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Feb 02 2023

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

SUPPLEMENTAL RECORD ON APPEAL

Executed this 1st day February 2023

S/Robert L. Gailliard,
6650 Rivers Avenue,
N. Charleston, SC. 29406
SC BAR#2284
Attorney for Appellant

INDEX

Motion for a New Trial dated August 23, 2021.....4

THE STATE OF SOUTH CAROLINA
THE COUNTY OF OCONEE

IN THE PROBATE COURT

2021. CP 37-560

IN THE MATTER OF:
DOYLE ELTON PIERCE, DECEASED.

CASE NO.: 2020ES3700532

JARED ADAM PIERCE

(Petitioner)

VS.

DOROTHY PIERCE

(Defendant)

2021 AUG 27 P 4:47

FILED OCONEE COUNTY SC
MELISSA C. BURTON
CLERK OF COURT

DEFENDANT'S MOTION FOR NEW TRIAL

COMES NOW, Defendant Dorothy Pierce (hereinafter "Defendant") and respectfully files this Motion for New Trial herein and in support thereof would show unto the Court that the Defendant is entitled to a new trial.

1. On August 18th, 2021, a judgment entitled "ORDER ON MOTION TO DETERMINE VALIDITY OF WILL" was signed by this Court in this case. The defendant moves the Court to set aside the judgment dated August 18th, 2021, and to grant her a new trial.
2. A new trial should be granted because, according to SC Code § 62-2-502 (2017) except as provided for writings within Section 62-2-512, every will shall be: In writing and signed by at least two individuals, each of whom witnessed either the signing or the testator's acknowledgment of the

signature or of the will. The Court erred in discrediting the eyewitnesses to testator's signatory on last will and testament of Doyle Elton Pierce dated July 7th, 2020, and yet the Will is compliant with the South Carolina law. In addition, neither the petitioner nor the petitioner's attorney discredited or provided any factual evidence to discredit the witnesses during the hearing on August 2nd, 2021. (*Dozier v. Smith*, 446 So. 2d 1107 (Fla. 2d DCA 1984))

3. A new trial should be granted because, the Defendant's expert document examiner, whose report dated July 29th, 2021, validated that, Doyle Elton Pierce authored the last Will and Testament dated July 7th, 2020, was not able to attend Court due to insufficient time to prepare. The defendant's expert witness testimony is crucial in validating the last Will and Testament of Doyle Elton Pierce. Justice will not be properly served unless the expert document examiner of the defendant testifies in Court.
4. A new trial should be granted based on newly discovered evidence. The copies of the signature exhibits presented in Court by the petitioner's document examiner, Mr. John Jamieson, were not availed to the Defendant in advance to prepare a rebuttal. Such documents could only have been discovered during or after the hearing. The defendant seeks to introduce an independent expert document examiner to testify regarding the petitioner's expert Witness testimony.
5. The third-party signature exhibit dated 2020 presented in Court by the petitioner's document examiner, Mr. John Jamieson was not signed by the deceased. The document in question also bears a wrong name of the Defendant written as, Dorothy Wells Pierce. The Defendant has never at any point in time used both Wells and Pierce at the same time, on the same document. The Court erred in admitting the signature sample as an exhibit despite the Defendant's attempts to squash it during the Court hearing.

The defendant was denied a fair and impartial hearing and judgment therefore a new trial should be granted because of the following reasons:

6. The Court erred in their judgement to remove the Defendant from the position of Personal Representative of the Estate of Doyle Elton Pierce even though the petitioner's handwriting expert Mr. John Jamieson could not make any conclusions as to whether the signature on the 10th page of last

will and testament of Doyle Elton pierce, dated July 7th, 2020, was that of the Defendant. Furthermore, the petitioner did not provide any factual evidence of wrongdoing on the Defendant's part. The Defendant maintains with absolute confidence and truth that, the will was signed by the deceased, Doyle Elton Pierce on July 7th, 2020, in the presence of two credible witnesses in compliance with the South Carolina law. SC Code § 62-2-502 (2017).

7. The Court erred in overruling objections to questions addressed to the Defendant, Dorothy Pierce, which were irrelevant to the matter before Court. The petitioner's attorney continuously directed their questioning placing the Defendant in immoral position and allowing the leading questions to influence the judge.
8. The Court erred in impeaching the Defendant's witnesses based on body language. The defense vividly finds inconsistencies with the Court's narration of the events that transpired during the hearing on August 2nd, 2021, In addition to the irregularities in the Court's narration of the Defendant's testimony.
9. The Court unfairly impeached an eyewitness to the last will and testimony of Doyle Elton Pierce dated, July 7th, 2020, Tammy Youngblood, based on the account of prior "brain surgery" or "bad nerve" and yet, accepted the testimony of the petitioner, Jared Adam Pierce who has had SEVERE BRAIN INJURY and has been on treatment for brain damage and memory loss for years. The defendant seeks a new trial to provide new evidence that could have only been discovered after the hearing of August 2nd, 2021.
10. The Court erred in discrediting the testimonies of the eyewitnesses on the account that they could not identify the exact name of the Church where the will was signed. SC Code § 62-2-502 (2017), states that, every will shall be in writing and signed by at least two individuals each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will. The code does not limit the witnesses to specific location of the signing ceremony, neither does it provide guidance on the same. Nevertheless, the defendant seeks a new trial to provide evidence that would have only been deemed important during or after the trial to validate the witness testimonies.
11. The Court erred in admitting and solely relying on the testimony of the

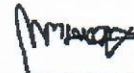
petitioner's expert witness, Mr. John Jamieson whose report comprised of outdated and forged signature samples.

12. Furthermore, the Court ignored important facts as per the testimony of the expert witness, Mr. John Jamieson that could not make any conclusions as to whether the initials on pages one through nine of the last will and testament of Doyle Elton pierce, dated July 7th, 2020, was that of the deceased or not.
13. The verdict went against the weight of evidence.
14. The defendant was not informed by the petitioner's counsel in advance, that she would testify as a witness during the hearing on August 2nd, 2021, she seeks to submit additional evidence that will collaborate her testimony to the Court.
15. The Court Judgment failed to provide guidance on intestacy law provided the will is set aside. South Carolina Code 62-2-102-Share of the spouse states that, if there are surviving issue, one-half of the intestate estate shall be inherited by the surviving spouse.

The defendant has attached to this Motion an Affidavit in support of this Motion for New Trial.

Justice will not be served unless a new trial is granted. The defendant prays that the Court set aside the judgment signed on August 18th, 2021, and grant a new trial.

Respectfully signed and dated this August 23rd, 2021



DOROTHY PIERCE

(Defendant)

The undersigned certifies that the record on appeal contains all the materials proposed to be included by any of the parties and not any other material.

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