

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
APPEAL FROM THE CHARLESTON
COUNTY PROBATE COURT
Case No. 2020-ES-10-1005

IN THE CIRCUIT COURT

C.A. No. 2023-CP-10-00112

IN THE MATTER OF:

The Estate of Juleanne Judy Bryan, Decedent
Margaret Elaine Chapman,

Appellant,

v.

Grady W. DuBose, Wilson Wade Judy and
Marvin Lee Judy, III,

Respondents.

**ORDER DISMISSING APPEAL FOR
LACK OF JURISDICTION**

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SC Court of Appeals

THIS MATTER CAME before the Court pursuant to Respondents' Joint Motion to Dismiss Appeal. As set forth below, Respondents' Motion to Dismiss is GRANTED.

1. This is an appeal from the Probate Court concerning an order granting a motion to enforce a settlement reached at the mediation of this matter. As set forth in detail by the Probate Court, this case was mediated in August 2022, resulting in a settlement agreement signed by all parties and their counsel in satisfaction of Rule 43(K), SCRCF. Despite this mediation agreement, Appellant refused to comply with the agreed upon terms; as such, the respondents filed a motion to enforce the settlement.

2. The Probate Court granted Respondents' Motion to Enforce the Settlement by Order dated December 22, 2022.

3. Appellant Margaret Chapman filed a notice of intent to appeal on January 5, 2023.

4. An appeal from the Probate Court is governed by S.C. Code Ann. § 62-1-308 (2023), which sets forth various procedural requirements to perfect an appeal.

5. An appellant who fails to follow the procedural requirements strips the court of appellate jurisdiction. *State v. Brown*, 358 S.C. 382, 387, 596 S.E.2d 39, 41 (2004); *Great Games, Inc. v. S.C. Dep't of Revenue*, 339 S.C. 79, 83 n. 5, 529 S.E.2d 6, 8 n. 5 (2000); *see also* Rule 260(a), SCACR (requiring dismissal of an appeal when an appellant fails to comply with the appellate court rules).

6. Here, the Court finds that Appellant did not comply with the requirements of S.C. Code Ann. § 62-1-308 based on each of the following, independent grounds:

(i) The appeal was not timely filed. As set forth in § 62-1-308(a), the “notice of intention to appeal to the circuit court must be filed in the office of the circuit court and in the office of the probate court and a copy served on all parties not in default within ten days after receipt of written notice of the appealed from order, sentence, or decree of the probate court.” Here, the parties received written notice of the order on appeal on December 22, 2022 by email from the Probate Court’s law clerk. The notice of appeal was filed more than ten days later, and, therefore, was not timely.

(ii) As a separate an independent basis for dismissal, Appellant did not file a statement of issues on appeal within the deadline set by § 62-1-308(b) (“Within forty-five days after receipt of written notice of the order, sentence, or decree of the probate court, the appellant must file with the clerk of the circuit court a Statement of Issues on Appeal (in a format described in Rule 208(b)(1)(B), SCACR) with proof of service and a copy served on all parties.”). The filing deadline expired for the Statement of Issues on Appeal on February 6, 2023 (the next business day after 45 days from the receipt of written notice of the order). Appellant’s after the fact filing of a statement of issue on appeal on February 13, 2023 cannot correct this deficiency.

(iii) As a separate an independent basis for dismissal, Appellant has not perfected her appeal as required by § 62-1-308(c) because she made no arrangements with the court or court reporter for furnishing the transcript. As set forth in § 62-1-308(c), “[w]here a transcript of the testimony and proceedings in the probate court was prepared, the appellant shall, within ten days after the date of service of the notice of intention to appeal, make satisfactory arrangements with the court or court reporter for furnishing the transcript.” Here, Respondents submitted an affidavit from the court reporter demonstrating that Appellant made no arrangements with the court or court reporter for furnishing the transcript. This fact was undisputed by Appellant.

(iv) As a separate an independent basis for dismissal, Appellant has not perfected her appeal as required by § 62-1-308(e) because she has not filed her brief. As set forth in S.C. Code Ann. § 62-1-308(d), “[w]ithin thirty days after service of the Statement of Issues on Appeal, all parties to the appeal shall serve on all other parties to the appeal a Designation of Matter to be Included in the Record on Appeal (in a format described in Rule 209, SCACR) and file with the clerk of the circuit court one copy of the Designation of Matter to be Included in the Record on Appeal with proof of service.” Section 62-1-308(e) states, “[a]t the same time the appellant serves his Designation of Matter to be Included in the Record on Appeal, the appellant shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the circuit court one copy of the brief with proof of service.” Appellant filed her Designation of Matter to be Included in the Record on Appeal on March 15, 2023, but she has yet to file her brief as required by the statute.

7. Based on the foregoing, this Court has lost jurisdiction over the appeal and the appeal must be dismissed. **THEREFORE, it is ORDERED, ADJUDGED, and DECREED:**

1. Respondents’ Motion to Dismiss Appeal is GRANTED.
2. Appellant’s Appeal from Probate Court is dismissed WITH PREJUDICE.

The Honorable H. Steven DeBerry, IV

April____, 2023

Charleston, South Carolina



Charleston Common Pleas

Case Caption: Margaret Chapman , plaintiff, et al VS Grady Dubose , defendant, et al
Case Number: 2023CP1000112
Type: Order/Dismissal

H. Steven DeBerry, IV

Circuit Court Judge 2771

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