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Dec 02 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM OCONEE COUNTY
Court Of Common Pleas

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

APPELLATE CASE NO.: 2021-001552

Dorothy Pierce.....Appellant,

V.

Jared Adam Pierce.....Respondent.

MOTION TO SETTLE APPELLANT’S AMENDED RECORD ON APPEAL

NOW COMES the appellant moving before this honorable court to settle the record on appeal in the within case as the appellant and the respondent disagree on what matters are properly included on the record on appeal.

The Appellant contends that certain matters submitted to the probate court during the hearing of the appellant’s amended motion for a new trial on October 01, 2021, were properly included pursuant to the South Carolina rule of civil procedure 59. The respondent disagrees.

Each item that the respondent frivolously claimed was omitted from the record on appeal was a part of the Amended Record on Appeal.

In this instant case, Item A, **the appellant’s amended motion for a New Trial, is found on page 43** of the Appellant’s Amended Record on Appeal. It is not omitted as the respondent falsely alleged in his motion to strike the appellant’s Amended Record on Appeal.

Likewise, **the appellant’s Notice of Intent to Appeal is located on page 66** of the Amended Record on Appeal, contrary to the respondent’s frivolous allegations.

All the other documents that the respondent claimed were not admitted into evidence were part of the documents/evidence submitted during the hearing of the appellant’s Motion for a New trial on October 01, 2021. During this hearing, the respondent was presented with copies of each of the following documents, and the probate court Judge admitted all the documents without any objection from the Respondent. These documents became part of the lower court’s record as referenced on the Probate Court’s Transcript for the New trial hearing dated October,01,2021:

- I. **Physician's note regarding Tammy Youngblood dated September 28, 2021.** According to the probate court transcript dated October 01, 2021, the appellant presented this document to the court and the respondent on the amended ROA. **pages 198-199.** This document is included in the amended ROA. **page 286.**
- II. **The handwriting report of Mr. Travis King dated July 29, 2021.** The appellant presented this document to the trial court and the respondent on the amended ROA. **page 204.** This document is located on the amended ROA. **page 295.**
- III. **Copies of text messages:** The appellant presented a copy of these text messages to the trial court as referenced on the probate court transcript dated October 01, 2021, on the amended ROA. **page 202.** The text messages can be located on the amended ROA. **page 289.**
- IV. **The articles and publications related to forensic document examination.** According to the probate court transcript dated October 01, 2021, the appellant presented these documents to the court and the respondent on the amended ROA. **page 194.** The documents are included in the amended ROA. **page 302.**
- V. **The Comprehensive Background report on the Respondent Jared Adam Pierce.** According to the probate court transcript dated October 01, 2021, the appellant presented this document to the court and the respondent on the amended ROA. **pages 190 and 200.** The document can be located on the amended ROA. **page 293.**
- VI. **Voluntary statement (Affidavits) of Tammy Youngblood and Deana Walker dated February 8, 2021.** According to the probate court transcript dated October 01, 2021, the appellant presented this document to the trial court and the respondent on the amended ROA. **page 201.** The document can be located on the amended ROA. **pages 287 and 288.**

CONCLUSION

The appellant's final brief raises issues as to whether items presented to the trial court as part of the record become a part of this Record on Appeal.

The Appellant contends that the appellate court shall answer this question in the affirmative and require the respondent to file his final brief in a timely manner.

Dated: 12/2/2022

S/Robert L. Gailliard
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Attorney for Appellant

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PROOF OF SERVICE

I certify that I have served the Motion to Settle Appellant’s Amended Record by electronic service on December 02, 2022, addressed to his attorney of record Richard Hunt McDuff, Merrell, Jahn, PA, 119 Professional Park Drive, #8, Seneca, SC 29678.

Executed this 2nd day of December 2022.

S/Robert L. Gailliard,
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