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**Dec 15 2022**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Letitia H. Verdin

Common Pleas Case Number: 2021-CP-23-0362

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Appellate Case No. 2021-001504

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JAYNE LAFORGE STOVALL,

*Appellant,*

v.

PAULETTE B. STOVALL AND  
WILLIAM S. STOVALL OF WHOM  
PAULETTE B. STOVALL IS THE  
RESPONDENT,

*Appellee*

**Reply to Appellant's Motion to Quash**

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COMES NOW Respondent Paulette Stovall as a Co-Trustee of the Walter Stephen Stovall Trust (“Respondent”) and would respectfully show the Court as follows in reply to Appellant’s Motion to Quash.

**STATEMENT OF THE CASE<sup>1</sup>**

On or about November 1, 2019, Appellant filed with the Greenville County Probate Court a Summons and Petition seeking, *inter alia*, removal of Respondent Paulette Stovall as a Co-Trustee of the Walter Stephen Stovall Trust. [App. 8 ¶¶ 41-42].

On July 7, 2021, the Greenville County Probate Court conducted a final merit hearing at which time Appellant was given an opportunity to present witnesses and evidence in support of the averments contained in her summons and petition. Appellant called two witnesses and did not enter a single piece of evidence into the record during the hearing. [App. 11-20]. In its July 28, 2021, Order, the Court found that Appellant failed to present any evidence to satisfy her burden of proof regarding Appellant’s claims 1-7. [App. 24]. The Court did find, however, that Respondent had presented sufficient evidence to satisfy her burden of proof related to her claims for Breach of Fiduciary Duty and Removal of Appellant as Co-Trustee. [App. 24-25].

On or about August 5, 2021, Appellant filed her Notice of Appeal with the Greenville County Court of Common Pleas. [App. 28]. On or about November 2, 2021, Appellee filed her Motion to Dismiss Appellant’s appeal and supporting Memorandum of Law. [App. 34 & 38]. Appellee argued three (3) independent bases in support of her Motion to Dismiss: (1) Appellant failed to file her Statement of Issues on Appeal with the clerk with proof of delivery on all parties within forty-five (45) days after receipt of the written order; (2) Appellant failed to file her Designation of

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<sup>1</sup> Because the Record on Appeal has not yet been prepared, the documents relevant to this Motion are included in the concurrently filed Appendix, which is cited as “App. \_\_\_\_”.

Matter to be Included in the Record on Appeal with the clerk with proof of delivery; and (3) Appellant failed to serve a copy of her initial brief on all parties to the appeal and failed to file with the clerk of the circuit court one copy of the brief with proof of service, each of which constituted violations of S.C. Code §§62-1-307(b) (d), and (e); and by extension, R. (208)(b)(1)(B), SCACR and R. 209, SCACR. [Id]. On November 17, 2021, the Greenville County Court of Common Pleas dismissed Appellant's initial appeal citing Appellant's failure to adhere to a single procedural requirement promulgated under South Carolina Code §§62-1-307(b) (d), and (e). [App. 45]. A subsequent Motion to Reconsider was filed by Appellant which was ultimately denied by the circuit court on or about December 7, 2021. [App. 48 & 54].

The instant appeal was filed on or about December 15, 2021. [App. 57]. On December 23, 2021, this Court provided notice to Appellant regarding deficiencies in her notice of appeal, namely, failure to provide proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR [App. 59].

On January 7, 2022, this Court provided notice to Appellant regarding deficiencies in her notice of appeal, namely, that Appellant's proof of service was not in compliance with SCARC, which requires proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR. [App. 61].

On January 18, 2022, this Court provided notice to Appellant that her time for ordering the transcript had expired and provided that within ten (10) days Appellant must file a copy of the letter showing that you have timely ordered the transcript. [App 62].

On or about February 8, 2022, Appellant requested an extension to file transcript with this Court which was granted on or about March 10, 2022. [App. 68 & 69]. This Court's March 10, 2022, Order granted Appellant's request for an extension and required Appellant to "make

satisfactory arrangements, in writing with the court report for furnishing the transcript.” [Id].

On or about March 28, 2022, this Court dismissed Appellant’s appeal due to Appellant’s failure to make satisfactory arrangements in writing as required by the Court’s order dated March 10, 2022, and Rule 207. [App. 69].

On June 9, 2022, following a Motion to Reinstate the Appeal because no transcript existed<sup>2</sup> related to the lower court’s dismissal of the circuit court appeal, this Court issued an Order reinstating the instant appeal. [App. 70].

On June 22, 2022, this Court provided notice to Appellant regarding deficiencies related to her initial brief, namely, that the initial brief needed to be corrected within ten (10) days else the appeal would be dismissed once again. The Court noted the following deficiencies:

- (1) Initial brief not accompanied by a designation of matter to be included on appeal
- (2) Table of contents and table of cases do not have page references
- (3) Improper pagination
- (4) Brief was not substantially in the format shown by Form 13 in Appendix C to part II of the SCACR.

[App. 71].

On or about June 28, 2022, Appellant submitted an amended brief. [App. 73].

In response to Appellant’s amended brief, Respondent filed a Motion to Dismiss or in the Alternative Strike, arguing that Appellant failed to adhere to Rules 208, 209, and 210. [App. 93].

On or about September 29, 2022 this Court ordered a denial of Respondent’s Motion to Dismiss and a grant of Respondent’s Motion to Strike and instructed Appellant, for the second time, to “file and serve a second amended initial brief that **omits references to any matter not**

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<sup>2</sup> A full transcript exists and is currently in Respondent’s possession.

**presented to the lower court...**” [App. 82] (Emphasis Added).

On or about October 18, 2022 Appellant filed her second amended initial brief. [App. 83].

On or about November 15, 2022 Respondent filed a renewed Motion to Strike or in the Alternative to Dismiss. [App. NO]

On or about November 28, 2022 Appellant filed with this Court a “Motion to Quash Respondent’s Renewed Motion to Strike or in the Alternative to Dismiss Appellant’s Initial and Emended [*sic*] Brief.” In addition to this requested relief, Appellant ends her brief seeking “... summary judgment to be issued by this Court.” [App. 117]

On November 30, 2022 a deficiency notice was sent to Appellant requiring payment of the fifty dollar (\$50.00) motion fee. That fee was forwarded to the Court on December 5, 2022. [App. 120].

This reply followed.

#### ARGUMENT

##### **I. Appellant has once again failed to adhere to the South Carolina Appellate Court Rules.**

Throughout the course of these appellate proceedings Appellate has taken great liberties with the unambiguous form requirements of briefs, motions, and petitions. *See generally* [App. 45]; [App. 59]; [App. 61]; [App. 71]; [App. 82]. Appellant has done the same with the filing of her Motion to Quash which is subject to the plain language of Rule 240 of the South Carolina Appellate Court Rules. More specifically, Rule 240(c)(2) and (3) requires “a memorandum with citation of authorities in support of the motion,” and “where the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the parties shall file affidavits and other documents in support of their positions.” R. 240(c)(2) and (3), SCACR.

Appellant's motion fails to conform in any meaningful way with Rule 240(c)(2) and (3) as Appellant cites to no authority in support of her motion nor does she submit an affidavit in support of the same. Rather, Appellant makes conclusory statements about factual allegations that were disputed during the merit hearing of this matter before the lower Court without pointing to any document in the record or points of authority to support such allegations. "An issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority." *Bryson v. Bryson*, 378 S.C. 502, 510, 662 S.E.2d 611, 615 (Ct. App. 2008). "[S]hort, conclusory statements made without supporting authority are deemed abandoned on appeal and therefore not presented for review." *Glasscock, Inc. v. U.S. Fid. & Guar. Co.*, 348 S.C. 76, 81, 557 S.E.2d 689, 691 (Ct. App. 2001). When a party provides no legal authority regarding a particular argument, the argument is abandoned, and the court will not address the merits of the issue. *State v. Lindsey*, 394 S.C. 354, 363, 714 S.E.2d 554, 558 (Ct. App. 2011). *Palmer v. State*, 427 S.C. 36, 47, 829 S.E.2d 255, 261 (Ct. App. 2019).

#### CONCLUSION

For the foregoing reasons, Appellant's opposition to Respondent's Motion to Strike or in the Alternative Dismiss is substantively and procedurally flawed.

\*\*\*Signature on following page\*\*\*

Dated this 15<sup>th</sup> day of December 2022.

PAULETTE B. STOVALL

s/Devon M. Puriefoy

Devon M. Puriefoy

SC Bar No. 102097

*Counsel for Respondent Paulette B. Stovall*

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SC Court of Appeals

**Proof of Service**

I, the undersigned, served a copy of the foregoing on the following this 15<sup>th</sup> day of December, 2022, by U.S. Mail, First-Class Postage prepaid and email:

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