let me let you read the trust
10 agreement. Refresh your memory on that. Read
11 article three.

12 A: But tell you the truth about this, it was my
13 mother and Ronnie did the separation ---

14 Q: No.

15 A: --- of those lots, if that's what you're
16 talking about.

17 Q: But wouldn't you admit that you were supposed
18 to hold that property until your mother died?

19 A: I did what my mother wanted. It's on there,
20 but my mother and Ronnie the one did that.
21 They did it in 2002. I was in North Augusta
22 working and my mom said, Ronnie, get your deed,
23 get your deed. Because he put a triple wide
24 trailer on it and he put a storage and he would
25 do -- cut mama grass, take her garbage out and



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1 do handy work. So, mama wanted him to have
2 what he -- lot. Mama wanted him to do that.
3 If any mess up, mama did it.

4 Q: But you were supposed to hold the property
5 until she died, don't you agree with that?

6 A: Yeah, that's what it said, but mama didn't go
7 by it.

8 Q: But you didn't do that? You started a series
9 of deeds in 2002 that ended up with you owning
10 the property; isn't that right?

11 A: In 2002 Ronnie owned two lots and I owned lot
12 number two.

13 Q: All right. And in fact as of last month, June
14 2018, you're still deeding property to
15 yourself, aren't you?

16 A: Well, Leroy and Ronnie did that.

17 Q: But didn't you deed property to yourself from
18 the trust on the 7th day of June 2018?

19 A: Yes, I did.

20 Q: And that's part of the five-acre tract?

21 A: Right.

22 Q: So, you were deeding property to yourself out
23 of trust as late as June the 7th, 2018; is that
24 correct?

25 A: Yes, but the trust was over after mama died.



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P R O C E E D I N G S

(Whereupon, the following proceedings commenced as follows:)

THE COURT: All right. We're on the record in 2018-CP-28-726, Laverne Robinson versus Willeme Brooks and others. Mr. Wells is here. And then Mr. Burns is here and Mr. Jordan is here on behalf of the defendants.

And is this one case or two cases? There's two different civil action numbers.

MR. WELLS: The first case, which I'm going to argue, is one case.

THE COURT: Okay.

MR. WELLS: It's the Wilcox case.

THE COURT: All right. All right. Are you ready to go?

MR. WELLS: Yes, Your Honor. As a threshold matter, when we uploaded the transcript -- excuse me, the record on the appeal, it was over 100 pages, and the uploading had to be done in segments because you cannot upload 100 pages into the e-Filing system --

THE COURT: Okay.

MR. WELLS: -- all at once. I have a printed-out copy of the record, if you would like to have that --

THE COURT: I'd love it, yes.

MR. WELLS: -- to refer to.

THE COURT: Thank you very much.

MR. WELLS: And the record page numbers are at the

1 bottom.

2 THE COURT: Great.

3 MR. WELLS: Initially, I need to review with the Court --
4 I don't think I have to say this, but imposing the burden of
5 proof on the wrong party is normally reversible error. It
6 occurs more frequently in criminal cases where it is a
7 constitutional violation of due process. There are cases
8 where it has happened in civil litigation, although not as
9 frequently.

10 There's a case, *law Firm of Paul Erickson vs. Boykin* --
11 this is 383 S.C. 497 (681 S.E.2d 575). That is a Supreme
12 Court case from 2009. There's another case, *Hooker v. Hooker*,
13 15 S.C. 297 (105 S.E. 701). That is a 1919 Supreme Court
14 case. In each of those cases where the burden of proof was
15 imposed on the wrong party, the appellate courts reversed on
16 that issue.

17 In this case, the appellant, Laverne Robinson, was the
18 proponent of a February 3rd, 2015, will. The respondents were
19 the contestants of that will. And we go to Section 62-3-407,
20 which, in cases of undue influence, that statute imposes the
21 burden of proof on the contestants of the will throughout the
22 trial.

23 The probate judge in this case imposed the burden of
24 proof on the appellant, who was the proponent of the will, and
25 as -- to demonstrate that, we have cited in our brief the

1 language on page 4 of the order, which is on page 29 of the
2 record. But the probate judge says, "This circumstance is
3 very important for the Court to look at because if a
4 confidential or fiduciary relationship between the testator
5 and the beneficiary exists, the burden of rebutting undue
6 influence falls on the beneficiary."

7 She went on to say, "Argument was made on behalf of the
8 plaintiff that the burden of proof was met to rebut undue
9 influence by testimony of Attorney Butcher when she testified
10 she did not believe that the decedent was under any undue
11 influence of the plaintiff/beneficiary. The Court finds the
12 burden to rebut undue influence was not met inasmuch as
13 Attorney Butcher testified she could not recall whether or not
14 she met with the decedent before the will and execution or if
15 her staff took the information and prepared documents."

16 So we have, on page 4 of the order, the judge is imposing
17 the burden of proof on the proponent of the will, who is the
18 appellant. That issue is conceded by the respondents, because
19 if you look at page 6 of their brief at the top, they say,
20 first of all, it should be made clear that Judge Brown found
21 that, because a confidential relationship existed, the burden
22 of proof rebutting undue influence falls on the beneficiary.
23 So that is in their brief, and they have conceded the point
24 that she did impose the burden of proof on the appellant, who
25 was the proponent of the will.

1 Now, all of this comes from a case called *Howard v.*
2 *Nasser*, which is cited in both briefs. It's a 2005 Court of
3 Appeals case. And in *Howard v. Nasser*, first of all, it was
4 an appeal by the contestant of the will of a summary judgment
5 that had been granted against the contestant of the will. It
6 is not an appeal from a trial.

7 *Howard v. Nasser* requires the preponderant of the will to
8 offer some evidence in rebuttal if it is determined that there
9 was a fiduciary or confidential relationship. They were
10 lifting this presumption from deed cases. There were deed
11 cases that had this presumption, but the deed cases were not
12 subject to 62-3-407. And this presumption had never been
13 applied in a will case before *Howard v. Nasser*, according to
14 the language in that case.

15 So they required the proponent of the will to offer some
16 evidence to rebut the presumption of undue influence, which we
17 did that. We presented the attorney who prepared the will,
18 and her testimony is in the record. And that is page 32. She
19 testified on page 34 of the record that she did not see any
20 undue influence being applied to the (indiscernible) court.
21 That is on page 34 of the record, lines 1 through 14. So we
22 clearly met that burden.

23 The *Howard v. Nasser* case goes on to say, "We interpret
24 the foregoing to mean that, if the contestants of a duly
25 executed will provide evidence that the confidential fiduciary

1 relationship existed sufficient to raise the presumption, the
2 proponents of the will must offer evidence in rebuttal. We
3 emphasize that, although proponents of the will must present
4 evidence in rebuttal, they do not have to affirmatively
5 disprove the existence of undue influence. Instead, the
6 contestants of the will still retain the ultimate burden of
7 proof to invalidate the will. The parties have the ultimate
8 burden of persuasion as to matters with respect to which they
9 have the initial burden of proof.

10 Second, under *Howard v. Nasser*, it does not shift the
11 burden of proof. It says you have to present some evidence if
12 there was a confidential and fiduciary relationship.

13 Since that case was decided and since the briefs were
14 filed in this case, there was another case that cited on April
15 the 10th, 2019, and that case was called *Swiger v. Smith*. It
16 doesn't appear in either brief because it was cited after the
17 briefs were already filed. But it is another undue influence
18 case. It also arises from a grant of summary judgment, and it
19 interprets *Howard v. Nasser* exactly as I have just told you.
20 It does not shift the burden to the proponent of the will. It
21 only requires the proponent to bring in some evidence.

22 So Section 62-3-407 imposes the burden of proof on the
23 contestant of the will. *Nasser* does not change that. It's
24 undisputed in this case. Both sides agree that the probate
25 judge did place the burden of proof on the appellant, the

1 proponent of the will. The respondent's brief does not even
2 mention Section 62-3-407. It does not try to reconcile that
3 statute with the Nasser case at all. And, finally, imposing
4 the burden of proof on the wrong party, we would submit, has
5 been held to be reversible error.

6 Now, our second finding of error goes to the language in
7 the order that found undue influence from the way the property
8 was distributed, and we have argued that the distribution of
9 property does not prove undue influence. The one thing in
10 this case comprised was the house. That was what Mama had.
11 Mama had a house which comprise of all the land. The
12 appellant/beneficiary did not even get the house. So if he
13 was trying to use undue influence to impact the will, he
14 didn't do a very good job of it, because he didn't get
15 substantially more than the other parties.

16 We have another assignment of error. The will
17 distributed assets that had been held in trust. This is a
18 little bit of a complicated situation. The mother had deeded
19 her assets into three different trusts prior to the making of
20 this will. The probate judge found in her order that it was
21 evidence of undue influence that the appellant did not point
22 out to the attorney on the will that these properties had been
23 deeded into trust. He said in the testimony, "That's not my
24 job."

25 So we have a probate judge in this case. She found undue

1 influence because she found that he had participated or had
2 given input into the preparation of the will. Then she turned
3 around and found undue influence because he did not
4 participate and did not give input. We're saying you can't
5 have it both ways. He was -- if he did not advise the lawyer
6 that these things had been deed in trusts, that was not his
7 duty to do so in that case. And we assign error to that as
8 finding that as evidence of undue influence.

9 And, finally, the probate judge admitted into evidence
10 two transactions, one of which happened on April -- excuse me,
11 March the 29th, 2016, a year after the will was prepared. And
12 she introduced -- she allowed the introduction of evidence of
13 a phone call that was made in April of 2017, which was two
14 years after the will was prepared and about two months after
15 the testator had actually died.

16 And so we are you saying that you cannot exert undue
17 influence over a testator after they have already died and
18 that it was error for her to admit, over our objection,
19 testimony of transactions that happened a year after the will
20 had been prepared and even conversations that happened after
21 the lady died.

22 We cite in our brief the case of *Mock v. Dowding* (ph),
23 which held that the evidence of undue influence must be
24 brought to bear directly upon the testamentary act, and we
25 submit that it cannot -- evidence of things that happened a

1 year or two after the will was already executed cannot be
2 evidence of undue influence as to that testamentary act.

3 So, in summary, we would say that this -- it's undisputed
4 that the burden of proof was shifted to the appellant. This
5 is reversible error. It should be remanded back to the
6 probate court for a new trial based on the shifting of the
7 burden of proof and the other assignments of error raised in
8 the brief. Thank you.

9 THE COURT: Thank you, Mr. Wells. All right.

10 Mr. Jordan?

11 MR. JORDAN: Yes, Your Honor. I'll try to go in the same
12 order that Mr. Wells. First things first, I wanted to point
13 out to the judge and the Court that the order in question here
14 was prepared by Judge Brown. This was not an attorney who
15 prepared the order. She went through the trouble of doing
16 this, I think, a very thorough order. And the order makes it
17 clear that she completely understands Howard v. Nasser. She's
18 not, in this order, talking about the burden of proof shifting
19 or anything like that. She's actually not talking about the
20 burden of proof to carry the day on the evidence as far as
21 persuasion and that type of thing.

22 What she's talking about in her -- every time she's
23 talking about the burden, she's talking about the burden of
24 rebutting the presumption. The presumption is that, if you
25 have a confidential relationship -- and that's, you know, kind

1 of the threshold issue -- then the contesting party is going
2 to have to show, in order to get to undue influence, if you
3 show that, then the burden of basically overcoming that
4 presumption, in fact, is on the proponent of the will and
5 the -- I mean, the order of the judge on page 4 says that the
6 burden of proof rebutting undue influence falls on the
7 beneficiary. We don't -- we certainly don't argue that the
8 burden of proof doesn't shift. The burden of proof, though,
9 is limited to rebutting this presumption.

10 So the proper presumption clearly is there. Nobody is
11 objecting to it. Nobody is arguing that there was no
12 presumption of undue influence; that the gentleman was pretty
13 forthcoming in his testimony about, you know, everything he
14 did, from the confidential relationship, and clearly, as a
15 threshold matter, he had, you know, such a relationship that
16 undue influence should have been presumed.

17 So we get -- you know, that's step one. Step two is on
18 the appellant to come up with evidence and how much evidence
19 is -- you know, who knows. But it's certainly one that -- I
20 guess a smattering of evidence. The respondents in this case
21 came up with a heck of a lot of evidence in addition to this
22 confidential relationship scenario, you know, that would point
23 to the fact that undue influence existed. You know, I could
24 go through a good many things about that.

25 Number one, the appellant lived with the decedent, his

1 mother. The appellant, obviously, was the son. The
2 appellant, in setting up this appointment with the attorney
3 who prepared the will, provided previous copies of the will,
4 did not discuss with that attorney -- in the response to
5 Mr. Wells' comment -- did not discuss with the attorney that
6 these two previous wills -- and they were, again, from 1994
7 and 2009 wills. Those wills contained provisions in there
8 that the properties would be devised by the decedent to
9 various of the -- of her children.

10 And the interesting thing and important thing is that the
11 properties in question were not owned by the decedent. In
12 fact, most of the properties were never owned, even in part,
13 by the decedent. But, in any event, the property, you know,
14 was purportedly placed in trust. One trust agreement was
15 located, so we know that was a trust property. That was
16 the -- either 4.2 or 5-acre parcel. The other two parcels,
17 which were 8 acres and 10 acres, the grantees in those deeds
18 were a couple of sons of the decedent, who were named as
19 trustees. So that certainly implies that it was a trust, but
20 no trust has ever been located.

21 But those properties of the two -- one of the properties
22 was owned at that -- by the decedent at one point and only to
23 the extent of an undivided one-third interest, but that
24 property was deeded to those trustees by the decedent and two
25 other parties.

1 The other tract of land was at no time owned by the
2 decedent. So you have got kind of strange scenarios here
3 that, you know, when Mr. Laverne Robinson set up this meeting
4 with Attorney Butcher to do this will, he provided -- to do
5 the new will, that 2015 will -- he provided the old wills but
6 didn't clarify to anybody, especially Attorney Butcher, that
7 the properties listed in that will was not owned by the
8 decedent. And, you know, that's, if nothing else, a breach of
9 some fiduciary duty, and he's certainly seeking in the will to
10 be appointed as her fiduciary, as her personal representative.

11 So, you know, that's information that would be normally
12 expected to be passed along to the preparer of the will, and
13 Mr. Robinson didn't seem that that's an important thing to
14 him.

15 But, again, going back to this burden of rebutting the
16 evidence, the respondents produced a significant amount of
17 information, evidence from further testimony than the will
18 that was produced in 2015 was significantly different from the
19 will that was in the previous will, the 2009 will. For
20 instance, one of the things was that daughter Mary was named
21 as personal representative in the 2009 will, and of course,
22 provided some -- devised property in the will. In the 2015
23 will, she wasn't even mentioned. Her name does not appear in
24 that will.

25 The will that Mr. Robinson is touting, the 2015 will,

1 names him -- names Mr. Robinson as the total, exclusive
2 residuary beneficiary, even though the previous wills, of
3 course, as you would expect, named the children of the
4 decedent. And she had, I believe, altogether ten children.
5 Nine of them had -- were surviving at the time the will was
6 provided -- prepared.

7 So you have got scenarios that, you know, just time and
8 time again, Mr. Robinson is, you know, through the evidence
9 presented, is showing that he's, you know, using undue
10 influence to get what he wants. He also exhibited great
11 control over the care for his mother. I mean, to his credit,
12 he stepped in and took control of the situation, moved in with
13 his mother, became her primary and exclusive caretaker, and,
14 you know, when he did, he made it clear that the other
15 children of this decedent was, you know, they were not
16 welcomed in the house any longer and they had to call first
17 before they came and that type of thing. So he was just
18 exercising extreme control. Of course, Judge Brown found that
19 to be an important consideration.

20 But the point is -- and Howard v. Nasser talks about this
21 and the presumption that you have to overcome if you're the
22 proponent of the will, you know, once the resumption is in
23 place. And it was clearly in place.

24 Interestingly, in Nasser and other cases -- and I think
25 this is right as to (indiscernible) -- Nasser -- the fact

1 circumstances were quite interestingly, you know, equivalent
2 to the facts in this case. For instance, Nasser was
3 physically infirm, as was Ms. Robinson. The disposition of
4 Nasser's estate was significantly different in his -- than in
5 his prior two wills. The respondent was present at the
6 meeting with the attorneys to discuss the contents of the new
7 will. And the frequency of family visits were limited.

8 That Howard v. Nasser case also cites the case of *Byrd v.*
9 *Byrd*, a 1983 case, that also talks about physically and
10 mentally infirmed; the son, who was the principal beneficiary
11 of the will, and in a confidential relationship with the
12 testator and attempted to restrict visits between the testator
13 and the other children.

14 Now, interestingly enough, too, there is a Supreme Court
15 of South Carolina case, *Russell v. Wachovia Bank* -- it's a
16 2003 case in the Supreme Court -- which basically cites, with
17 approval of the factors that the North Carolina courts find
18 important to consider with regard to the exertion of undue
19 influence, and one is old age and physical and mental
20 weakness. The person signing the paper is in the home of the
21 beneficiary and subject to his constant association and
22 supervision. Others have little or no opportunity to see
23 him --

24 THE COURT: You're going way too fast.

25 MR. JORDAN: Okay.

1 THE COURT: Keep going.

2 MR. JORDAN: Okay. Others have little or no opportunity
3 to see him. The will is different from and invokes the prior
4 will. The will disinherits the natural objects of his bounty.
5 And the beneficiary has procured his execution.

6 Again, those are factors. And this point is, all these
7 factors that I'm citing in these three cases --

8 THE COURT: They all existed.

9 MR. JORDAN: -- are the same as in this case. So, again,
10 the finding of Judge Brown was that the defendants had the
11 burden to rebut undue influence, and that burden was not met.
12 And it was not met inasmuch as Attorney Butcher testified that
13 she could not recall whether or not she met with the decedent
14 before the will execution.

15 So, unquestionably, the appellant may put forth an effort
16 to try to rebut the presumption, but they fell short of
17 meeting that goal. So the order of Judge Brown, I think -- I
18 mean, it just follows Howard v. Nasser, she certainly knew the
19 case, she certainly was trying to address the legal issues
20 involved by consulting Nasser -- the Howard v. Nasser case.
21 And, Judge, I think she did a very good, very thorough job in
22 doing that.

23 So one final thing is the evidence of the later events --
24 the telephone call a year later and that type of thing -- you
25 know, it demonstrates, through circumstantial evidence, the

1 mindset and really the control mentality the appellant had
2 through this process. He took control of the situation
3 starting in 2014 all the way to the decedent's death in 2017.
4 The circumstantial evidence is certainly something that the
5 judge has evaluated in, basically, determining that the
6 appellant did not meet the burden of disproving the existence
7 of (indiscernible).

8 One important thing -- and then I'll sit down -- that
9 Judge Brown said during the testimony -- and I'm going to
10 refer to the record to page 102 --

11 THE COURT: Hold on. Okay.

12 MR. JORDAN: And this was in response to an objection by
13 Mr. Wells. And on line 8, it says, "It may not be relevant,"
14 and we're talking about these -- the evidence of bad acts, the
15 circumstantial evidence. "It may not be relevant to the undue
16 influence, but it's relevant to whether or not this Court
17 feels like he is the proper person to be appointed the
18 personal representative if this will is admitted; am I not
19 correct, Mr. Wells?"

20 And Mr. Wells says, "You're correct."

21 So, Judge, it's clearly evidence that was presented and
22 Judge Brown accepted, considered, and basically decided the
23 case on the basis that the respondent -- that the appellant
24 failed to overcome the presumption of undue influence, and,
25 therefore, the order should be allowed to stand as written. A

1 very strong, thorough order on the matter. Thank you, sir.

2 THE COURT: Mr. Burns?

3 MR. BURNS: If it pleases the Court, Judge, I just had
4 cataract surgery. I feel like I'm listening. So if I fall
5 over, it's because of that and not for some other reason.

6 THE COURT: Okay. Well, I hope you don't fall. If you
7 would like to sit down, that's perfectly fine with me.

8 MR. BURNS: You know, I might.

9 THE COURT: Yeah, yeah. You're not going to bother me at
10 all. So you're welcome to sit down, and that's perfectly
11 fine.

12 MR. BURNS: Very briefly with regard to the attempt to
13 rebut the presumption of undue influence when there's a
14 confidential relationship. Mr. Wells read over page 4, page
15 29 in the record. He read that Attorney Butcher testified
16 that she believed that there was no undue influence. But the
17 Court makes some other very significant findings as to what
18 Attorney Butcher actually could testify about.

19 And if you flip over in the record to page 30 right at
20 the top, the Court finds that the 2015 will was drafted upon
21 the information solely provided by the plaintiff beneficiary.
22 So the decedent didn't even provide the information.

23 If you go down about mid-page, the Court recites that,
24 "Further, Attorney Butcher testified that she would not have
25 prepared the 2015 will if she had known that the property was

1 in a trust." So that was significant to her.

2 And go down to the end of that paragraph, and the Court
3 makes another finding: "Further, the Court finds that the
4 plaintiff beneficiary was present at the execution of the 2015
5 will."

6 So you had a will that was prepared solely based on
7 Laverne's evidence to the lawyer. The lawyer didn't remember
8 meeting with the decedent except when it was signed, and the
9 plaintiff was present when it was signed.

10 So -- but the quality of the evidence that came from
11 Attorney Butcher, Judge Brown, obviously, has determined that
12 that's not sufficient to rebut the presumption of undue
13 influence. That's all, Your Honor.

14 THE COURT: All right. Thank you, Mr. Burns.

15 All right. Mr. Wells, would you like to respond at all?

16 MR. WELLS: Yes, Your Honor.

17 It may be that if the probate judge had assigned the
18 burden of proof to the right party, they may have prevailed
19 anyway. But we'll never know that because she imposed the
20 burden of proof on the proponent of the will.

21 And I did want to read this excerpt on the Swiger case.
22 And I don't believe I gave you the cite of Swiger. Swiger v.
23 Smith.

24 THE COURT: April 2019 case; right?

25 MR. WELLS: Yes. 827 S.E.2d 200. And that is a Court of

1 Appeals case. And the Court in that case said, "However,
2 although the proponents of the will must present evidence in
3 rebuttal, they do not have to affirmatively disprove the
4 existence of undue influence. Instead, the contestants of the
5 will still retain the ultimate burden of proof to invalidate
6 the will." And that is a citation taken from Howard v.
7 Nasser.

8 And so even as of April of this year, the proponent of
9 the will -- and I still don't think my colleagues understand
10 this exactly. You have the burden of producing some evidence,
11 but you do not have the burden of proof. And it is clear from
12 the order that the probate judge, who, as Attorney Jordan
13 points out, was a layman -- she is non-lawyer probate judge --
14 she got confused on this most confusing issue of the burden of
15 proof in probate cases. But we have to go back to the
16 statute, and the statute imposes the burden of proof on the
17 contestants of the will as undue influence.

18 Also, I did want to point out where Judge Brown was
19 saying that the lawyer prepared the will based on information
20 provided by the appellant. In the transcript, she says that
21 she -- the attorney asked him to go get some deeds, and I know
22 why she did that, because you have to get deeds to find out
23 what property description we're talking about here to put them
24 in the will. And he did that. I mean, he went and got the
25 documents that she asked him to go get. It's nothing

1 nefarious about that. He provided what she asked him to go
2 get. And also prior wills. "Let me see the will she did
3 last." So he provided that information.

4 THE COURT: Okay.

5 MR. WELLS: And he did do that, but there's nothing
6 nefarious about it. So we would say that this case needs to
7 be remanded for a new trial with the burden of proof being
8 assigned to the right party, who is always going to be the
9 contestants of the will. Thank you.

10 THE COURT: Okay. All right. So I'm going -- I want to
11 read -- I have read the order one time. I'm going to read
12 through the order and the transcript one more time, and then
13 I'll let y'all know my decision by the end of the week. And
14 we'll do a -- whoever is the prevailing party, I'll ask for a
15 written order to that effect. Okay? Thank you all.

16 (The above hearing concluded.)
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EXHIBIT "A"

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

LAST WILL AND TESTAMENT
OF
ALMETER B. ROBINSON

I, Almeter B. Robinson, a resident of and domiciled in the County of Kershaw, State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament.

ITEM I. REVOCATION. I hereby revoke all Wills and Codicils at any time heretofore made by me.

ITEM II. SIMULTANEOUS DEATH. If any beneficiary or devisee named herein and I die under such circumstances that the sequence of our deaths cannot be established by proof, such beneficiary or devisee shall be deemed to have predeceased me.

ITEM III. MEMORANDUM I may leave a written memoranda disposing of certain items of my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such written memoranda in existence at the time of my death. If no such written memoranda are found or identified by my Personal Representative within ninety (90) days after my Personal Representative's qualification, it shall be conclusively presumed that there are no such memoranda and any subsequently discovered memoranda shall be ineffective.

ITEM IV. SPECIFIC DEVISE. Subject to the instructions hereinafter stated, I give and devise the eighteen (18) acres of property in Kershaw County that I own as follows:

A. to my daughter Willine Brooks, for and during her natural life (2) acres, and upon her death, remainder to my granddaughter Neysa Aiken.

B. to my son Herbert D. Robinson, for and during his natural life two (2) acres, and upon his death, remainder to my grandchildren Robin Dixon and Cammie McCaskill, in equal shares, per stirpes.

C. to my son James Robinson Jr., for and during his natural life two (2) acres, and upon his death, remainder to my grandchildren Vanessa James, Maurice Robinson, Whitney Robinson, Danielle Robinson and Latonya Sam, in equal shares, per stirpes.

D. to my son Leroy Robinson, for and during his natural life two (2) acres, and upon

A B R

his death, remainder to my granddaughter Sheila Wright.

E. to my grandson Jeremy Jamon Green two and one-half (2.5) acres.

F. to my daughter Martha Aiken, for and during her natural life two and one-half (2.5) acres, and upon her death, remainder to my granddaughter Neysa Aiken.

G. to my son Ronnie R. Robinson, for and during his natural life one and one-half (1.5) acres, and upon his death, remainder to my grandchildren Alexis Robinson and Taylor Robinson, in equal shares, per stirpes.

H. to my son Laverne Robinson, for and during his natural life one and one-half (1.5) acres; and upon his death, should she survive him, to my daughter Willine Brooks, for and during her natural life, and upon her death, remainder to my daughter Almeter P. Harrison.

I. to my daughter Almeter P. Harrison, for and during her natural life two (2) acres, and upon her death remainder to my granddaughter Nkeiria D. McCoy

ITEM V. INSTRUCTIONS TO PERSONAL REPRESENTATIVE. I

hereby declare that my Personal Representative hereinafter named shall be the one (1) vested with the power to decide the location and division of my real estate above devised by proper survey, and collect from each beneficiary his or her pro rata share of the costs of such survey, and should such beneficiary fail to pay his or her share said portion of said share shall be charged against the real estate devised to him or her as a lien.

ITEM VI. RESIDUARY. I give and bequeath all the rest, residue and

remainder of my estate, both real and personal, to my children Willine Brooks, Herbert D. Robinson, James Robinson Jr., Leroy Robinson, Mary A. Green, Martha Aiken, Ronnie R. Robinson, Laverne Robinson and Almeter P. Harrison, in equal shares, per capita.

ITEM VII. APPOINTMENT OF PERSONAL REPRESENTATIVE. I hereby nominate, constitute and appoint as Personal Representative of this my Last Will and Testament, my daughter, Mary A. Green to serve without bond. If for any reason my daughter Mary A. Green is unable or unwilling to serve then I nominate, constitute and appoint my daughter,

A B R

Martha Aiken as alternate Personal Representative and direct that she shall serve without bond.

IN WITNESS WHEREOF, I have hereto set my Hand and Seal this 2 day
of April, 2009.

Almeter B. Robinson
Almeter B. Robinson

SIGNED, SEALED, PUBLISHED and declared by Almeter B. Robinson as and for
her Last Will and Testament, in our presence, who, in her presence, and in the presence of each
other, at her request, have hereunto subscribed our names as witnesses.

Jeffrey M. Talman
James J. Mickel

Camden, SC
Camden, SC

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

We, Almeter B. Robinson and Jeffrey M. Talman, the Testatrix and at least one of
the witnesses, respectively, whose names are signed to the attached or foregoing instrument,
being first duly sworn, do hereby declare to the undersigned authority that the Testatrix signed
and executed the instrument as her Last Will and Testament; that she signed willingly; that she
executed it as her free and voluntary act for the purposes therein expressed, and that each of the
witnesses, in the presence and hearing of the Testatrix, signed the Will as witness and to the best
of his/her knowledge the Testatrix was at that time eighteen years of age or older, of sound mind,
and under no constraint or undue influence.

Almeter B. Robinson
Almeter B. Robinson
Jeffrey M. Talman
Witness

SUBSCRIBED, SWORN TO, and acknowledged before me by Almeter B. Robinson,
the Testatrix, and subscribed and sworn to before me by Jeffrey H. Korman, witness,
this 2nd day of April, 2009.

Joyce G. Mickle (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 6/1/15

A B R

A CERTIFIED COPY:

ATTEST

PROBATE JUDGE

KERSHAW COUNTY, S. C.

STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

Almeter B. Robinson as Settlor and
Beneficiary by her agent, Laverne Robinson
under a Durable Power of Attorney
dated August 22, 2014,
Plaintiff,

vs.

Laverne Robinson individually, Martha Ann
Robinson Aiken, Mary A. Green,
Ronnie Robinson, James Robinson,
Leroy Robinson, Willene Brooks,
Herbert Robinson, Almeter Patricia
R. Harrison, Martha Ann Robinson
Aiken as Trustee of the October 22, 1977
Trust Agreement, Leroy Robinson and
James Robinson as Trustees of the January
12, 1987 Trust Agreement, and
Ronnie Randolph Robinson and Leroy
Robinson as Trustees of the April 22, 1993
Trust Agreement,
Defendants.

IN THE PROBATE COURT

THIRD AMENDED
COMPLAINT

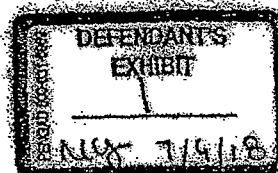
CA# 2016-ES-28-00054

FILED
2017 FEB -3 PM 3:56
DEBRA B. BRANNAN
JUDGE OF PROBATE
KERSHAW COUNTY, S.C.

The Plaintiff would respectfully show:

FOR A FIRST CAUSE OF ACTION

1. That the Plaintiff is citizen and resident of the State of South Carolina and that she files this action through her attorney-in-fact Laverne Robinson who is acting under a Durable Power of Attorney executed by Almeter B. Robinson as principal dated August 22, 2014, and recorded in the ROB office for Kershaw County in Volume 3302 at page 249.
2. That the Defendant Martha Ann Robinson Aiken is a citizen and resident of the County of Aiken, State of South Carolina as is Martha Ann Robinson Aiken as Trustee, the Defendant Almeter Patricia R. Harrison is a citizen resident of the County of Richland, State of South Carolina, and upon information of belief, the rest of the Defendants are all citizens and residents



of the County of Kershaw, State of South Carolina.

3. That Almeter B. Robinson is the mother of the Laverne Robinson and all of the other named Defendants.

4. That on October 22, 1977, Almeter B. Robinson and Willie Robinson conveyed their house and one (1) acre of land and four (4) additional acres of land to Martha Ann Robinson, now Martha Ann Robinson Aiken as Trustee by two (2) deeds, the first deed recorded in Book II at page 1342 and the second deed recorded in Book II at page 1341 in the Office of the ROD for Kershaw County, said property being described as follows:

Parcel 1

All that piece, parcel or lot of land, lying and being situate about three (3) miles East of Sandy Grove Church, in the County of Kershaw, and State of South Carolina containing one (1) acre, more or less, as shown on that plat entitled, "Plat of the property of Almeter Robinson", by H.R. Oliver, R.L.S., dated May 17, 1974, and recorded in the office of the Clerk of Court for Kershaw county in Plat Book 35 at page 1359, being triangular in shape, and is bound as follows, as shown on said plat: NORTH by other property of Eugene Boyd; EAST by other property of Eugene Boyd; and SOUTHWEST by property of Willie Robinson and Almeter Robinson, to be conveyed along with this deed.

The above premises is the same conveyed to Almeter B. Robinson by deed of Eugene Boyd dated July 19, 1974, and recorded in the office of the Clerk of Court for Kershaw County in Deed Book IE at page 247.

This parcel is granted to the Grantee herein as Trustee under that certain Trust Agreement dated October 22, 1977, by Willie and Almeter B. Robinson and Martha Ann Robinson. No subsequent purchaser, however, of the conveyed premises shall have an obligations if inquire into the terms if said Trust Agreement, and any subsequent purchaser can assume that the Grantees herein have full right and authority to convey, mortgage, partition or in any manner encumber or dispose of the property herein conveyed, as fully as if it were their individual property.

Parcel 2

All that piece, parcel or lot of land, lying and being situate about three (3) miles East of Sandy Grove Church, in the County and State aforesaid containing four (4) acres, more or less, and having such shape, metes, courses and distances as shown on a plat of said premises by Tetterton and Riddick, Inc., Surveyors, dated December 15, 1969, of the property for Almeter and Willie Robinson, recorded in the office of the Clerk of Court for Kershaw County in Plat Book 34

at page 1631, and is bound as follows: NORTHEAST by property of Almeter B. Robinson to be conveyed simultaneously with this deed to Martha Ann Robinson, Trustee; SOUTH by a County Road; and WEST by property of Eugene Boyd.

The foregoing premises is the same as that conveyed to Almeter B. Robinson and Willie Robinson by deed of Eugene Boyd, dated December 22, 1969, and recorded in the office of the Clerk of Court for Kershaw County in Deed Book HW at page 1588.

This parcel is granted to the Grantee herein as Trustee under that certain Trust Agreement dated October 22, 1977, by Willie and Almeter B. Robinson and Martha Ann Robinson. No subsequent purchaser, however, of the conveyed premises shall have an obligation to inquire into the terms of said Trust Agreement, and any subsequent purchaser can assume that the Grantees herein have full right and authority to convey, mortgage, partition or in any manner encumber or dispose of the property herein conveyed, as fully as if it were their individual property.

5. That both deeds referred to a Trust Agreement dated October 22, 1977.
6. That under the October 22, 1977 Trust Agreement beneficiaries of the October 22, 1977 were Almeter B. Robinson and Willie Robinson, and Willie Robinson is now deceased.
7. That on about January 12, 1987, Almeter B. Robinson, Clara Magazine and Jesse Mac Higgins conveyed an eight (8) acre tract of land located at 2982-B Stephens Road Bethune, SC 29009 to Leroy Robinson and James Robinson as Trustees of a trust for which, upon information belief, Almeter B. Robinson is the beneficiary, that deed being recorded in the ROD office for Kershaw County in Book JA at page 683, said property being described as follows:

All that piece, parcel or tract of land, lying, being and situate in the County of Kershaw, State of South Carolina, in the Sandy Grove Community, about fifteen (15) miles northeast of Camden, containing eight (8.0) acres, more or less, and shown as Parcel 3 on plat dated October 9, 1985, prepared by Daniel Riddick, R.L.S., and recorded in the office of the Clerk of Court for Kershaw County in Plat Book 37 at page 2619, and is bounded as follows: NORTH by premises now or formerly of Mary Boyd; EAST by of Blackwell, by premises of Joseph Boyd, and by premises of Richard Magazine; SOUTH by premises of Mary Alice Robinson, by premises of Ronnie R. Robinson, by premises of Joseph Boyd, by premises of Richard Magazine, by premises of Willie Baskin, and by premises of Mary Robinson, all shown on said plat.

All interests of grantors in and to that twenty (20) foot easement extending from the parcel hereinabove described southwardly along the eastern boundary of a parcel belonging to Joseph Boyd to State Road S-28-744, non-exclusive to the extent that the same may be used by Joseph Boyd, his heirs and assigns, (to the extent that it crosses his property) providing access and ingress or egress as an appurtenance to the premises hereinabove described.

The foregoing premises is the eastern portion of that property conveyed to Grantors herein by deed of Nathaniel Magazine, Trustee, dated June 2, 1983, and recorded in the office of the Clerk of Court for Kershaw County in Deed Book II, page 1282.

8. That the Plaintiff is informed and believes that the Trust Agreement for the Trust created on or about January 12, 1987 has been lost, but that Almeter B. Robinson is the beneficiary of the Trust.

9. That on or about April 22, 1993, James Robinson conveyed ten and seventy-six hundredths (10.76) acres located at 2996 Stephens Road, Bethune, SC 29009 to Ronnie Randolph Robinson and Leroy Robinson as Trustees, said deed being recorded in Book 164 at page 208 in the ROD office for Kershaw County, said property being described as follows:

All that piece, parcel or tract of land lying, being and situate about sixteen (16) miles northeast of Camden, Kershaw County, South Carolina containing Ten and Seventy-six hundredths (10.76) acres, more or less, and being shown as Lot 4 on that plat prepared by C. A. Holland Surveyors, Inc., dated April 5, 1993, and recorded in the office of the Clerk of Court for Kershaw County, Plat Book 42, page 126, and bound as follows: NORTH by property of John Marshall McGougan; EAST by property of Elias Blackwell; SOUTH by property of Leroy Robinson and James Robinson, Trustees; and WEST by Lot 3 as shown on said plat being this date conveyed to Ronnie Randolph Robinson, Trustee.

A non-exclusive right of way and easement over two existing unpaved access driveways, leading from Stephens Road (S-28-744) northwardly to the premises herein conveyed, the westernmost easement, being approximately ten (10) feet in width, meandering through property of Hodge and through property of Nathaniel Magazine and Amie C. Ruth, Trustees, and the easternmost easement beginning ten (10) feet in width, leading to a fifteen (15) foot easement and to a thirty (30) foot easement through property of Cynthia Haggins, Trustee, and connecting with a fifty (50) foot wide private driveway access easement serving all four lots shown on the plat above referred to.

This parcel is conveyed subject to the fifty (50) foot private driveway access easement provided for and extending along the entire southern boundary of this and the remaining lots as shown on the subdivision plat above referred to, for this common use of owners of all four lots.

10. That the Plaintiff is informed and believes that the Trust agreement for the Trust created on or about April 22, 1993 has been lost, but that Almeter B. Robinson was the beneficiary of that trust.

11. That on August 22, 2014 Almeter B. Robinson executed a Durable Power of Attorney appointing the Plaintiff as her attorney-in-fact and giving Laverne Robinson the power to revoke or modify any trust agreements made by Almeter B. Robinson, which gives the Plaintiff standing to bring this action through her agent Laverne Robinson, said Durable Power of Attorney being recorded in Volume 3302 at page 249 in the office of the Register of Deeds for Kershaw County.
12. That the Plaintiff is informed and believes that she is entitled to an Order removing the current Trustees of the October 22, 1977 Trust, the January 12, 1987 trust and the April 22, 1993 trust and appointing Laverne Robinson as the Trustee of each Trust, and appointing James Robinson as successor Trustee in the event that Laverne Robinson becomes unable to serve.
13. That Almeter B. Robinson is the sole settlor and the beneficiary of the three (3) Trusts and consents to the modification of the Trusts to appoint the Plaintiff as Trustee of each Trust under §62-7-411 South Carolina Code of Law Ann.
14. That the material purpose of each Trust is to provide for the care and the well-being of Almeter B. Robinson, and that the material purpose of the Trust can be carried out with this modification.
15. That the Plaintiff is informed and believes that the three (3) Trust Agreements should be further modified to provide that the Trustee should, upon the death of Almeter B. Robinson, distribute the land in the Trusts to the Beneficiaries as designated by the Will of Almeter B. Robinson that is effective at the time of her death.
16. That Almeter B. Robinson as settlor and as beneficiary consents to this modification of the Trusts by her agent, Laverne Robinson
17. That the Plaintiff is informed and believes that the three (3) Trust Agreements should be modified to require the current trustees to execute deeds conveying the real property held in trust

to Laverne Robinson as Trustee for Almeter B. Robinson.

18. That Almeter B. Robinson consents to all of the modifications of the three (3) Trust Agreements set forth above under §62-7-411 of the South Carolina Code Ann. through her agent, Laverne Robinson.

SECOND CAUSE OF ACTION

19. That Almeter B. Robinson, acting through her agent and attorney-in-fact, Laverne Robinson for Almeter B. Robinson under the Durable Power of Attorney dated August 22, 2014, recorded in Volume 3302 at page 249 in the office of the Register of Deeds for Kershaw County, seeks the removal of Martha Ann Robinson Aiken as Trustee, Leroy Robinson and James Robinson as Trustees, and Ronnie Randolph Robinson and Leroy Robinson as Trustees of the respective trusts mentioned above under §62-7-706(b)(4) of the South Carolina Code of Laws Ann. because removal is requested by all beneficiaries, removal of the said Trustees best serves the interest of Almeter B. Robinson, the sole beneficiary, and removal of the said Trustees is not inconsistent with a material purpose of the trust and a suitable successor trustee is available.

20. That Almeter B. Robinson has the authority to bring the Second Cause of Action through her agent and attorney in fact under §62-8-211(b)(5) of the South Carolina Code of Laws Ann.

FOR A THIRD CAUSE OF ACTION

21. That on December 8, 2003, Almeter B. Robinson had eleven thousand seven hundred and 00/100 (\$11,700.00) dollars of her money which she used to buy certificate of deposit Account # 270113466686 at First Citizens Bank in the amount of eleven thousand seven hundred and 00/100 (\$11,700.00) dollars which Almeter B. Robinson put in a trust in the names of Martha R. Aiken and Ronnie R. Robinson creating a trust for the benefit of Almeter B. Robinson with Martha R. Aiken and Ronnie R. Robinson as trustees.

22. That the trustees returned Five thousand and 00/100 (\$5,000.00) dollars of the trust funds to Almeter B. Robinson in 2014, but the rest of the money is unaccounted for.
23. That the balance of the 2003 Certificate of Deposit, six thousand seven hundred and 00/100 (\$6,700.00) plus interest earned by the 2003 certificate of Deposit has been taken and converted by the Trustees to their own use, in violation of their fiduciary duty to Almeter Robinson as beneficiary.
24. That the Plaintiff is informed and believes that she is entitled to an Order requiring the trustees of the Certificate of deposit trust to return the principal and interest wrongfully taken from the trust.
25. That the authority of Almeter B. Robinson to bring the Third Cause of Action through her agent and attorney in fact derives from the August 22, 2014 Durable Power of Attorney of Almeter B. Robinson recorded in the Register of Deeds for Kershaw County, and §62-8-212 South Carolina Code of Laws Ann.

FOR A FOURTH CAUSE OF ACTION

26. That each and every allegation of the First and Second causes of Action is re-alleged here as strongly as stated verbatim.
27. That on or about January 8, 2002, the Defendant Martha R. Aiken as Trustee caused a plat to be prepared which is recorded in Book B48 at page 8 in the ROD for Kershaw County dividing the five (5) acre tract of land included in the October 22, 1977 Trust into Parcels 1-4.
28. That also on March 2, 2002, the Defendant Martha Ann Robinson Aiken as Trustee executed a Deed conveying lots 3 and 4 on the January 8, 2002 plat to Ronnie Robinson which deed is recorded in Book 1131 at page 67 in the ROD for Kershaw County, which deed, upon information belief, violated the terms of the October 22, 1977 Trust.

29. That on February 25, 2004, Mary R Green and Almeter R. McCoy executed a deed conveying their two-thirds (2/3) undivided interest in Lots 1 & 2 including the house from the January 8, 2002 plat back to Martha Ann Robinson Aiken individually which deed is recorded in Book 1522 at page 276 in the ROD for Kershaw County, and which deed, upon information belief, violates the terms of the Trust of the October 22, 1977 Trust by granting title to the trustee in her name as an individual.

30. Through the series of deeds outlined above, the Defendant Martha Ann Robinson Aiken as Trustee has acquired a two-thirds (2/3) undivided interest in a portion of the Trust property in her individual name in violation to fiduciary to the beneficiary of the Trust and in violation of the terms of the trust.

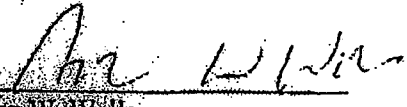
31. That the Plaintiff is informed and believes that she is entitled to an Order requiring all parties to this action who have received title in their individual names to properties that were included in the October 22, 1977 trust to convey those properties back to the trust.

32. That Almeter B. Robinson has authority to bring the Fourth Cause of Action through her agent and attorney in fact under a Durable Power of attorney dated August 22, 2014 and recorded in Volume 3302 at page 249 of the ROD for Kershaw County under §62-8-212 of the South Carolina Code of Laws Ann.

WHEREFORE the Plaintiff prays that the Court will issue its Order modifying the three (3) trust agreements created by Almeter B. Robinson to remove the current trustees, to appoint Laverne Robinson as the trustee and James Robinson as the successor trustee of each trust, to require the current trustees to convey the land held in trust to Laverne Robinson as Trustee for Almeter B. Robinson, requiring the current trustees of the 2003 certificate of deposit to pay back all principal and interest taken from the trust to Almeter B. Robinson, to provide that upon the

death of Almeter B. Robinson, the property held by the trusts will be distributed according to the Last Will and Testament of Almeter B. Robinson in effect at the time of her death and requiring all parties to this action who have received property that was a part of the corpus of any trusts mentioned herein in their individual names to convey that property back to the trust to be held in accordance of the terms of the trust agreement.

BAXLEY, PRATT & WELLS, P.A.

BY: 

John W. Wells
Attorney for the Plaintiff
3 The Common At Lugoff
Post Office Box 40
Lugoff, South Carolina 29078
(803) 438-4200

Lugoff, South Carolina

Dated: Feb. 3, 2017

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

LAST WILL AND TESTAMENT
OF
ALMETER B. ROBINSON

I, Almeter B. Robinson, a resident of and domiciled in the County of Kershaw, State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament.

ITEM I. REVOCATION. I hereby revoke all Wills and Codicils at any time heretofore made by me.

ITEM II. SIMULTANEOUS DEATH. If any beneficiary or devisee named herein and I die under such circumstances that the sequence of our deaths cannot be established by proof, such beneficiary or devisee shall be deemed to have predeceased me.

ITEM III. MEMORANDUM I may leave a written memoranda disposing of certain items of my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such written memoranda in existence at the time of my death. If no such written memoranda are found or identified by my Personal Representative within ninety (90) days after my Personal Representative's qualification, it shall be conclusively presumed that there are no such memoranda and any subsequently discovered memoranda shall be ineffective.

ITEM IV. SPECIFIC DEVISE. Subject to the instructions hereinafter stated, I give and devise the eighteen (18) acres of property in Kershaw County that I own as follows:

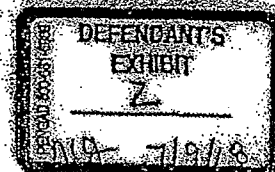
A. to my daughter Willine Brooks, for and during her natural life (2) acres, and upon her death, remainder to my granddaughter Neysa Aiken.

B. to my son Herbert D. Robinson, for and during his natural life two (2) acres, and upon his death, remainder to my grandchildren Robin Dixon and Cammie McDaskill, in equal shares, per stirpes.

C. to my son James Robinson Jr., for and during his natural life two (2) acres, and upon his death, remainder to my grandchildren Vanessa James, Maurice Robinson, Whitney Robinson, Danielle Robinson and Latonya Sam, in equal shares, per stirpes.

D. to my son Leroy Robinson, for and during his natural life two (2) acres, and upon

A B R



his death, remainder to my granddaughter Sheila Wright.

E. to my grandson Jeremy Jamon Green two and one-half (2.5) acres.

F. to my daughter Martha Aiken, for and during her natural life two and one-half (2.5) acres, and upon her death, remainder to my granddaughter Neysa Aiken.

G. to my son Ronnie R. Robinson, for and during his natural life one and one-half (1.5) acres, and upon his death, remainder to my grandchildren Alexis Robinson and Taylor Robinson, in equal shares, per stirpes.

H. to my son Laverne Robinson, for and during his natural life one and one-half (1.5) acres; and upon his death, should she survive him, to my daughter Willine Brooks, for and during her natural life, and upon her death, remainder to my daughter Almeter P. Harrison.

I. to my daughter Almeter P. Harrison, for and during her natural life two (2) acres, and upon her death remainder to my granddaughter Nkeiria D. McCoy

ITEM V. INSTRUCTIONS TO PERSONAL REPRESENTATIVE. 1

hereby declare that my Personal Representative hereinafter named shall be the one (1) vested with the power to decide the location and division of my real estate above devised by proper survey, and collect from each beneficiary his or her pro rata share of the costs of such survey, and should such beneficiary fail to pay his or her share said portion of said share shall be charged against the real estate devised to him or her as a lien.

ITEM VI. RESIDUARY. I give and bequeath all the rest, residue and remainder of my estate, both real and personal, to my children Willine Brooks, Herbert D. Robinson, James Robinson Jr., Leroy Robinson, Mary A. Green, Martha Aiken, Ronnie R. Robinson, Laverne Robinson and Almeter P. Harrison, in equal shares, per capita.

ITEM VII. APPOINTMENT OF PERSONAL REPRESENTATIVE. I hereby nominate, constitute and appoint as Personal Representative of this my Last Will and Testament, my daughter, Mary A. Green to serve without bond. If for any reason my daughter Mary A. Green is unable or unwilling to serve then I nominate, constitute and appoint my daughter,

A B R

Martha Aiken as alternate Personal Representative and direct that she shall serve without bond.

IN WITNESS WHEREOF, I have hereto set my Hand and Seal this 2 day
of April, 2009.

Almeter B. Robinson
Almeter B. Robinson

SIGNED, SEALED, PUBLISHED and declared by Almeter B. Robinson as and for
her Last Will and Testament, in our presence, who, in her presence, and in the presence of each
other, at her request, have hereunto subscribed our names as witnesses.

Jeffrey M. Tolan
Joyce M. Tolan

Camden, SC
Camden, SC

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

We, Almeter B. Robinson and Jeffrey M. Tolan, the Testatrix and at least one of
the witnesses, respectively, whose names are signed to the attached or foregoing instrument,
being first duly sworn, do hereby declare to the undersigned authority that the Testatrix signed
and executed the instrument as her Last Will and Testament; that she signed willingly; that she
executed it as her free and voluntary act for the purposes therein expressed, and that each of the
witnesses, in the presence and hearing of the Testatrix, signed the Will as witness and to the best
of his/her knowledge the Testatrix was at that time eighteen years of age or older, of sound mind,
and under no constraint or undue influence.

Almeter B. Robinson
Almeter B. Robinson
Jeffrey M. Tolan
Witness

SUBSCRIBED, SWORN TO, and acknowledged before me by Almeter B. Robinson,
the Testatrix, and subscribed and sworn to before me by Jeffrey H. Korman, witness,
this 2nd day of April, 2009.

Jon C. Miller (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 6/1/15

A B R

STATE OF SOUTH CAROLINA }
COUNTY OF KERSHAW }

LAST WILL AND TESTAMENT
OF
ALMETER B. ROBINSON

I, Almeter B. Robinson, a resident of and domiciled in the County of Kershaw, State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament.

ITEM I. REVOCATION. I hereby revoke all Wills and Codicils at any time heretofore made by me.

ITEM II. SIMULTANEOUS DEATH. If any beneficiary or devisee named herein and I die under such circumstances that the sequence of our deaths cannot be established by proof, such beneficiary or devisee shall be deemed to have predeceased me.

ITEM III. SPECIFIC DEVISE. I hereby give and devise the ten (10) acres in Kershaw County that I was given by my mother, Mary Boyd as follows: two (2) acres each to my daughters Willene Brooks and Patricia A. Watson and one and one-half (1½) acres each to my sons Herbert B. Robinson, James Jr. Robinson, Leroy Robinson and Ronnie R. Robinson.

ITEM IV. SPECIFIC DEVISE. I hereby give and devise the eight (8) acres in Kershaw County given to me by my father Eugene Boyd as follows: Three (3) acres to my son Lavern Robinson and one (1) acre each to my daughter Willene Brooks, to my son Herbert D. Robinson, to my son James Jr. Robinson, to my son Leroy Robinson and to my son Lavern Robinson, IN TRUST for my son Freddie L. Robinson.

ITEM V. SPECIFIC DEVISE. I hereby give and devise

1
ABR

COPY



the five (5) acres in Kershaw County I purchased from my father, Eugene Boyd as follows: one (1) acre to my son Lavern Robinson, one and one-half (1½) acres to my daughter Patricia A. Watson and one and one-fourth (1¼) acres each to my son Ronnie R. Robinson and my daughter Martha A. Aiken.

ITEM VI. RESIDUARY. I hereby give, devise and bequeath all the rest, residue and remainder of my property of every kind and description, real, personal or mixed which I own or may hereinafter acquire to my children Willene Brooks, Herbert D. Robinson, James Jr. Robinson, Freddie L. Robinson, Leroy Robinson, Mary A. Green, Martha A. Aiken, Ronnie R. Robinson, Lavern Robinson and Patricia A. Watson, in equal shares, per capita.

ITEM VII. APPOINTMENT OF PERSONAL REPRESENTATIVE. I hereby nominate, constitute and appoint as Trustee of this my Last Will and Testament my daughter Mary A. Green and direct that she shall serve without bond. If for any reason Mary A. Green is unable or unwilling to serve then I nominate, constitute and appoint my daughter, Martha A. Aiken, as alternate Personal Representative of my estate to serve without bond.

ITEM VIII. INSTRUCTIONS TO PERSONAL REPRESENTATIVE. I hereby declare that my Personal Representative herein above named shall be the one (1) vested with the power to decide the division of real estate and also as to the division of personal property, provided however that I may append to this my Last Will and Testament a letter of direction in my own hand, signed and dated,

P 2 A B R

subsequent to this Will my instructions to my Personal Representative regarding the distribution of personal property.

IN WITNESS WHEREOF, I have hereunto set my Hand and Seal this 14 day of June, 1994.

Almeter B. Robinson
ALMETER B. ROBINSON

SIGNED, SEALED, PUBLISHED and declared by Almeter B. Robinson, as and for her Last Will and Testament, in our presence, who, in her presence, and in the presence of each other, at her request, have hereunto subscribed our names as witnesses.

Jeffrey M. Terman
Susan H. Terman

Camden, SC
Camden, SC

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)

We, Almeter B. Robinson, and Jeffrey M. Terman, the Testatrix and at least one of the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the Testatrix signed and executed the instrument as her Last Will and Testament; that she signed willingly; that she executed it as her free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the Testatrix, signed the Will as witness and to the

best of his/her knowledge the Testatrix was at that time eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Almeter B. Robinson
ALMETER B. ROBINSON
Jeffrey M. Tzeman
WITNESS

SUBSCRIBED, SWORN TO, and acknowledged before me by Almeter B. Robinson, the Testatrix, and subscribed and sworn to before me by Jeffrey M. Tzeman, witness, this 14th day of June, 1994.

Susan D. Tzeman (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 03/09/02

p 4 a B Robinson

Prepared by Laverne Robinson, 2986 Stephens Road, Bethune, South Carolina 29009, (240)
676-2709

Instrument Volume Page
201400007518 OR 3302 249

DURABLE POWER OF ATTORNEY

I, Almeter Robinson, residing at 2986 Stephens, Bethune, South Carolina 29009, hereby appoint Laverne Robinson of 2986 Stephens Road, Bethune, South Carolina 29009 and Willene Brooks of 1912 Medifield Drive, Camden, South Carolina 29020-3133 as my attorneys-in-fact (collectively referred to as my "Agent"). Each Agent may act independently, without the consent of the other Agent.

If both Agents are unable to serve (either together or independently) I appoint James Robinson Jr., 3030 Stephens Road, Bethune, South Carolina 29009 to act as my Alternate Successor Agent to serve alone.

This Power of Attorney shall not be affected by my subsequent incapacity.

I hereby revoke any and all general powers of attorney and special powers of attorney that previously have been signed by me.

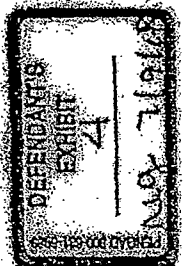
My Agent shall have full power and authority to act on my behalf. This power and authority shall authorize my Agent to manage and conduct all of my affairs and to exercise all of my legal rights and powers, including all rights and powers that I may acquire in the future. My Agent's powers shall include, but not be limited to, the power to:

1. Open, maintain or close bank accounts (including, but not limited to, checking accounts, savings accounts, and certificates of deposit), brokerage accounts, retirement plan accounts, and other similar accounts with financial institutions.

a. Conduct any business with any banking or financial institution with respect to any of my accounts, including, but not limited to, making deposits and withdrawals, negotiating or endorsing any checks or other instruments with respect to any such accounts, obtaining bank statements, passbooks, drafts, money orders, warrants, and certificates or vouchers payable to me by any person, firm, corporation or political entity.

b. Add, delete or change beneficiaries to any financial accounts I own including insurance policies, annuities, retirement accounts, payable on death savings or checking accounts or other investments.

c. Perform any act necessary to deposit, negotiate, sell or transfer any note, security, or



draft of the United States of America, including U.S. Treasury Securities.

- d. Have access to any safe deposit box that I might own, including its contents.
2. Provide for the support and protection of myself, my spouse, or of any minor child I have a duty to support or have established a pattern of prior support, including, without limitation, provision for food, lodging, housing, medical services, recreation and travel;
3. Sell, exchange, buy, invest, or reinvest any assets or property owned by me. Such assets or property may include income producing or non-income producing assets and property.
4. Purchase and/or maintain insurance and annuity contracts, including life insurance upon my life or the life of any other appropriate person.
5. Take any and all legal steps necessary to collect any amount or debt owed to me, or to settle any claim, whether made against me or asserted on my behalf against any other person or entity.
6. Enter into binding contracts on my behalf.
7. Exercise all stock rights on my behalf as my proxy, including all rights with respect to stocks, bonds, debentures, commodities, options or other investments.
8. Maintain and/or operate any business that I may own.
9. Employ professional and business assistance as may be appropriate, including attorneys, accountants, and real estate Agents.
10. Sell, convey, lease, mortgage, manage, insure, improve, repair, or perform any other act with respect to any of my property (now owned or later acquired) including, but not limited to, real estate and real estate rights (including the right to remove tenants and to recover possession). This includes the right to sell or encumber any homestead that I now own or may own in the future.
11. Prepare, sign, and file documents with any governmental body or agency, including, but not limited to, authorization to:
 - a. Prepare, sign and file income and other tax returns with federal, state, local, and other governmental bodies.
 - b. Obtain information or documents from any government or its agencies, and represent me in all tax matters, including the authority to negotiate, compromise, or settle any matter with such government or agency.
 - c. Prepare applications, provide information, and perform any other act reasonably requested by any government or its agencies in connection with governmental benefits

(including medical, military and social security benefits), and to appoint anyone, including my Agent, to act as my "Representative Payee" for the purpose of receiving Social Security benefits.

12. Make gifts from my assets to members of my family and to such other persons or charitable organizations with whom I have an established pattern of giving (or if it is appropriate to make such gifts for estate planning and/or tax purposes), to file state and federal gift tax returns, and to file a tax election to split gifts with my spouse, if any. No Agent acting under this instrument, except as specifically authorized in this instrument, shall have the power or authority to (a) gift, appoint, assign or designate any of my assets, interests or rights, directly or indirectly, to such Agent, such Agent's estate, such Agent's creditors, or the creditors of such Agent's estate, (b) exercise any powers of appointment I may hold in favor of such Agent, such Agent's estate, such Agent's creditors, or the creditors of such Agent's estate, or (c) use any of my assets to discharge any of such Agent's legal obligations, including any obligations of support which such Agent may owe to others, *excluding* those whom I am legally obligated to support.

13. To transfer any of my assets to the trustee of any revocable trust created by me, if such trust is in existence at the time of such transfer.

14. To utilize my assets to fund a trust not created by me, but to which I have either established a pattern of funding, or to fund a trust created by my Agent for my benefit or the benefit of my dependents, heirs or devisees upon the advice of a financial adviser.

15. To create, sign, modify or revoke any trust agreements or other trust documents in an attempt to manage or create a trust that was created for my benefit or the benefit of my dependants, heirs or devisees. This shall include the creation, modification or revocation of any inter vivos, family living, irrevocable or revocable trusts.

16. Subject to other provisions of this document, my Agent may disclaim any interest, which might otherwise be transferred or distributed to me from any other person, estate, trust, or other entity, as may be appropriate. However, my Agent may not disclaim assets to which I would be entitled, if the result is that the disclaimed assets pass directly or indirectly to my Agent or my Agent's estate. Provided that they are not the same person, my Agent may disclaim assets which pass to my Gift Agent, and my Gift Agent may disclaim assets which pass to my Agent.

17. Have access to my healthcare and medical records and statements regarding billing, insurance and payments.

This Power of Attorney shall be construed broadly as a General Power of Attorney. The listing of specific powers is not intended to limit or restrict the general powers granted in this Power of Attorney in any manner.

Any power or authority granted to my Agent under this document shall be limited to the extent necessary to prevent this Power of Attorney from causing, (i) my income to be taxable to my

Agent, (ii) my assets to be subject to a general power of appointment by my Agent, or (iii) my Agent to have any incidents of ownership with respect to any life insurance policies that I may own on the life of my Agent.

My Agent shall not be liable for any loss that results from a judgment error that was made in good faith. However, my Agent shall be liable for willful misconduct or the failure to act in good faith while acting under the authority of this Power of Attorney. A Successor Agent shall not be liable for acts of a prior Agent.

No person who relies in good faith on the authority of my Agent under this instrument shall incur any liability to me, my estate or my personal representative. I authorize my Agent to indemnify and hold harmless any third party who accepts and acts under this document.

If any part of any provision of this instrument shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of such provision or the remaining provisions of this instrument.

My Agent shall be entitled to reasonable compensation for any services provided as my Agent. My Agent shall be entitled to reimbursement of all reasonable expenses incurred as a result of carrying out any provision of this Power of Attorney.

My Agent shall provide an accounting for all funds handled and all acts performed as my Agent as required under state law or upon my request or the request of any authorized personal representative, fiduciary or court of record acting on my behalf.

This Power of Attorney shall become effective immediately, and shall not be affected by my disability or lack of mental competence, except as may be provided otherwise by an applicable state statute. This is a Durable Power of Attorney. This Power of Attorney shall continue effective until my death. This Power of Attorney may be revoked by me at any time by providing written notice to my Agent.

Dated August 22, 2014, at Comden, South Carolina.

Almeter Robinson
Almeter Robinson

We, the undersigned, hereby certify that the above instrument, which consists of 96 pages, including the page(s) which contain the witness signatures, was signed in our sight and the presence by Almeter Robinson (the Principal), who declared this instrument to be his/her Power of Attorney and we, at the Principal's request and in the Principal's sight and presence, and in the sight and presence of each other, do hereby subscribe our names as witnesses on the date shown above.

Witness Signature:

Name:

City:

State:

Debrae Gony

Pamlico

South Carolina

Witness Signature:

Name:

City:

State:

Justin Harkin

Camden

South Carolina

STATE OF SOUTH CAROLINA,
COUNTY OF Kershaw, ss:

The foregoing instrument was acknowledged before me this 22nd day of
August, 2014 by Almeter Robinson, who is personally known to me or who
has produced SC ID as identification.

Gail P. Mangum
Signature of person taking acknowledgment

Gail P. Mangum
Name typed, printed, or stamped

My Commission Expires February 8, 2020

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by Almeter Robinson in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.



Candice, South Carolina

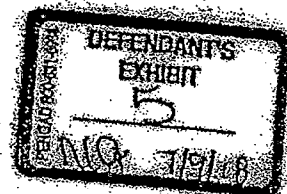
Hail P. Mangum
August 22, 2014

My Commission Expires February 8, 2020

Mary, it's me. I want to know why
mama at your house? You don't ever do
anything for mama. You don't ever invite her
to your house. You don't ever do nothing
until I leave and I don't want you coming
here to get her when I'm away and you
better not ever come here again and get
her without my permission. Now when I
get home this evening mama better be
home that's all I got to say.

2018 JUL -9 PM 5:50

RECEIVED
JUL 9 2018
KERSHAW COUNTY S.C.





CFS - Command Log

Printed on June 22, 2018

DFS # 2014-00105903
 Call Taker Vanessa Navarro
 Location 2986 STEPHENS RD, CASSATT
 Location Details
 Primary Incident Code 1049 : CIVIL DISTURBANCE
 Mod
 Priority 2
 Use Caution No
 Primary Disposition WARNING ISSUED, WRITTEN OR VERBAL
 Beat
 Zone
 Call Time 12/16/14 13:16:13
 Completed Time

Reporters

ROBINSON, LAVERN (Initial Reporter)

Sex

DOB

Address 2986 STEPHENS RD

Report Time 12/16/14 16:20:01

How Reported 911

From Phone (603) 424-0388

Contact Phone (603) 424-0388

Comments

Other Names

Vehicles

Responders

44

KCSO

Response Times

Assigned 12/16/14 12:22:09

Enroute 12/16/14 12:22:00

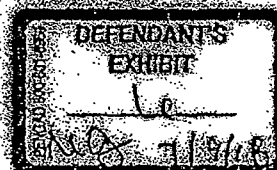
Arrived 12/16/14 13:10:46

Completed

IR / External Agency Numbers

ZUERCHER

Page 1 of 3



Command Log

12/16/14 12:20:01 | Navarro, Vanessa | Details - Log: 2014-00106963 created at 12/16/14 11:20:01 AM.
 12/16/14 12:20:01 | Navarro, Vanessa | Details - Log: 2014-00106963 received by dispatcher vnavarro.
 12/16/14 12:20:54 | Navarro, Vanessa | Details - Log: 2014-00106963 code changed from null to 1049
 12/16/14 12:20:54 | Navarro, Vanessa | Details - Log: 2014-00106963 priority changed from null to 2
 12/16/14 12:20:54 | Navarro, Vanessa | Details - Log: 2014-00106963 location changed from on area to 2986 STEPHENS RD, CASSATT 34.340243352962524 -80.3451973613485 on area BTH E, S14, BTH R, SO.
 12/16/14 12:20:54 | Navarro, Vanessa | Details - Log: 2014-00106963 original remark changed from null to SISTER MARY GREEN B/F CAUSING PROBLEMS// ASKED HER TO LEAVE AND WONT LEAVE//
 12/16/14 12:20:54 | Navarro, Vanessa | Details - SISTER MARY GREEN B/F CAUSING PROBLEMS// ASKED HER TO LEAVE AND WONT LEAVE//
 12/16/14 12:20:54 | Navarro, Vanessa | Details - Log: 2014-00106963 Call For Service created at 12/16/14 11:20:54 AM.
 12/16/14 12:20:54 | Navarro, Vanessa | Details - Log: 2014-00106963 caller phone changed from null to (803) 424-0388.
 12/16/14 12:20:54 | Navarro, Vanessa | Details - Log: 2014-00106963 caller changed from null to LAVERN, ROBINSON.
 12/16/14 12:20:54 | Navarro, Vanessa | Details - Log: 2014-00106963 caller location changed from to 2986 STEPHENS RD, CASSATT.
 12/16/14 12:20:55 | Navarro, Vanessa | Details - Log: 2014-00106963 had a Service Request created.
 12/16/14 12:20:55 | Unknown | Details - Log: 2014-00106963 received by dispatcher supervisor.
 12/16/14 12:20:55 | Details - Log: An update for incident 2014-00106963 was sent to RMS
 12/16/14 12:20:55 | Stropes, Kirk | Details - Log: 2014-00106963 received by dispatcher kstropes.
 12/16/14 12:20:55 | Employee, Inactive | Details - Log: 2014-00106963 received by dispatcher hbarton.
 12/16/14 12:20:55 | Employee, Inactive | Details - Log: 2014-00106963 received by dispatcher barbara.
 12/16/14 12:20:55 | Faulkenberry, Daisy | Details - Log: 2014-00106963 received by dispatcher daisy.
 12/16/14 12:20:55 | Burk, Debbie | Details - Log: 2014-00106963 received by dispatcher dburk.
 12/16/14 12:22:08 | 44 | Unit Details (Details: 44 status backfilled Dispatched.) - 44 status backfilled Dispatched.
 12/16/14 12:22:09 | Details - Log: An update for incident 2014-00106963 was sent to RMS
 12/16/14 12:22:09 | Burk, Debbie | Details - Log: 2014-00106963 had a Service Request created.
 12/16/14 12:22:09 | Details - Log: An update for incident 2014-00106963 was sent to RMS
 12/16/14 12:22:09 | Burk, Debbie | Details - Log: 2014-00106963 status changed from READY FOR DISPATCH to EN ROUTE.
 12/16/14 12:22:09 | Burk, Debbie | 44 | Enroute
 12/16/14 12:44:04 | Details - Log: An update for incident 2014-00106963 was sent to RMS
 12/16/14 12:44:04 | Navarro, Vanessa | Details - Log: 2014-00106963 caller phone changed from (803) 424-0388 to 803-424-0388.
 12/16/14 13:07:51 | Navarro, Vanessa | Details - Log: 2014-00106963 caller phone changed from 803-424-0388 to (803) 424-0388.
 12/16/14 13:07:51 | Details - Log: An update for incident 2014-00106963 was sent to RMS
 12/16/14 13:08:17 | Details - Log: An update for incident 2014-00106963 was sent to RMS
 12/16/14 13:08:18 | Navarro, Vanessa | Details - CALLED BACK ASKING DID WE HAVE OFFICER 1017 SISTER STILL CAUSING PROBLEMS// ADV THEY WERE 1088
 12/16/14 13:08:18 | Navarro, Vanessa | Details - Log: 2014-00106963 has a new narrative: CALLED BACK ASKING DID WE HAVE OFFICER 1017 SISTER STILL CAUSING PROBLEMS// ADV THEY WERE 1088.
 12/16/14 13:10:45 | Details - Log: An update for incident 2014-00106963 was sent to RMS
 12/16/14 13:10:46 | Burk, Debbie | Details - Log: 2014-00106963 status changed from EN ROUTE to ON SCENE.
 12/16/14 13:10:46 | Burk, Debbie | 44 | On Scene
 12/16/14 13:10:06 | Details - Log: An update for incident 2014-00106963 was sent to RMS
 12/16/14 13:18:06 | Burk, Debbie | 44 | Unit Details (Details: 10-8 C10, FEMALE IS LEAVING - 44 has a new remark: 10-8 C10, FEMALE IS LEAVING.) - 10-8 C10, FEMALE IS LEAVING - 44 has a new remark: 10-8 C10, FEMALE IS LEAVING.
 12/16/14 13:18:10 | Details - Log: An update for incident 2014-00106963 was sent to RMS

12/16/14 13:18:11 | Burk, Debbie | 44 | Available (Location: In Service)
12/16/14 13:18:11 | Burk, Debbie | Details - Log: 2014-00106963 status changed from ON SCENE to READY FOR DISPATCH.
12/16/14 13:18:12 | Details - Log: 2014-00106963 closed was sent to RMS
12/16/14 13:18:13 | Burk, Debbie | Details - Log: Incident Disposition of 10 created for 2014-00106963.
12/16/14 13:18:13 | Burk, Debbie | Details - Log: 2014-00106963 was closed.
12/16/14 13:18:13 | Burk, Debbie | Complete
12/16/14 13:18:13 | Burk, Debbie | Details - Log: 2014-00106963 was closed.
12/16/14 13:18:14 | Details - Log: WEB SERVICE RMS mail for 2014-00106963 written for KERSHAW#LAW#SHERIFF to <https://rms.public-safety-cloud.com/prod/api/res/Generic/CAD/submit> for Incident closed

CLQ

Requested At
Sent To
Status
Received At
Location
Accuracy

ZUERCHER

Page 3 of 3

911 Communications
 1111111111
 1111111111
 1111111111

CFS - Command Log

Printed on June 22, 2018

CFS # 2016-00023651
 Call Taker William West
 Location 1605 BARRETT ST, CAMDEN
 Location Details
 Primary Incident Code 1049 : CIVIL DISTURBANCE
 Mod
 Priority 2
 Use Caution No
 Primary Disposition NO ACTION INCIDENT OR ACTION TAKEN
 Beat
 Zone
 Call Time 03/29/16 23:14:48
 Completed Time

Reporters

ROBINSON, LEVEARN (Initial Reporter)

Sex

DOB

Address 889 DIGEY CREEK RD - SE

Report Time 03/30/16 02:57:39

How Reported

From Phone (240) 676-2709

Contact Phone (240) 676-2709

Comments

Other Names

Vehicles

Responders

61

KOSO

63

KOSO

Response Times

Assigned 03/29/16 23:02:58

Enroute 03/29/16 23:03:14

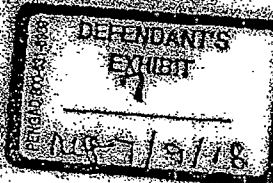
Arrived 03/29/16 23:12:19

Completed

IR / External Agency Numbers

Made by ZUERCHER

Page 1 of 3



Command Log

03/29/16 22:57:39 | West, William | Details - Log: 2016-00023651 created at 3/29/16 10:57:39 PM.
 03/29/16 22:57:39 | West, William | Details - Log: 2016-00023651 received by dispatcher awilson.
 03/29/16 22:59:26 | West, William | Details - Log: 2016-00023651 code changed from null to 1049
 03/29/16 22:59:27 | West, William | Details - Log: 2016-00023651 priority changed from null to 2
 03/29/16 22:59:27 | West, William | Details - Log: 2016-00023651 location changed from on area to 1605 BARRETT ST, CAMDEN 03427088933342418-80.58076125635362 on area EMS1 2, SO, STL.
 03/29/16 22:59:27 | West, William | Details - Log: 2016-00023651 original remark changed from null to SISTER HAS TAKEN HER 87 YOF MOTHER WITHOUT PERMISSION. COMPL HAS POWER OF ATTORNEY / SISTER NAME IS MARY GREEN.
 03/29/16 22:59:27 | West, William | Details - SISTER HAS TAKEN HER 87 YOF MOTHER WITHOUT PERMISSION. COMPL HAS POWER OF ATTORNEY / SISTER NAME IS MARY GREEN
 03/29/16 22:59:27 | West, William | Details - Log: 2016-00023651 Call For Service created at 3/29/16 10:59:27 PM.
 03/29/16 22:59:27 | West, William | Details - Log: 2016-00023651 caller phone changed from null to (240) 676-2709.
 03/29/16 22:59:27 | West, William | Details - Log: 2016-00023651 caller changed from null to LEVEARN, ROBINSON.
 03/29/16 22:59:27 | West, William | Details - Log: 2016-00023651 caller location changed from null to 889 DICEY CREEK RD - SE, Camden, 434.27179 - 090.6762.
 03/29/16 22:59:27 | West, William | Details - Log: 2016-00023651 had a Service Request created.
 03/29/16 22:59:28 | Marlon, Andrew | Details - Log: 2016-00023651 received by dispatcher amaron.
 03/29/16 22:59:28 | Dekeyser, Alade | Details - Log: 2016-00023651 received by dispatcher adekeyser.
 03/29/16 22:59:28 | Campbell, Barry | Details - Log: 2016-00023651 received by dispatcher bcampbell.
 03/29/16 22:59:28 | Howell, Lana | Details - Log: 2016-00023651 received by dispatcher howell.
 03/29/16 22:59:28 | Gato, Tess | Details - Log: 2016-00023651 received by dispatcher tess.
 03/29/16 22:59:28 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:02:57 | Howell, Lana | Details - Log: 2016-00023651 had a Service Request created.
 03/29/16 23:02:57 | Howell, Lana | Details - Log: 2016-00023651 status changed from READY FOR DISPATCH to DISPATCHED.
 03/29/16 23:02:58 | Howell, Lana | 63 | Assign
 03/29/16 23:02:58 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:03:13 | 61 | Unit Details (Details: 61 status backfilled Dispatched) - 61 status backfilled Dispatched.
 03/29/16 23:03:14 | Howell, Lana | Details - Log: 2016-00023651 status changed from DISPATCHED to EN ROUTE.
 03/29/16 23:03:14 | Howell, Lana | 61 | Enroute
 03/29/16 23:03:15 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:03:15 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:03:16 | Howell, Lana | 63 | Available (Location: In Service)
 03/29/16 23:03:16 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:11:48 | Howell, Lana | 61 | Unit Details (Details: 1088 - 61 has a new remark: 1088.) - 1088 - 61 has a new remark: 1088.
 03/29/16 23:11:48 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:12:13 | Howell, Lana | Details - Log: 2016-00023651 status changed from EN ROUTE to ON SCENE.
 03/29/16 23:12:13 | Howell, Lana | 61 | On Scene - 1088
 03/29/16 23:12:14 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:14:17 | 63 | Unit Details (Details: 63 status backfilled En Route) - 63 status backfilled En Route.
 03/29/16 23:14:18 | Campbell, Barry | 63 | On Scene
 03/29/16 23:14:18 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:14:18 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:14:44 | Howell, Lana | 61 | Available (Location: In Service)
 03/29/16 23:14:45 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:14:46 | Howell, Lana | 63 | Available (Location: In Service)
 03/29/16 23:14:46 | Howell, Lana | Details - Log: 2016-00023651 status changed from ON SCENE to READY FOR DISPATCH.
 03/29/16 23:14:47 | Details - Log: An update for incident 2016-00023651 was sent to RMS
 03/29/16 23:14:48 | Howell, Lana | Details - Log: Incident Disposition of 12 created for 2016-00023651.

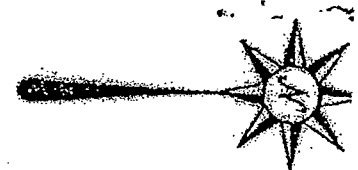
Made by ZUERCHER

Page 2 of 3

03/29/16 23:14:48 | Howell, Laria | Details - Log: 2016-00023651 was closed.
 03/29/16 23:14:48 | Howell, Laria | Complete
 03/29/16 23:14:48 | Howell, Laria | Details - Log: 2016-00023651 was closed.
 03/29/16 23:14:48 | Details - Log: 2016-00023651 closed was sent to RMS
 03/29/16 23:14:51 | Details - Log: WEB SERVICE RMS split for 2016-00023651 written for
 KERSHAW/LAW/SHERIFF to <https://rms.public-safety-cloud.com/prod/api/rest/Generic/CAD/submit> for Incident
 closed

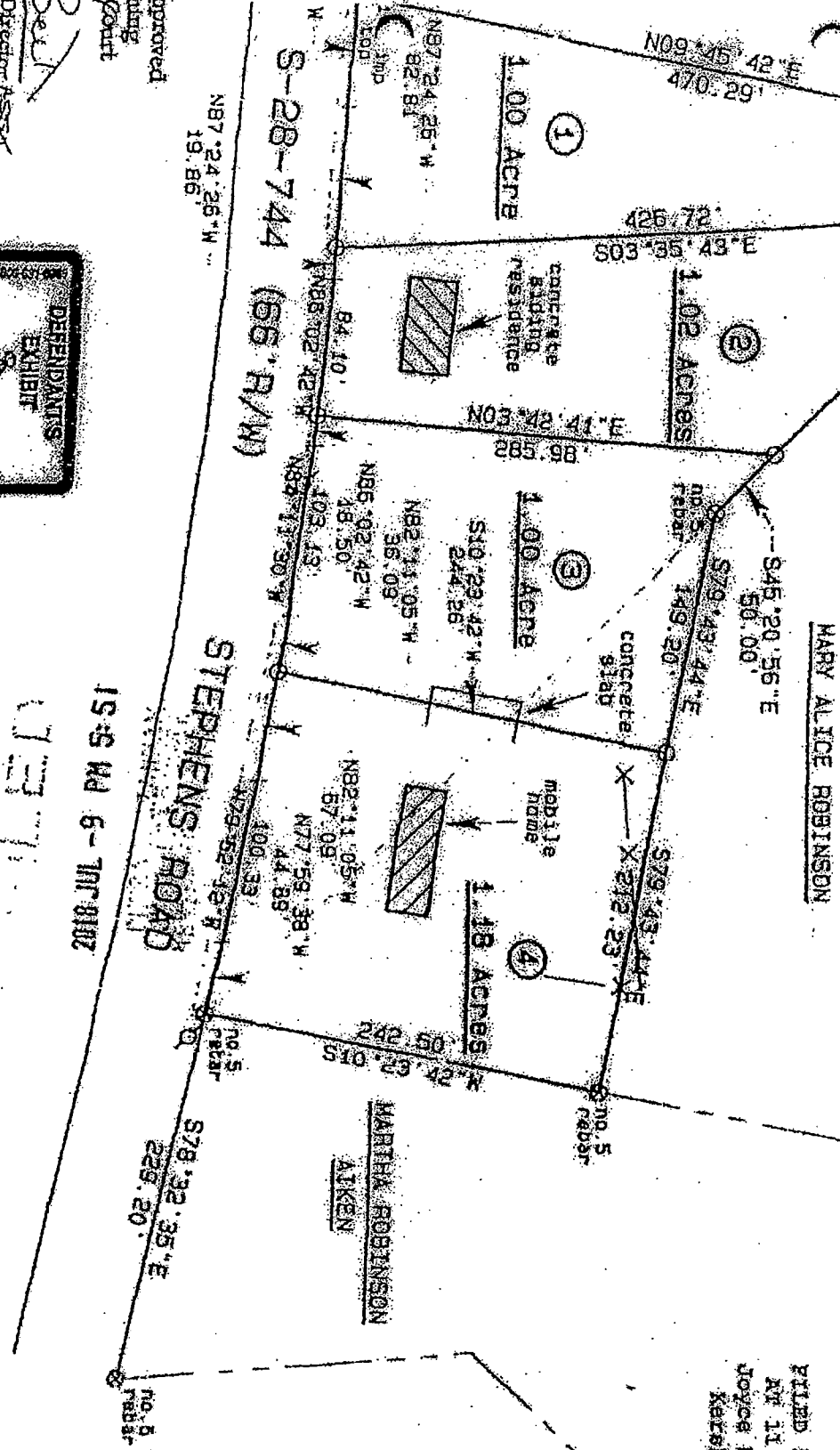
CLO

Requested At
 Sent To
 Status
 Received At
 Location
 Accuracy

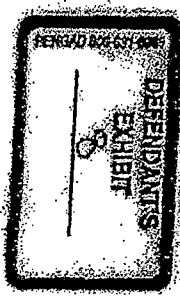


Magnetic

FILED FOR RECORD 03/07/2002
AT 11:03A BOOK 00848 PAGE
JOYCE McDONALD-Clerk of Court
Kershaw County Courthouse



Approved:
Clerk of Court
Director Assoc

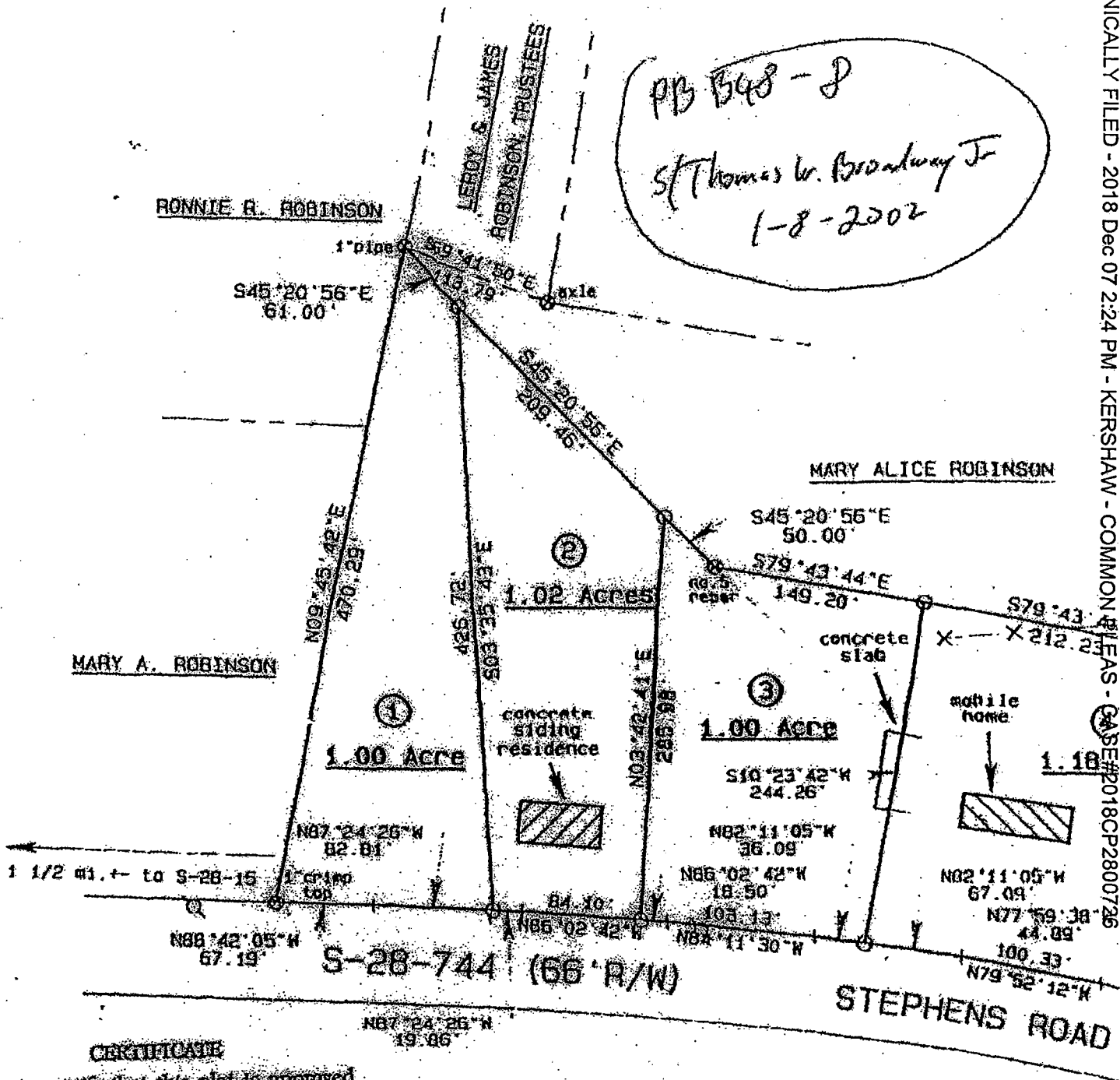


15:5 Rd 6-TM 0102

STEPHENS ROAD

S-28-744 (66° R/W)

pb B48-8
St Thomas W. Broadway Jr
1-8-2002



CERTIFICATE

This is to certify that this plat is approved
by The Kershaw Co. Planning & Zoning
Dept. for recording in the Clerk of Court
for Kershaw Co.

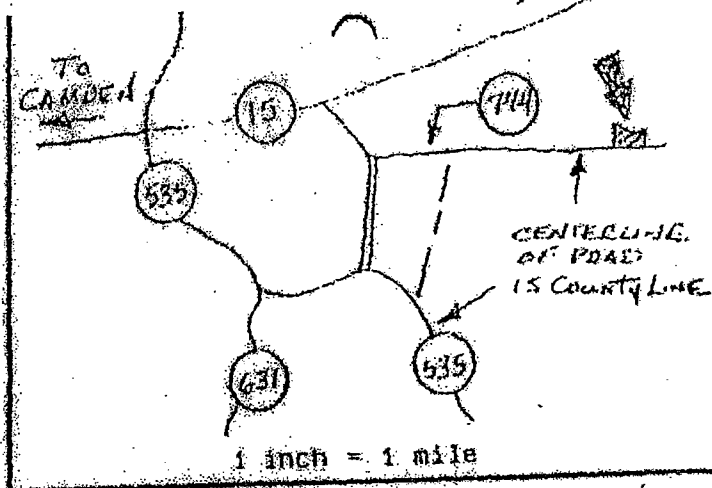
3-7-07
Date
Kathy D. Bell
Planning & Zoning Director

REFERENCES: DEED BK. HW. PAGE 1588
DEED BK. IJ. PAGE 1341

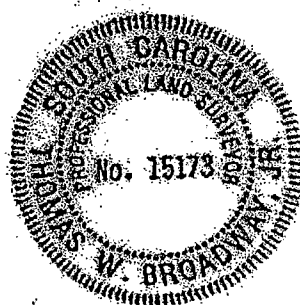
548 Pg. 8
4308
Clerk of Court
C



magnetic



FILED FOR RECORD 03/07/2002
AT 11:07A BOOK 00848 PAGE 00008
Joyce McDonald-Clerk of Court - RMC
Kershaw County Courthouse 000002521



(N50N)

I hereby state that to the best of my knowledge and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class C Survey as specified therein.

LS Thomas W. Broadway, Jr. Date 1-8-02
THOMAS W. BROADWAY, JR., P.L.S. S.C. 15173
1698 Porter Road
Cassett, S. C. 29032

E no. 5 rebar

GRAPHIC SCALE 1"=100'



IRON OLD
IRON NEW (no. 5 rebar)
POWER POLE
OVERHEAD ELECTRIC

PLAT PREPARED FOR: <u>MARTHA ANN ROBINSON AIKEN</u>		
SCALE: 1" = 100'	APPROVED BY:	DRAWN BY: <u>TWB</u>
DATE: 1/8/2002		REVISED
KERSHAW COUNTY, S.C.		
LOCATED AT 2986 & 2996 STEPHENS ROAD, BETHUNE		DRAWING NUMBER A-02-02

5 28018

BR0164PG208

FILE FOR RECORD
2018 APR 26 11:11

STATE OF SOUTH CAROLINA
COUNTY OF KERSHAW

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, That I, James Robinson, (hereinafter the "Grantor") in the State aforesaid for and in consideration of the sum of Five and No/100 (\$5.00) Dollars, love and affection to me paid by Ronnie Randolph Robinson and Leroy Robinson, Trustees, (hereinafter the "Grantees") Have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto:

RONNIE RANDOLPH ROBINSON AND LEROY ROBINSON, TRUSTEES

All that piece, parcel or tract of land lying, being and situate about sixteen miles northeast of Camden, Kershaw County, South Carolina containing ten and seventy-six hundredths (10.76) acres, more or less, and being shown as Lot 4 on that plat prepared by C. A. Holland Surveyors, Inc., dated April 5, 1993, and recorded in the office of the Clerk of Court for Kershaw County, Plat Book 42, Page 126, and bound as follows: NORTH by property of John Marshall McCougan; EAST by property of Elias Blackwell; SOUTH by property of Leroy Robinson and James Robinson, Trustees; and WEST by Lot 3 as shown on said plat being this date conveyed to Ronnie Randolph Robinson, Trustee.

ALSO

A non-exclusive right of way and easement over the existing unimproved access driveways, leading from Stephens Road (S-28-744) northerly to the premises herein conveyed, the westermost easement, being approximately ten (10) feet in width, ascending through property of George and through property of Michael Negarine and Aelia C. Ruth, Trustees, and the eastermost easement beginning ten (10) feet in width, leading to a fifteen (15) foot easement and to a thirty (30) foot easement through property of Cynthia Haggins, Trustee, and connecting with a fifty (50) foot wide private driveway access easement serving all four lots shown on the plat above referred to.

This parcel is conveyed subject to the fifty (50) foot private driveway access easement provided for and extending along the entire southern boundary of this and the remaining lots as shown on the subdivision plat above referred to, for the common use of owners of all four lots.

Recorded on 6th day of May 1993
In presence of 36
James Robinson
Kershaw County

KERSHAW COUNTY ASSESSOR
Parcel # 205-30-00-001
IN USE # 205-30-00-001
CALENDAR YEAR 25 MAY 93
BY D. BISH KERSHAW

ATTEST True, Correct & Certified
Copy of Original on file in this
Office.

Billie O. McNeal
Register of Deeds Kershaw County

DEFENDANT'S
EXHIBIT

deLoach

Del

2018 JUL -9 PM 5:51

BK016406209

The parcel above described is a portion of that property conveyed to Grantor herein by deed of Mary Boyd, dated December 31, 1981, and recorded in the office of the Clerk of Court for Kershaw County, Deed Book 1R, page 503.

Address of Grantee: 2355 Stephens Road
Bethune, SC 29009

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Ronnie Randolph Robinson and Leroy Robinson, Trustees, their Successors and Assigns forever.

And the Grantor does hereby bind his Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Grantees and the Grantees' Successors and Assigns, against the Grantor and the Grantor's Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 22 day of April, 1991.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]
[Signature]

[Signature]
James Robinson

BK016466210

STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

PERSONALLY appeared before me Diana J. Lator
and made oath that she saw the within-named James Robinson sign,
seal, and as his act and deed, deliver the within-written Deed;
and that she with Gabe R. Riddick witnessed the
execution thereof.

SWORN to before me this
22 day of April, 1993.

Diana J. Lator

John H. de Rudder
NOTARY PUBLIC OF SOUTH CAROLINA

My commission expires: 4-15-98

DEED TO REAL ESTATE
The U.S. Patent & Copyright Office, Washington, D.C.

Form 11
(Revised 4-4-64)

State of South Carolina,

COUNTY OF KERSHAW

JA-683

Know All Men by These Presents, That We, Clara Magazine, Almeter Robinson, and Jessie Mae Haggins, (hereinafter whether singular or plural the "Grantor")

ATTEST True, Correct and Certified Copy of Original on File in this Office.

Billie D. M. [Signature]
Register of Deeds Kershaw County

In the State aforesaid, for and in consideration of the sum of Five and No/100 (\$5.00) Dollars to the Grantor paid by LeRoy Robinson and James Robinson, Trustees, (hereinafter whether singular or plural the "Grantee") has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee the following described property:

LEROY ROBINSON and JAMES ROBINSON, TRUSTEES
UNDER TRUST AGREEMENT DATED NOVEMBER 25, 1965

All that piece, parcel or tract of land, lying, being and situate in the County of Kershaw, State of South Carolina, in the Sandy Grove Community, about fifteen (15) miles northeast of Camden, containing Eight (8) Acres more or less, and shown as Parcel 3 on plat dated October 2, 1985, prepared by Daniel Riddick, R.L.S., and recorded in the office of the Clerk of Court for Kershaw County in Plat Book 27, at page 1619, and is bounded as follows: NORTH by premises now or formerly of Mary Boyd, EAST by or Blackwell, by premises of Joseph Boyd, and by premises of Richard Magazine, SOUTH by premises of Mary Alice Robinson, by premises of Bonnie Robinson, by premises of Joseph Boyd, by premises of Richard Magazine, by premises of Willie Baskin, and by premises of Mary Robinson, all as shown on said plat.

ALSO

All interests of grantors in and to that twenty (20) foot easement extending from the parcel hereinabove described southerly along the eastern boundary of a parcel belonging to Joseph Boyd to State Road 6-28-744, non-exclusive to the extent that the same may be used by Joseph Boyd, his heirs and assigns (to the extent that it crosses his property) providing access or ingress or egress as an appurtenance to the premises hereinabove described.

The foregoing premises is the eastern portion of that property conveyed to Grantors herein by Deed of Nathaniel Magazine, Trustee, dated June 2, 1983, and recorded in the office of the Clerk of Court for Kershaw County in Deed Book 27, page 1282.

TAX MAP #1627-00-00-001

ADDRESS OF GRANTEE:
Route 2
Camden, S.C. 29032

KERSHAW COUNTY ASSESSOR	
Parcel #	1627-00-00-001
Tax Map #	1627-00-00-001
Assessor's Map #	1627-00-00-001
Official Year	87
Tax Year	88
Valuation	7782

DEFENDANT'S EXHIBIT
10

To Have and to Hold all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee,

LEROY ROBINSON and JAMES ROBINSON, TRUSTEES, their successors

Heirs and Assigns forever.

And the Grantor does hereby bind themselves/their Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Grantee and the Grantee's Heirs and Assigns, against the Grantor and the Grantor's Heirs and against every person whomsoever lawfully claiming or to claim, the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 12th day of January in the year of our Lord one thousand nine hundred and Eighty-seven and in the two hundredth and eleventh year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
IN THE PRESENCE OF

Miss R. B. Paul
John V. de Paula, Jr.

Chas. Magazine (Seal)
Clinton Robinson (Seal)
Jessie Mae Higgins

STATE OF SOUTH CAROLINA
KERSHAW COUNTY

Personally appeared before me the undersigned witness and made oath that s/he saw the within named Grantor sign, seal and, as the Grantor's act and deed, deliver the within written Deed for the uses and purposes therein mentioned and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this 12th

day of January, 1987
John V. de Paula, Jr.
Notary Public for S.C.
My Commission Expires 4-3-88

John B. Paul
Witness

State of South Carolina,

THE NEW YORK PUBLIC LIBRARY

Clara Magallon, et al.

2

LARRY ROBINSON and JAMES ROBINSON, Trustees

TITENOT REAL ESTATE

2. Having noticed that the within deal was filed for record
on my return on 4-14-73, I advised on the

in my office at 417 N. Michigan in the
26th North Ave.

26th March 1964

119. Fund was immediately entered with the proper indices and duly entered in book. J.A. of Detroit.

July recorded in book.

1998

Bukharin, Mykhailo

2010

Chlorine

I hereby certify that the within Deed has been this
 20th day of

March, A.D. 1887 presented in

46

Author _____

1985

3

THE NEW YORK PUBLIC LIBRARY
ASTOR LENOX TILDEN FOUNDATIONS
125 WEST 47TH STREET
NEW YORK, N. Y. 10036

1. *What is the main purpose of the study?*
 2. *What are the research objectives?*
 3. *What is the research methodology?*
 4. *What are the results of the study?*
 5. *What are the conclusions of the study?*
 6. *What are the limitations of the study?*
 7. *What are the implications of the study?*
 8. *What are the future research directions?*
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FILE FOR RECORD
OCT 26 PM 4:47
MARSHALL REEVES
FBI - LOS ANGELES
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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 9, 2021

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**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM KERSHAW COUNTY
Court of Common Pleas**

Robert E. Hood, Circuit Court Judge

Case No. 2018-CP-28-00726

Appellate Case No. 2020-000063

Laverne Robinson,

Appellant,

v.

Willene Brooks, Mary Green,
Ronnie Robinson, Almeter P.
Harrison, Herbert Robinson,
James Robinson, Leroy
Robinson and Martha Aiken,

Defendants,

Of whom, Mary Green,
Ronnie Robinson, Almeter P.
Harrison, Leroy Robinson and
Martha Aiken are
Respondents.

Respondents.

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

- I. WHERE THE TESTATOR HAS GRANTED A POWER OF ATTORNEY TO THE PROPONENT OF A WILL, DOES THE RESULTING PRESUMPTION OF UNDUE INFLUENCE IMPOSE UPON THE PROPONENT OF THE WILL THE BURDEN OF GOING FORWARD TO PRESENT EVIDENCE, OR THE BURDEN OF PROOF?
- II. DID THE PROBATE JUDGE IMPOSE THE BURDEN OF PROOF UPON THE APPELLANT ON THE ISSUE OF UNDUE INFLUENCE?
- III. DID THE PROBATE JUDGE COMMIT AN ERROR OF LAW BY IMPOSING THE BURDEN OF PROOF ON THE PROPONENT OF THE WILL ON THE ISSUE OF UNDUE INFLUENCE?

STATEMENT OF THE CASE

This is an appeal from a Petition filed in the Probate Court for Kershaw County on August 14, 2017, seeking to admit a copy of a will executed by Almeter Robinson on February 3, 2015, and have the Appellant appointed as Personal Representative in accordance with the will. An Answer was filed on behalf of Respondents Mary Greene, Ronnie Robinson, Almeter P. Harrison, Leroy Robinson and Martha Aiken asserting that the February 3, 2015, will had been revoked, that it was executed when the decedent lack capacity or was under undue influence by the Appellant. The Answer was filed on September 15, 2017.

After the Answer was filed, but before the case was tried, the Appellant discovered and filed the original will. Also, after the Answer was filed but before the case was tried, the Respondent Martha Aiken relieved her attorney of record Moultrie B. Burns, Jr. and retained Leonard R. Jordan, Jr. to represent her in this matter.

Almeter B. Robinson died a resident of Kershaw County on February 25, 2017. At the time of her death, Almeter Robinson had no spouse, and the Appellant and the Respondents were her surviving children. Respondent Herbert Robinson died after the case was filed, but before the

trial.

The case was tried before the Honorable Debra B. Branham on July 9, 2018. Her Order dated August 10, 2018, ruled that the February 3, 2015 will was properly executed according to §62-2-502; that insufficient evidence of lack of capacity by the testator to execute the will was presented; and that the February 3, 2015 will was invalid because of undue influence over the testator exerted by the Appellant. (R. p. 1-6)

The Appellant filed and served his Notice of Intent to Appeal to Circuit Court on August 17, 2018. The Appeal was heard by the Honorable Robert E. Hood on September 23, 2019. The Honorable Robert E. Hood issued his Order Affirming the Probate Court Order on October 3, 2019. The Appellant filed a Motion to Alter or Amend a Judgment under Rule 59(e) SCRPC on October 8, 2019. The Honorable Robert E. Hood issued his Amended Order Affirming Probate Court Order on January 2, 2020. The Appellant filed his Notice of Appeal on January 14, 2020. The Appellant timely ordered a transcript of the September 23, 2019 appeal hearing which was delivered to Appellant's counsel on December 18, 2020.

STANDARD OF REVIEW

An action to set aside a will is an action at law. In re Estate of Cumbee, 333 S.C. 664, 670, 511 S.E. 2d 390, 393 (Ct.App.1999). "If a proceeding in the Probate Court is in the nature of an action at law, review by the Circuit Court and this Court extends merely to the correction of errors of law. Bob Jones Univ. v. Strandell 344 S.C. 224, 543 S.E. 2d 251 (2001).

FACTS

Almeter B. Robinson was born April 25, 1928. Her husband and the father of the Appellant and the Respondents died around 1980. She had ten (10) children one of whom,

Freddie, died in the 1990's without heirs other than his brothers and sisters who are the named parties in this action. Herbert Robinson who is a named party in default in this action died several months before the case was tried.

Almeter B. Robinson lived most of her life on three (3) tracts of land in close proximity to each other that were inherited from her mother and father, a ten (10) acre unimproved tract, an eight (8) acre unimproved tract and a four (4) acre tract sometimes referred to as a five (5) acre tract, on which stood the house in which she lived. Beginning in 1977, Almeter Robinson executed a series of deeds conveying the three (3) tracts to various children as trustees. As to the four (4) acre tract with the house on it, it was deeded to Respondent Martha Aiken as Trustee, and a trust agreement was executed naming Almeter Robinson and her deceased husband as beneficiaries of the trust for their lives and providing a scheme for the distribution of the four (4) acre tract upon the death of the last surviving beneficiary. As to the ten (10) acre tract and the eight (8) acre tract, no trust agreement stating the terms of the trusts on those tracts has been produced by any of the trustees.

It is apparent that Almeter B. Robinson believed that she was entitled to control the distribution of all three tracts because all three tracts are distributed between the Appellant and the Respondents in the February 3, 2015, will, as well as in prior wills she executed in 1994 and in 2009.

In 2014, the Appellant moved from Maryland into the home of his mother on the four (4) acre tract to act as a caregiver. The Appellant was the only one of her children who was willing and able to provide twenty-four (24) hour care for her in her own home. Respondent Mary Green had taken her mother into her home for a period of time, and other Respondents had provided other services for their mother, but the Appellant was the only one willing to move in with her

and provide care in her home.

On August 22, 2014, Almeter B. Robinson executed a durable power of attorney appointing the Appellant as agent. On February 3, 2015, Almeter B. Robinson executed the Last Will and Testament that is the subject of this action. The February 3, 2015 will was prepared by attorney Deborah Butcher. Attorney Butcher talked to Mrs. Robinson out of the presence of the Appellant before preparing the will (R. p. 38, lines 18-23) When Mrs. Robinson returned to execute the will Attorney Butcher read the will to her. (R: p. 39, lines 1-10) Attorney Butcher saw no signs of undue influence (R. p. 40, lines 1-14) R. p. 41, lines 3-8)

The February 3, 2015 will appointed the Appellant as Personal Representative. It distributed the lands and the home of the Testator more or less evenly between the Appellant and the Respondents except for Mary Green who was left out of the distribution. The residuary of the estate went to the Appellant, but the bulk of the value in the estate was in the land, the distribution of which did not favor the Appellant. Almeter B. Robinson died on February 25, 2017.

ARGUMENTS

- I. WHERE THE TESTATOR HAS GRANTED A POWER OF ATTORNEY TO THE PROPONENT OF A WILL, DOES THE RESULTING PRESUMPTION OF UNDUE INFLUENCE IMPOSE UPON THE PROPONENT OF THE WILL THE BURDEN OF GOING FORWARD TO PRESENT EVIDENCE, OR THE BURDEN OF PROOF?

Section 62-3-407 S.C. Code of Laws Ann. clearly states, "Contestants of a will have the burden of establishing undue influence, fraud, duress, mistake, revocation, or lack of testamentary intent or capacity. Parties have the ultimate burden of persuasion as to matters with respect to which they have the initial burden of proof." The General Assembly did not carve out an exception in cases where the testator has granted a power of attorney, though it could have

done so. The exception to the rule that the contestant of the will bears the burden of proof was created by the Court of Appeals in Howard v. Nasser 364 S.C. 279, 613 S.E.2d 64 (2005), which held that a presumption of undue influence in the execution of a will is directed against the proponent of a will if the decedent had created a fiduciary relationship between he and the proponent by granting the proponent a power of attorney.

Prior to Nasser, South Carolina common law in contested deed cases provided that a presumption of undue influence arises if the contestants of the validity of a deed present evidence of an existing fiduciary relationships between grantor and grantee. Middleton v. Suber 300 S.C. 402, 388 S.E.2d 639 (1990). There was no conflict between the statutory law and common law because the burden of proof in deed cases was not controlled by §62-3-407 S.C. Code of Laws Ann. In Nasser, the Court of Appeals cited another deed case, Dixon v. Dixon 362 S.C. 388, 608 S.E.2d, 849 (2005), in which the Supreme Court relied on the principles of undue influence issue in will cases to decide the undue influence issue in a deed case. The Nasser Court then relied on precedent from other jurisdictions cited in the Dixon Case as follows:

“In reaching its decision, the court utilized the principals of undue influence applicable to contested will cases. The Court relied on precedent from other jurisdictions which has found that the analysis is the same regardless of whether the underlying document sought to be set aside on the grounds that the Plaintiff was unduly influenced is a will or a deed.” Howard v. Nasser supra, emphasis added.

The problem with relying on South Carolina deed cases and the case of law of other jurisdictions on presumptions and the burden of proof in undue influence cases is that South Carolina has a statute controlling the burden of proof in will cases that does not apply to deed cases, while other jurisdictions do not. The analysis of undue influence in deed cases may be the same as in will cases in other states, but in South Carolina §62-3-407 S.C. Code of Laws Ann. sets the analysis in will cases apart from deed cases by assigning the burden of proof to the

contestant of the will throughout the trial.

To resolve the conflict between the presumption of undue influence arising from the grant of a power of attorney, and the clear language of §62-3-407 S.C. Code of Laws Ann., the Court then cites the following language from Comment of Restatement (Third) of Property:

Wills and Other Donative Transfers §8.3

“A presumption of undue influence arises if the alleged wrong doer was in a confidential relationship with the donor and there were suspicious circumstances surrounding the preparation, formulation, or execution of the donative transfer, whether the transfer was by gift, trust, will, will substitute, on a donative transfer of any other type. The effect of the presumption is to shift to the proponent the burden of going forward with the evidence, not the burden of persuasion. The presumption justifies a judgment for the contestant as a matter of law only if the proponent does not come forward with evidence to rebut the presumption.” Howard v. Nasser supra. Emphasis added.

In addition, Rule 301 S.C.R.E. states as follows:

“In all civil actions and proceedings not otherwise provided for by statute or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.”

In summary, the presumption of undue influence arising from the grant of a power of attorney shifts to the proponent of a will the burden of going forward to present evidence to rebut the presumption but does not shift the burden of proof. This crucial distinction between the burden of proof and the burden of going forward was important enough to require its own Section in the South Carolina Rules of Evidence

II. DID THE PROBATE JUDGE IMPOSE THE BURDEN OF PROOF UPON THE APPELLANT ON THE ISSUE OF UNDUE INFLUENCE?

The Honorable Probate Judge of Kershaw County is not a lawyer. In the trial of this case, she was presented with a delicate legal issue that has confounded jurists for ages, the difference between the burden of proof and the burden of going forward with evidence. Judges generally

know that a presumption shifts a burden from one party to another, but which burden is it? Is it the burden of proof or the burden of going forward to present evidence? Without legal training, the Probate Judge had a fifty-fifty chance of picking the correct burden under Rule 301 S.C.R.E. Unfortunately, she picked the wrong one.

We know that the Probate Judge imposed the burden of proof on the Appellant proponent of the will because she says that she did. On page 4 of the August 10, 2018 Order (R. p. 4), she states:

“This circumstance is very important for the Court to look at because if a confidential or Fiduciary Relationship between the Testator and the Beneficiary exist, the burden of proof rebutting undue influence falls on the beneficiary.” (R. p. 4), emphasis added.

“Argument was made on behalf of the Plaintiff that the burden of proof was met to rebut undue influence by the testimony of the Attorney Butcher wherein she testified that she did not believe that the decedent was under any undue influence of the Plaintiff beneficiary.” August 10, 2018 Order pg. 4, (R. p. 4), emphasis added.

The language in the August 10, 2018 Order could not be clearer. The Probate Judge found that the August 22, 2014, Power of Attorney created a fiduciary relationship between the testator and the Appellant creating a presumption of undue influence in the execution of the February 3, 2015 will, and she shifted the burden of proof on the issue of undue influence to the Appellant.

III. DID THE PROBATE JUDGE COMMIT AN ERROR OF LAW BY IMPOSING THE BURDEN OF PROOF ON THE PROPONENT OF THE WILL ON THE ISSUE OF UNDUE INFLUENCE?

When the Probate Judge imposed the burden of proof on the proponent of the will, the Appellant herein, she violated the clear language in §62-3-407 S.C. Code of Laws Ann. imposing the burden of proof on the contestant of the will. She violated the clear language of Howard V. Nasser supra. “The effect of the presumption is to shift to the proponent the burden of going

forward with evidence, not the burden of persuasion." Finally, she violated the clear language of Rule 301 S.C.R.E.

"In all civil actions and proceeding not otherwise provided for by statute or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast."

The error of law was prejudicial to the Appellant. The Appellant met his burden of going forward to present evidence by presenting the testimony of attorney Deborah Butcher who prepared the will and supervised its execution. She testified to the absence of undue influence as follows:

1. Q: Okay. Now, did you see any evidence of undue
 2. influence exerted by the relative that was with
 3. her?
 4. A: No.
 5. Q: Were you sensitive to that?
 6. A: Yes. Matter of fact we -- sometimes people
 7. will say, I want to make sure I did this all
 8. right. I'm actually taking one that's going on
 9. now.
 10. Q: Did you see the person that was with her
 11. threaten her in any way?
 12. A: No. She was very comfortable. That's one
 13. thing I do look for, is how comfortable
 14. they are with whoever brings them in.
- (R. p. 40, lines 1-14)
3. Q: Did you see the person that was with Mrs.
 4. Robinson do anything that would destroy her
 5. free agency in the execution of that will?
 6. A: No.
 7. Q: Now, did Almeter Robinson sign the will?
 8. A: Yes.
- (R. p. 41, lines 3-8)

Once the Appellant presented the above testimony of Deborah Butcher, the Appellant had met his burden to produce evidence rebutting the presumption of undue influence. The Appellant had done exactly what Rule 301 S.C.R.E requires, he had presented evidence in the form of

sworn testimony by a member of the South Carolina Bar to rebut a presumption of undue influence. To affirm the Probate Court Order, this Court must take the position that the sworn testimony of a member of the bar is not evidence. The Butcher testimony may not be strong enough to satisfy a burden of proof, but it does not have to be. The burden of proof of undue influence is on the Respondent from beginning to end. The Butcher testimony satisfies the burden of going forward to present evidence, and the presumption of undue influence arising from the grant of the power of attorney vanishes. See Coleman v. Palmetto State Life Ins. Co 241 S.C. 384, 128 S.E. 2d. 699 (1962)

“If it is true that where death by violent injury has occurred, there is a presumption against suicide, but this is a presumption of law and not of fact. When evidence as to the fact of suicide is introduced, the presumption vanishes and the question must be decided upon the evidence.” emphasis added.

In both orders affirming the Probate Judge’s August 10, 2018 Order, the Circuit Court largely ignored the burden shifting error of law argued by the Appellant, and instead focused on circumstantial evidence of undue influence in the trial transcript supporting the Respondent’s position, as if the issue on appeal was the sufficiency of the evidence. This is not a sufficiency of the evidence appeal. Had the Probate Judge imposed the burden of proof on the Respondents, they might have satisfied the burden of proof of undue influence. We will never know because she committed an error of law by imposing the burden of proof on the Appellant. We cannot go back and reconstruct what the outcome would have been had the Probate Judge assigned the burden of proof to the correct party.

In criminal cases, presumptions that shift the burden of proof to the Defendant have long been held to be unconstitutional, and to constitute reversible error. State v. Neva 300 S.C. 450, 388 S.E.2d 791 (1990) State v. Key 282 S.C. 413, 319 S.E.2d 338 (1984) In civil cases, burden

shifting errors of law have also resulted in the reversal of the trial court. See Middleton v. Suber 300 S.C. 402, 388 S.E.2d 639 (S.Ct. 1990)

The Probate Judge's decision in this case was controlled by an error of law, and should be reversed.

CONCLUSION

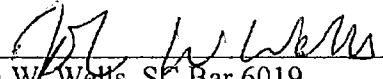
In a case tried in Probate Court without a jury, the Probate Judge becomes the trier of fact. As the trier of fact, she must weigh the evidence according to law imposing the burden of proof upon the correct party. The party having the burden of proof on the issue of undue influence must produce a higher quantum of evidence on that issue than the other party. In this case, evidence was produced by the Appellant through the testimony of Attorney Butcher that the execution of the will was free of any undue influence. The Respondents produced their own testimony that the Appellant exerted undue influence over the testator. The Probate Judge imposed the burden of proof incorrectly on the Appellant requiring him to produce a higher quantum of proof than the Respondents which higher quantum of evidence he failed to satisfy.

Because this action is one at law, neither the Circuit Court nor this Court can go back and weigh the evidence in the record to determine if the Respondents would have prevailed anyway if the Probate Judge had applied the burden of proof correctly. The October 3, 2019 Order Affirming Probate Court Order and the January 2, 2020, Amended Order Affirming Probate Court Order by the Circuit Court essentially do exactly that. Under the appropriate standard of review, this Court is limited to correcting errors of law, and the shifting of the burden of proof to the proponent of a will in violation of §62-3-407 S.C. Code of Laws Ann. is reversible error of law.

Respectfully submitted,

March 16, 2021

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THE STATE OF SOUTH CAROLINA
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Appellant,

v.

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Harrison, Herbert Robinson,
James Robinson, Leroy
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Of whom, Mary Greene,
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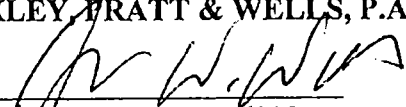
CERTIFICATE OF SERVICE

I certify that I have served the Final Brief of Appellant and Record on Appeal on Leonard R. Jordan, Jr., by depositing a copy of it in the United States Mail, postage prepaid, on March 26, 2021, addressed to Leonard R. Jordan, Jr., 211 Veterans Road, Suite D, Columbia, South Carolina, 29209.

I also certify that I have served the Final Brief of Appellant and Record on Appeal on Moultrie B. Burns by depositing a copy of it in the United States Mail, postage prepaid, on March 26, 2021, addressed to, Moultrie B. Burns, Jr., Savage, Royall & Sheheen, L.L.P., Post Office Drawer 10, Camden, South Carolina, 29021.

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THE STATE OF SOUTH CAROLINA
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Laverne Robinson, ... Appellant,

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Willene Brooks, Mary Greene, Ronnie Robinson, Almeter P. Harrison, Herbert Robinson, James Robinson, Leroy Robinson and Martha Aiken, ... Defendants,

Of Whom, Mary Greene, Ronnie Robinson, Almeter P. Harrison, Leroy Robinson and Martha Aiken are Respondents.

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STATEMENT OF ISSUES ON APPEAL

- I. DID APPELLANT EXERCISE UNDUE INFLUENCE OVER THE TESTATRIX?
- II. WHO HAS THE BURDEN OF PROOF ON THE ISSUE OF UNDUE INFLUENCE?

STATEMENT OF THE CASE

Respondents accept the Statement of the Case in the Brief of Appellant.

STANDARD OF REVIEW

“An action to contest a will is an action at law, and in such cases reviewing courts will not disturb the probate court’s findings of fact unless a review of the record discloses no evidence to support them.” *Hairston v. McMillan*, 387 S.C. 439, 445, 692 S.E.2d 549, 552 (Ct.App. 2010).

STATEMENT OF THE FACTS

Respondents accept the Statement of the Facts in the Brief of Appellant EXCEPT as altered or supplemented by the following:

(a) Almeter B. Robinson (hereinafter “Almeter Robinson” or “Mrs. Robinson”), contrary to Appellant’s claim, did not inherit any real property.

(b) The real properties mentioned in Almeter Robinson’s Wills were owned as follows:

- (i) The 10-acre tract (actually 10.76 acres) was never owned by Almeter Robinson. This tract was a part of a 41 acre tract acquired in 1981 by her son, James Robinson (hereinafter “James”), from Mary Boyd, and James deeded this tract to Ronnie Randolph Robinson and Leroy Robinson, Trustees, in 1993. (R.pp. 202-04)
- (ii) Almeter Robinson acquired an undivided one-third (1/3) interest in the 8-acre tract by deed from Nathaniel Magazine, Trustee, and her undivided interest in this tract was deeded to James and Leroy Robinson, Trustees Under Trust Agreement dated November 29, 1985, in 1987. (R.pp. 205-07)

- (iii) Almeter Robinson and Willie Robinson acquired title to the 4-acre tract from her father, Eugene Boyd, by two deeds. This tract was deeded to Martha Ann Robinson, as Trustee, in 1977. (R.p. 136, lines 10-16)

(c) In 1977-78, the house, which is located on the 4-acre tract, specifically Lot 2 of said tract, was constructed as a result of a collaboration between, and at the expense of, Mrs. Robinson's twin daughters, Martha Ann Robinson a/k/a Martha Aiken (hereinafter "Martha") and Mary Alice Robinson n/k/a Mary Greene (hereinafter "Mary"). (R.p. 91, line 22 – p. 92, line 2; p. 136, lines 5-9) The house was first occupied by Almeter Robinson in 1978, after Willie Robinson's death, and it was Mrs. Robinson's home until she died in 2017.

(d) According to the trust agreement, which supported the 1977 deed to Martha, as Trustee, the property would be held in trust for the benefit of the Donors, Almeter and Willie Robinson, during their lifetimes, that the trust would terminate at the death of the survivor of the life beneficiaries and that the trust property would be conveyed equally to: Martha, Mary, Ronnie Randolph Robinson (hereinafter "Ronnie") and Almeter Patricia Robinson Harrison (hereinafter "Patricia"). (R.p. 80, lines 3-7) There is no claim that the beneficial purpose of this Trust Agreement was not performed. Judge Branham found, in the Mediation Order Rule 5(b)(2)(B) SCRPC, filed on March 28, 2017, that the purpose of the Trust Agreement was served and "is no longer a consideration." (R.p. 17)

(e) With regard to the 4-acre tract, which included the house (Almeter Robinson's home), the tract was subdivided, and the individual lots were deeded by the following deeds:

- (i) In 2002, Martha, as Trustee, conveyed to Ronnie Lot 3 (1.00 acre) and Lot 4 (1.18 acres). (R.p. 145)

- (ii) In 2002, Martha, as Trustee, conveyed to Mary and Patricia an undivided 2/3 interest in Lots 1 and 2 (aggregate 2.02 acres). (R.pp. 129-130)
 - (iii) The said undivided 2/3 interest previously conveyed to Mary and Patricia was conveyed in 2004 to Martha (individually), with the intention that Martha have complete ownership of Lot 1 and Lot 2, which included the house. (The remaining undivided 1/3 interest was intended to be conveyed to Martha, but this conveyance was not accomplished until 2018. (R.p. 145, lines 11-25))
 - (iv) In 2004, Appellant received a deed to Lot 3 from Ronnie. (R.p. 91, lines 10-15) Appellant has owned, and exclusively possessed, Lot 3 since 2004, and he acknowledged paying taxes on the lot thereafter. (R.p. 79, lines 8-12)
- (f) Appellant acknowledged that the aforesaid deeds are valid deeds. (R.pp. 81, line 24 – p. 82, line 2)
- (g) Appellant acknowledged that, “the properties are owned or were titled of record in someone’s name other than [his] mother’s . . . [and that] at the time of her death she did not own these properties.” (R.p. 86, lines 17-25)
- (h) Appellant (the youngest child of Almeter Robinson) took over the care of Mrs. Robinson in May 2014, at which time he moved into the house, which he occupied with his mother until her death in 2017. Appellant resided with his mother during said period, and he became her primary caretaker, to the exclusion of all of her other children, including Martha, who, at all relevant times, was the sole owner of record of said house. (R.p. 76, lines 19-21; p. 137, lines 9-10; p. 143, line 18 – p. 144, line 4)
- (i) Appellant (himself) drew up a Durable Power of Attorney, appointing himself as Almeter Robinson’s attorney-in-fact; and on August 22, 2014, he took Mrs. Robinson to a law firm to execute the instrument. (R.p. 60, line 24 – p. 61, line 8) At least several of Appellant’s siblings were unaware of this Power of Attorney. (R.p. 103, lines

12-21; p. 125, line 25 – p. 126, line 3; p. 134, lines 16-19)

(j) In or before February 2015, Appellant made an appointment with Deborah Butcher, Esquire, which resulted in the preparation of Almeter Robinson's 2015 Will (the subject Will). Mrs. Robinson, who was almost 87 years old at the time, already had a Will, which she had executed in 2009. (R.p. 178)

(k) Attorney Butcher initially drafted the Will upon Appellant's instructions. (R.p. 44, lines 4-7)

(l) As found by Judge Branham, "... Attorney Butcher testified that she could not recall whether or not she met with the decedent before the will execution or if her staff took the information and prepared the documents ... and the will was prepared based upon the information provided to the attorney by the Plaintiff beneficiary" (i.e. Appellant). (R.pp. 4-5)

(m) Appellant admitted that he was present when the Will was signed by Almeter Robinson (R.p. 65, lines 16-19)

(n) The apparent purposes of the 2015 Will were to: (i) dispose of certain real property, which the testatrix (Almeter Robinson) no longer (or never) owned; (ii) bequeath the entirety of the residuary estate to Appellant; and (iii) designate Appellant as personal representative. (R.pp. 28-29)

(o) Attorney Butcher was unaware that Almeter Robinson owned none of the real properties identified in the 2015 Will. (R.p. 43) Appellant had full knowledge of the conveyances of the identified parcels to various children of Mrs. Robinson, including to himself. Although he knew that his mother owned no real property whatsoever, Appellant failed to inform Attorney Butcher of this important fact. When asked about this, Appellant

testified, “it wasn’t my will, it was my mother’s will . . . [and] [t]hat’s not my job.” (R.p. 65, line 20 – p. 66, line 6)

(p) If, as claimed by Appellant (in the FACTS portion of the Brief of Appellant), “it is apparent that Almeter B. Robinson believed that she was entitled to control the distribution of all three tracts,” which she either had never owned or had not owned since 1987, it would, likewise, be apparent that her competency to execute a Will purporting to dispose of such properties should be questioned.

(q) In her 1994 and 2009 Wills, Almeter Robinson bequeathed her residuary estate to her children equally (R.pp. 179 and 183); and in her 2015 Will, which was prepared with Appellant’s assistance, Mrs. Robinson bequeathed the entirety of her residuary estate to Appellant. (R.p. 29)

(r) In the 1994 and 2009 Wills, Almeter Robinson designated Mary (her daughter) as her Personal Representative; and in the 2015 Will, which, again, was prepared with Appellant’s assistance, she designated Appellant as her Personal Representative. Mary was not mentioned at all in the 2015 Will. (R.pp. 183, 179 and 29)

ARGUMENTS

I. APPELLANT EXERTED UNDUE INFLUENCE OVER THE TESTATRIX.

A. According to *Russell v. Wachovia Bank, N.A.*, 353 S.C. 208, 222-23, 578 S.E.2d 329, 336-37 (2003), the following factors may prove useful “in determining whether undue influence was exerted over the testator:”

- (1) **Old age and physical and mental weakness . . .**
- (2) **The person signing the paper is in the home of the beneficiary and subject to his constant association and supervision . . .**

- (3) Others have little or no opportunity to see [the testator] . . .
- (4) The Will is different from and revokes a prior Will . . .
- (5) It is made in favor of one with whom there are no ties of blood . . .
- (6) It disinherits the natural objects of [the testator's] bounty . . .
- (7) The beneficiary has procured its execution. . . .

When this list of factors is applied to the facts of this case, each factor (except factor (5)) is squarely applicable to describe the circumstances surrounding the subject Will and its procurement, as follows:

Old age and physical and mental weakness. Almeter Robinson was almost 87 years old. She was in poor physical health and required regular (24-hour) care. (R.p. 67, line 25 – p. 68, line 1) Mrs. Robinson had only an eighth-grade education. (R.p. 83, line 25) According to Patricia, her mother had dementia prior to executing the 2015 Will. (R.p. 133, lines 9-11) According to Leroy, his mother “was diagnosed with dementia and she was on dementia patches.” (R.p. 98, line 20 – p. 99, line 3)

The person signing the paper is in the home of the beneficiary and subject to his constant association and supervision. Almeter Robinson resided with Appellant (the beneficiary to whom Mrs. Robinson bequeathed the entirety of her residuary estate and the person designated by Mrs. Robinson as her Personal Representative in the 2015 Will) exclusively beginning in May 2014 and continuing until her death in 2017. (R.p. 3)

Appellant often touted the Power of Attorney (prepared by him and signed by Almeter Robinson) as his authority to be the exclusive caretaker of his mother. (R.p. 76) Leroy testified that Appellant often used the Power of Attorney “as the means of taking control of the situation with the hospital and other matters.” (R.p. 102, line 18 – p. 103, line 5)

Appellant's "control" even extended to overriding doctor's instructions for a nurse to regularly check on Mrs. Robinson. Mary testified that Appellant said, "Mama don't need no nurse;" and that, "a nurse never went to mama house . . . [and] [w]hen mama was on her death bed and needed hospice, no hospice or nobody came to mama house. Mama just stayed locked up in the house and didn't get no kind of care." (R.p. 114, line 5 – p. 115, line 16)

Others have little or no opportunity to see [the testator]. Appellant restricted visitation and communication with Almeter Robinson by her other children. (R.p. 87, line 5 – p. 88, line 5; p. 94, line 16 – p. 95, line 1; p. 96, lines 1-12; p. 115, lines 18-25; p. 133, line 12; p. 134, lines 1-8; p. 138, lines 2-25; p. 139, lines 1-4) Appellant used threats, including threats of physical force, against family-members in order to demonstrate his complete control over his mother. (R.p. 96, line 13 – p. 97, line 1; p. 116, line 13 – p. 117, line 8; p. 141, line 8 – p. 142, line 1)

"Generally, in cases where a will has been set aside for undue influence, there has been evidence of threats, force, and/or restricted visitation, or an existing fiduciary relationship." *Russell v. Wachovia Bank, N.A.*, 353 S.C. 208, 217, 578 S.E.2d 329, 333 (2003).

Appellant demanded that his siblings obtain his permission before coming to visit their mother, and Appellant often called 9-1-1 and involved the police to intimidate certain of his siblings to refrain from interacting with their mother. On December 16, 2014, Appellant, upon returning home late, found his mother to be gone; and he called 9-1-1, claiming that Mary took Mrs. Robinson without his permission. It turns-out that the aide assigned to stay with Mrs. Robinson was sick, and that Mrs. Robinson would have been left alone if Mary had not taken her mother to her home. (R.p. 69, line 12 – p. 77, line 25)

Confrontations continued thereafter, with Appellant demanding that Mary leave their mother's home and calling the police. (R.p. 109, line 8 – p. 113, line 18) Appellant threatened

Mary, "you better not even come here again and get her without my permission." (R.p. 77, lines 13-25) Appellant also threatened Greg Aiken (Martha's husband): "Don't you ever come back to mama's house for nothing." (R.p. 141, line 18 – p. 142, line 1)

As found by Judge Branham: (a) Ronnie testified that, "Laverne changed everything;" (b) Leroy testified that, "He controlled her until the day she died;" and (c) Martha testified that Appellant "told her to call before she came to visit," and "he changed the locks on the house" (the house which she alone owned). (R.p. 3) Ronnie also testified that, when Laverne moved-in, his opportunities to visit changed altogether. (R.p. 87, lines 5-8) Leroy also testified that, after Laverne came, "I felt like my mom was in jail. When you would call there, wouldn't answer the calls. When you go there, wouldn't answer the door. And not only that, felt somewhat threatened to go there . . . he wouldn't allow me to be in the room when the doctor called in. He asked me to leave out when she was dying." (R.p. 95, line 3 – p. 96, line 12) Patricia also testified that Appellant's moving-in with Mrs. Robinson substantially impacted her ability to visit with her mother. (R.p. 130, line 9 – p. 131, line 7; p. 133, line 12 – p. 134, line 8)

The Will is different from and revokes a prior Will. The 2015 Will is remarkably different from, and expressly revokes, the two preceding Wills. Reference is made to the three Wills included in the Record. (R.pp. 28, 178 and 182) The primary differences have to do with the residuary estate and the designated personal representative. In her earlier Wills, Almeter Robinson bequeathed her residuary estate to her children equally (R.pp. 179 and 183); and in her 2015 Will, Mrs. Robinson bequeathed the entirety of her residuary estate to Appellant. (R.p. 29) In her earlier Wills, Almeter Robinson designated Mary as her Personal Representative; and in the 2015 Will, she designated Appellant as her Personal Representative.

It disinherits the natural objects of [the testator's] bounty. The 2009 Will left the rest

and residue of Almeter Robinson's estate equally to her nine (9) surviving children; and the 2015 Will left the entire rest and residue of the estate exclusively to Appellant. (R.pp. 29 and 179)

The beneficiary has procured its execution. Appellant arranged for the preparation of the 2015 Will, and he accompanied Mrs. Robinson to the attorney's office to execute the Will. (R.p. 42, lines 3-11) He also provided instructions to Attorney Butcher and withheld important information regarding property ownership from Ms. Butcher. (R.p. 43, line 9 – p. 44, line 7; p. 65, line 16 – p. 66, line 6) Judge Branham found that Appellant obtained copies of prior Wills of Mrs. Robinson and “gave this information to the Butcher Law Firm to draft the 2015 Will.” (R.p. 4)

The 2015 Will does not mention Mary at all. Importantly, Appellant and Mary were often at odds. Appellant testified, “Mary’s been a real pain in my butt trying to take care of my mom.” (R.p. 71) Mary testified at length regarding her and her husband’s confrontations with Appellant, which involved Appellant calling the police and threatening Mary’s husband and Leroy. (R.p. 105, line 1 – p. 117, line 8)

The confrontation between Mary and Appellant, which took place on December 16, 2014 (see page 7, *supra*), was less than two months prior to the execution of the 2015 Will. Mary was unaware that she has been excluded from the 2015 Will; and she believed that Appellant (not her mother) excluded her. (R.p. 118, line 5 – p. 122, line 4; p. 127, lines 4-12) Again, Mary was the person whom Mrs. Robinson entrusted to handle her estate in her previous Wills, and the 2015 Will (orchestrated by Appellant) fails to even mention Mary. Appellant failed to explain this circumstance.

B. The Honorable Debra B. Branham, Kershaw County Probate Judge, properly concluded that Appellant “had total control of his mother’s person . . . [from] May of 2014 until her death.” (R.p. 3) She further concluded that Appellant “did not deny that he was ‘basically out

to have all the control that you can possibly have.’ His response was ‘I took care of my mom.’” (R.p. 3)

Judge Branham also properly concluded that the Power of Attorney (executed by Almeter Robinson, which was prepared by Appellant and appointed him as agent) “coupled with the fact that he was the primary caretaker of his mother from May of 2014 up to her death, shows the Court that a confidential and fiduciary relationship did exist between the Plaintiff, a beneficiary, and the decedent.” (R.p. 4).

Judge Branham also properly concluded, “based upon all the testimony presented including the testimony of the Plaintiff beneficiary, the Plaintiff beneficiary had total control of his mother’s person, excluding or limiting his siblings’ visitation and communications with the decedent from the time he moved in with his mother in May or 2014 until her death.” (R.p. 3)

Appellant appealed Judge Branham’s Order to the circuit court; and following a hearing, the Honorable Robert E. Hood, Judge, Court of Common Pleas for Kershaw County, affirmed, in all respects, Judge Branham’s Order. Judge Hood specifically found that Judge Branham “considered the facts of undue influence . . . [and] found that Respondents produced sufficient evidence to support a finding of undue influence by Appellant.” (R.p. 12)

II. WHO HAS THE BURDEN OF PROOF ON THE ISSUE OF UNDUE INFLUENCE?

A. Presumption of Undue Influence

“[W]hen there is a confidential relationship, a presumption of undue influence arises, and “the proponents of the will must offer evidence in rebuttal.” *Lee v. Locklear (In re Estate of Anderson)*, 381 S.C. 568, 574, 614, S.E.2d 176, 180 (Ct. App. 2009).

“The party seeking to challenge a will on the basis of undue influence must present evidence which ‘unmistakenly and convincingly shows the party’s will was overborne by the

defendant or someone acting on his behalf.' However, the existence of a confidential relationship creates a presumption that the instrument is invalid, and the burden then shifts to the proponent of the instrument to affirmatively show the absence of undue influence." *Id.*

"The contestants continue to bear the burden of proof throughout the will contest. In determining whether the contestants sustained such burden, the evidence has to be viewed in the light most favorable to the contestants." *Id.* (emphasis added)

Judge Branham properly found that, because a confidential relationship existed, "the burden of proof rebutting undue influence falls on the beneficiary." (R.p. 4) As commonly used, the word "rebutting" means taking away something or overcoming a presumption. Judge Branham's finding placed on Appellant the burden of countering prior evidence of undue influence. Judge Branham then found that "the burden to rebut undue influence was not met." (R.p. 4)

Judge Hood agreed, finding that Judge Branham's Order "also thoroughly explained Judge Branham's conclusions that, by virtue of his confidential relationship with the testatrix (which raised a presumption of undue influence, which presumption was uncontested), Appellant had the burden to rebut undue influence and that such burden to rebut was not met." (R.p. 12)

B. Even Ignoring the Presumption, Undue Influence was Proved by Respondents.

Appellant, by his argument that, "the presumption of undue influence arising from the grant of a power of attorney shifts to the proponent of a will [Appellant] the burden of going forward to present evidence to rebut the presumption, but does not shift the burden of proof," seems to suggest that the proof of undue influence in this case is a close-call and falls on the fact that Appellant was named as Mrs. Robinson's attorney-in-fact (agent). That is not the case. As indicated herein and in the separate Orders issued by Judge Branham and Judge Hood, the evidence of Appellant's

exercise of undue influence is quite persuasive and sufficient, even ignoring the presumption, to invalidate the subject Will.

Judge Hood specifically found that, “S.C. Code Ann. §62-3-407 states that the burden of establishing undue influence is on the contestants of a Will. Although this statute is not specifically cited in her Order, Judge Branham’s detailed evaluation of the circumstances of the 2015 Will shows that she not only considered the facts of undue influence presented by Respondents but that she found that Respondents produced sufficient evidence to support a finding of undue influence by Appellant.” (R.pp. 11-12) (emphasis added)

Judge Hood further found that, “Judge Branham made a finding of undue influence upon the testamentary act based on factors including: Appellant’s control of his mother’s person, his control of the information provided to (and withheld from) the Will preparer, his presence at the execution of the Will and the significant changes the Will made to his mother’s estate plan. . . [and that] Judge Branham’s decision that Appellant failed to meet the burden of overcoming the presumption of undue influence was supported by the evidence and was within the Judge’s discretion.”¹ (R.p. 9)

Judge Branham ruled that the change of the disposition of the rest and residue of the estate to only Appellant is “an unjust distribution” (R.p. 3). By her ruling, Judge Branham is not substituting her judgment for that of Mrs. Robinson. Instead, she is identifying a factual circumstance supporting Respondents’ argument of undue influence, which “stood out with the Court.” (R.p. 3)

There are, primarily, two significant changes between the 2009 Will and the 2015 Will.

¹ This quote came from Judge Hood’s initial Order, which was amended by his Amended Order Affirming Probate Court Order) (R.p. 11).

The 2009 Will left the rest and residue of Almeter Robinson's estate equally to her surviving children and named Mary as the Personal Representative. (Mary had also been designated as Personal Representative in the Will executed by Almeter Robinson in 1994.) The 2015 Will left the rest and residue of the estate exclusively to Appellant and named Appellant as Personal Representative. Importantly, the 2015 Will does not even mention Mary, with whom Appellant was often bickering. (R.p. 71)

Appellant provided to Attorney Butcher the 1994 and 2009 Wills executed by Almeter Robinson (R.p. 42), and he led (or left) Ms. Butcher to believe that Mrs. Robinson owned several tracts of real property and had the right to dispose of these properties by the 2015 Will. (R.p. 43) Judge Branham found that “. . . Attorney Butcher testified that she would not have prepared the 2015 Will if she had known that the property was in trust . . . [and that,] as a fiduciary, the Plaintiff beneficiary [i.e. Appellant] had a duty to disclose this information to Attorney Butcher which could have revealed more information to Attorney Butcher who testified that she would not have prepared a will had she known.” (R.p. 5)

The information provided to Attorney Butcher about these tracts of real property (as set forth in the previous Wills) was erroneous, and Appellant knew that it was erroneous. (R.p. 65, line 20 – p. 66, line 6) Appellant failed to disclose correct information to Ms. Butcher, and this failure led Ms. Butcher to draft a Will, which attempted a disposition of real property which was both illogical and impractical.

Judge Branham did not shift the ultimate burden of proof on the issue of undue influence to Appellant, and Respondents, in fact, satisfied the burden of proof by unmistakable and convincing evidence. Although both judges concluded that Appellant failed to satisfy the burden to rebut the presumption of undue influence, this point can be considered moot, as Respondents

met their burden of proof on the issue of undue influence, convincingly showing that Appellant exerted undue influence over Mrs. Robinson, which improperly affected her judgment and will when performing her testamentary act.

CONCLUSION

Appellant unquestionably had a confidential relationship with his mother, and he failed to rebut the presumption of undue influence; but even ignoring this presumption, Respondents made a compelling case that Appellant exerted undue influence over his mother. Respondents produced a higher quantum of evidence on that issue than did Appellant.

Judge Branham's Order, which she herself prepared, reflects that she thoroughly considered all the evidence and properly applied the law, concluding that, "based upon all of the testimony presented including testimony of the Plaintiff beneficiary, the Plaintiff beneficiary had **total control** of his mother's person" (R.p. 3) (emphasis added). Judge Hood agreed wholeheartedly with Judge Branham's findings and conclusions.

Judge Branham's Order and the subsequent Order of Judge Hood should be affirmed.

Respectfully submitted,

s/Leonard R. Jordan, Jr.

Leonard R. Jordan, Jr., #3221

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Camden, South Carolina

March 23, 2021

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Robert E. Hood, Circuit Court Judge

Case No. 2018-CP-28-00726

Appellate Case No. 2020-000063

In the Matter of: Almeter B. Robinson

Laverne Robinson,..... Appellant,

v.

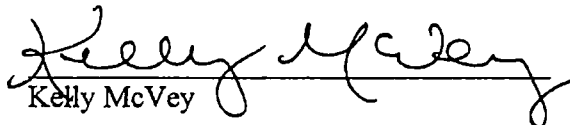
Willene Brooks, Mary Greene, Ronnie Robinson, Almeter P. Harrison, Herbert Robinson, James Robinson, Leroy Robinson and Martha Aiken, ... Defendants,

Of whom, Mary Greene, Ronnie Robinson, Almeter P. Harrison, Leroy Robinson and Martha Aiken are Respondents.

PROOF OF SERVICE

I, Kelly McVey, of Jordan Law Firm, attorney for Respondent, Martha Aiken, hereby certify that I have, this 23rd day of March, 2021, served the Brief of Respondents upon John W. Wells, Esquire, attorney for Appellant, Laverne Robinson, by mailing a copy thereof, postage prepaid, to the address indicated below:

John W. Wells, Esquire
Baxley, Pratt & Wells, P.A.
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Kelly McVey

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The South Carolina Court of Appeals

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Re: In the Matter of: Almeter B. Robinson (2)
Appellate Case No. 2020-000063

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen

CLERK

cc: The Honorable Robert E. Hood

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

In the Matter of: Almeter B. Robinson (Decedent)

Laverne Robinson, Appellant,

v.

Willene Brooks, Mary Greene, Ronnie Robinson,
Almeter P. Harrison, Herbert Robinson, James Robinson,
Leroy Robinson, and Martha Aiken, Defendants,

Of Whom Mary Greene, Ronnie Robinson, Almeter P.
Harrison, Leroy Robinson, and Martha Aiken are the
Respondents.

Appellate Case No. 2020-000063

Appeal From Kershaw County
Robert E. Hood, Circuit Court Judge

Unpublished Opinion No. 2022-UP-243
Submitted May 1, 2022 – Filed June 8, 2022

AFFIRMED

John W. Wells, of Baxley, Wells & Benson, of Lugoff,
for Appellant.

Moultrie B. Burns, Jr., of Savage Royall & Sheheen, of
Camden, for Respondents Mary Greene, Ronnie
Robinson, Almeter P. Harrison, and Leroy Robinson.

Leonard R. Jordan, Jr., of Jordan Law Firm, of Columbia,
for Respondent Martha Aiken.

PER CURIAM: In this action for formal appointment and admission of a will for probate, Laverne Robinson appeals the circuit court's order affirming the probate court's determination that he did not rebut the presumption of undue influence created by his fiduciary and confidential relationship with Almeter Robinson, the testatrix. On appeal, Laverne argues the probate court improperly shifted the burden of proof to him to disprove undue influence, when the burden to prove undue influence should have remained on the contestants of the will, Willene Brooks, and Respondents Mary Greene, Ronnie Robinson, Almeter P. Harrison, Leroy Robinson, and Martha Aiken. We affirm pursuant to Rule 220(b), SCACR, and the following authorities: *Hairston v. McMillan*, 387 S.C. 439, 445, 692 S.E.2d 549, 552 (Ct. App. 2010) ("An action to contest a will is an action at law, and in such cases reviewing courts will not disturb the probate court's findings of fact unless a review of the record discloses no evidence to support them."); *Bob Jones Univ. v. Strandell*, 344 S.C. 224, 230, 543 S.E.2d 251, 253 (Ct. App. 2001) ("If a proceeding in the [p]robate [c]ourt is in the nature of an action at law, review by the [c]ircuit [c]ourt and [appellate courts] extends merely to the correction of errors of law."); S.C. Code Ann. § 62-3-407 (2022) ("Contestants of a will have the burden of establishing undue influence, fraud, duress, mistake, revocation, or lack of testamentary intent or capacity."); *Gunnells v. Harkness*, 431 S.C. 116, 122, 847 S.E.2d 97, 100 (Ct. App. 2020) ("A contestant of a will challenging the validity of the will on the basis of undue influence bears the burden of proof and must present evidence showing the testatrix's will was overborne by that of the influencer or someone acting on his behalf."); *id.* at 123, 847 S.E.2d at 100 ("Successful will contests asserting undue influence often include evidence of threats, force, restricted visitation, or an existing fiduciary relationship."); *id.* ("The existence of a fiduciary relationship between the influencer and the testatrix creates a rebuttable presumption of undue influence."); *Howard v. Nasser*, 364 S.C. 279, 288, 613 S.E.2d 64, 68-69 (Ct. App. 2005) ("[A]lthough the proponents of the will must present evidence in rebuttal, they do not have to affirmatively disprove the existence of undue influence. Instead, the contestants of the will still retain the ultimate burden of proof to invalidate the will."); *Calhoun v. Calhoun*, 277 S.C. 527, 530, 290 S.E.2d 415, 417 (1982) ("In determining whether the contestants

sustained such burden [of proof], the evidence has to be viewed in the light most favorable to the contestants."); *Gunnells*, 431 S.C. at 124, 127, 847 S.E.2d at 101-02 (concluding evidence supported the probate court's finding that the testatrix's execution of the at-issue will was a product of the appellant's undue influence, even when the attorney who drafted the at-issue will testified the testatrix assured the attorney that she was not pressured into changing her will).

AFFIRMED.¹

GEATHERS and HILL, JJ., and LOCKEMY, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

JUN 22 2022

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

SC Court of Appeals

Robert E. Hood, Circuit Court Judge

Case No. 2018-CP-28-00726

Appellate Case No. 2020-000063

Laverne Robinson,

Appellant,

v.

Willene Brooks, Mary
Green,
Ronnie Robinson, Almeter
P. Harrison, Herbert
Robinson, James Robinson,
Leroy Robinson and Martha
Aiken,

Defendants,

Of whom, Mary Green,
Ronnie Robinson, Almeter
P. Harrison, Leroy Robinson
and Martha Aiken are
Respondents.

Respondents.

PETITION FOR REHEARING

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PETITION FOR REHEARING

The Appellant petitions the Court of Appeals for a rehearing of the above captioned case based on the following points that were overlooked or misapprehended by the Court:

- I. The Court overlooked the clear language in the Probate Judge's August 10, 2018, Order shifting the burden of proof from the contestant of the will to the proponent of the will.
- II. The Court cited numerous authorities for the proposition that the contestant of the will has the burden of proof throughout the trial, and then affirmed the Probate Judge's August 10, 2018 Order that imposed the burden of proof on the proponent of the will.

STATEMENT OF THE CASE

This is an appeal from a Petition filed in the Probate Court for Kershaw County on August 14, 2017, seeking to admit a copy of a will executed by Almeter Robinson on February 3, 2015, and have the Appellant appointed as Personal Representative in accordance with the will. An Answer was filed on behalf of Respondents Mary Greene, Ronnie Robinson, Almeter P. Harrison, Leroy Robinson, and Martha Aiken asserting that the February 3, 2015, will had been revoked, that it was executed when the decedent lack capacity or was under undue influence by the Appellant. The Answer was filed on September 15, 2017.

After the Answer was filed, but before the case was tried, the Appellant discovered and filed the original will. Also, after the Answer was filed but before the case was tried, the Respondent Martha Aiken relieved her attorney of record Moultrie B. Burns, Jr. and retained Leonard R. Jordan, Jr. to represent her in this matter.

Almeter B. Robinson died a resident of Kershaw County on February 25, 2017. At the time of her death, Almeter Robinson had no spouse, and the Appellant and the Respondents were her surviving children. Respondent Herbert Robinson died after the case was filed, but before the trial.

The case was tried before the Honorable Debra B. Branham on July 9, 2018. Her Order dated August 10, 2018, ruled that the February 3, 2015, will was properly executed according to §62-2-502; that insufficient evidence of lack of capacity by the testator to execute the will was presented; and that the February 3, 2015, will was invalid because of

undue influence over the testator exerted by the Appellant. (R. p. 1-6)

The Appellant filed and served his Notice of Intent to Appeal to Circuit Court on August 17, 2018. The Appeal was heard by the Honorable Robert E. Hood on September 23, 2019. The Honorable Robert E. Hood issued his Order Affirming the Probate Court Order on October 3, 2019. The Appellant filed a Motion to Alter or Amend a Judgment under Rule 59(e) SCRCP on October 8, 2019. The Honorable Robert E. Hood issued his Amended Order Affirming Probate Court Order on January 2, 2020. The Appellant filed his Notice of Appeal on January 14, 2020. The Appellant timely ordered a transcript of the September 23, 2019, appeal hearing which was delivered to Appellant's counsel on December 18, 2020. The Court of Appeals issued an Unpublished Opinion on June 8, 2022, affirming the Circuit Court Order dated January 2, 2020.

ARGUMENT

- I. The Court overlooked the clear language in the Probate Judge's August 10, 2018, Order shifting the burden of proof from the contestant of the will to the proponent of the Will.

The key issue in this appeal was whether or not the Probate Judge imposed the burden of proof on the Appellant, the proponent of the will, in violation of §62-3-407 S.C. Code of Laws Ann. If she did impose the burden of proof on the wrong party in violation of a statute, she committed an error of law. No weighing of the evidence is necessary if the trial court committed a reversible error of law.

The clear language on page 4 of the August 10, 2018, Order (R.p.4) is as follows:

"This circumstance is very important for the Court to look at because if a confidential or Fiduciary Relationship between the Testator and the Beneficiary exist, the burden of proof rebutting undue influence falls on the beneficiary." (R. p. 4), emphasis added.

"Argument was made on behalf of the Plaintiff that the burden of proof was met to rebut undue influence by the testimony of the Attorney Butcher wherein she testified that she did not believe that the decedent was under any undue influence of the Plaintiff beneficiary." August 10, 2018, Order pg. 4, (R. p. 4), emphasis added.

The Probate Judge clearly imposed the burden of proof on the wrong party, and the Court of Appeals clearly overlooked this error of law. The above citations from the Probate Judge's August 10, 2018, Order appear nowhere in the June 8, 2022, Unpublished Opinion.

II. The Court cited numerous authorities for the proposition that the contestant of the will has the burden of proof throughout the trial, and then affirmed the Probate Judge who imposed the burden of proof on the proponent of the will.

In its June 8, 2022, Unpublished Opinion, the Court of Appeals correctly cited the law of South Carolina that the contestant of a will has the burden of proof as to undue influence:

S.C. Code Ann. § 62-3-407 (2022) ("Contestants of a will have the burden of establishing undue influence, fraud, duress, mistake, revocation, or lack of testamentary intent or capacity."); *Gunnells v. Harkness*, 431 S.C. 116, 122, 847 S.E.2d 97, 100 (Ct. App. 2020)

("A contestant of a will challenging the validity of the will on the basis of undue influence bears the burden of proof and must present evidence showing the testatrix's will was overborne by that of the influencer or someone acting on his behalf.") *Howard v. Nasser*, 364 S.C. 279, 288, 613 S.E.2d 64, 68-69 (Ct. App. 2005) ("[A]lthough the proponents of the will must present evidence in rebuttal, they do not have to affirmatively disprove the existence of undue influence. Instead, the contestants of the will still retain the ultimate burden of proof to invalidate the will."); *Calhoun v. Calhoun*, 277 S.C.527, 530, 290 S.E.2d 415, 417 (1982)

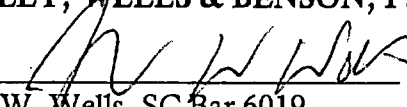
After citing the correct proposition of law that the contestant of the will, the Respondent in this case, has the burden of proof, the Court of Appeals, without explanation, affirmed the Probate Judge's August 10, 2018, Order which does just the opposite. The Probate Judge imposed the burden of proof on the proponent of the will by clear language appearing not once but twice in the August 10, 2018, Order. The only possible explanation for the ruling in the June 8, 2022, Unpublished Opinion is that the Court of Appeals overlooked the clear language in the trial court's order imposing the

burden of proof on the Appellant as argued above. The Order of the trial should have been reversed.

Respectfully submitted,

June 22, 2022

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Robert E. Hood, Circuit Court Judge

Case No. 2018-CP-28-00726

Appellate Case No. 2020-000063

RECEIVED

JUN 22 2022

SC Court of Appeals

In the Matter of: Almeter B. Robinson

Laverne Robinson,

Appellant,

v.

Willene Brooks, Mary Greene,
Ronnie Robinson, Almeter P.
Harrison, Herbert Robinson,
James Robinson, Leroy
Robinson and Martha Aiken,

Defendants,

Of whom, Mary Greene,
Ronnie Robinson, Almeter P.
Harrison, Leroy Robinson and
Martha Aiken are
Respondents.

Respondents.

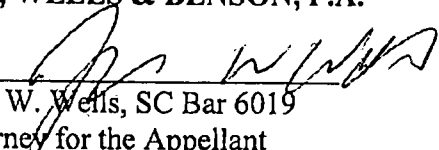
PROOF OF SERVICE

I certify that I have served the Petition for Rehearing on Leonard R. Jordan, Jr., by depositing a copy of it in the United States Mail, postage prepaid, on June 22, 2022, addressed to Leonard R. Jordan, Jr., 211 Veterans Road, Suite D, Columbia, South Carolina, 29209.

I also certify that I have served the Petition for Rehearing on Moultrie B. Burns by depositing a copy of it in the United States Mail, postage prepaid, on June 22, 2022, addressed to, Moultrie B. Burns, Jr., Savage, Royall & Sheheen, L.L.P., Post Office Drawer 10, Camden, South Carolina, 29021.

June 22, 2022

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The South Carolina Court of Appeals

In the Matter of: Almeter B. Robinson (Decedent)

Laverne Robinson, Appellant,

v.

Willene Brooks, Mary Greene, Ronnie Robinson,
Almeter P. Harrison, Herbert Robinson, James Robinson,
Leroy Robinson, and Martha Aiken, Defendants,

Of Whom Mary Greene, Ronnie Robinson, Almeter P.
Harrison, Leroy Robinson, and Martha Aiken are the
Respondents.

Appellate Case No. 2020-000063

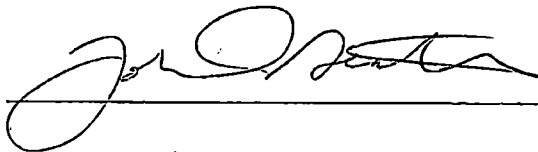
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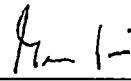
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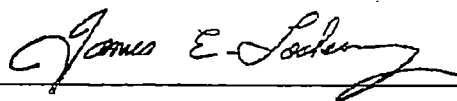
S.C. SUPREME COURT

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.

 J.

 A.J.

Columbia, South Carolina

FILED
Sep 07 2022

cc:

John W. Wells, Esquire

Leonard R. Jordan, Jr., Esquire

Moultrie B. Burns, Jr., Esquire

The Honorable Robert E. Hood