

**FORM 18**  
**PETITION FOR A WRIT OF CERTIORARI TO THE**  
**COURT OF APPEALS**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

---

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

George E. Brown, Circuit Court Judge

---

Opinion No. 0000 (S.C. Ct. App. filed Feb. 10, 2002)

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Stephen L. Doe, as Personal  
Representative of the Estate of  
John B. Doe,

Respondent,

v.

Jane C. Roe,

Petitioner.

---

PETITION FOR A WRIT OF CERTIORARI

---

John E. Smith  
Post Office Box 123  
Greenville, South Carolina 29000  
(864) 000-0000  
Attorney for Petitioner

Other Counsel of Record:  
Mary P. Jones  
Post Office Box 456  
Greenville, South Carolina 29000  
(864) 000-0000  
Attorney for Respondent

**RECEIVED**

JUL 17 2023

SC Court of Appeals

Petitioner certifies that the Petition for Rehearing was made

QUESTIONS PRESENTED

1. Did the Court of Appeals err in holding that this
2. Did the Court of Appeals err in holding

Statement of The Case

ARGUMENT

1. THE COURT OF APPEALS SHOULD HAVE HELD THAT
2. PETITIONER DID PRAY THE MERCY OF THE APPELLATE JUDGES IN LIGHT OF EXTENUATING CIRCUMSTANCES THAT WERE EXTREME.

CONCLUSION

For the reasons stated, petitioner asks the court to grant the petition for a writ of certiorari.

Respectfully submitted,

Carolyn Tolbert Smith  
338 Fifth Avenue  
Mount Pleasant, SC 20464  
(843) 215-6960

DATE:

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Carolyn T. Smith Pro Se.....1

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Statement of the Case.....1

Arguments

1. PETITIONER DID TIMELY OBJECT TO THE TRIAL JUDGE’S ERRONEOUS  
CHARGE ON THE BURDEN OF PROOF.....2

Conclusion.....2

1-843-216-6960

Carolyn Tolbont Smith 07/14/2023

338 Fifth Ave.

Mt Pleasant SC 29464

C-1-786-325-2704

TO THE COURT

If there is any deficiency herein,  
please advise me early on.

Kindly grant me a waiver  
of the required \$250.00 fee.

If I need to send more instruments as  
proof to substantiate my claims, please in-  
form me.

Thank you

CS

## Rule 242

### Certiorari To The Court Of Appeals

#### Questions Presented

1, Did The Court Of Appeals err in holding that they found no material fact of law that would give reason to Re-instate Petitioner's Case No. 2022 001815?

2 Did The Court Of Appeals err in granting the Respondent, Ashley Andrews, Order Summary Judgment?

#### Statement Of The Case

See History, Please.

## Rule 242

### Certiorari To The Court Of Appeals

#### Questions Presented

1, Did The Court Of Appeals err in holding that they found no material fact of law that would give reason to Re-instate Petitioner's Case No. 2022 001815?

2 Did The Court Of Appeals err in granting the Respondent, Ashley Andrews, Order Summary Judgment?

#### Statement Of The Case

See History, Please.

## Statement Of The Case

Begun in and about 2021-JL 2023

1) I, Carolyn J. Smith, am the Court appointed Personal Representative of the decedent

my mother Helen A. G. Tolbert's estate

2) I probated said estate in on Sept

22 or 26, 2011

3) At that time I signed the one and only

Deed of Dist' created by my atty, Attorney George Counts, I never signed any others.

4) I did not probate earlier because my ma-

ther said that I could remain in her home, at 338 Fifth Ave, Mt. Pleasant, SC 29464 for

5) as long as my family and I wanted to stay, my sibling, Atty. Sara Jo Tolbert Latten informed me that she told all heirs that mother told her what mother had already said to me,

6) now Sara Jo insisted that I sell the lot

I, like Sara, had agreed that Ma never intended for her heirs to toss hers and daddy's legacy by selling what she intended for us to preserve for generations.

7. Persistent in the matter of selling, Sara filed a Claim of Quiet Title with Partition in the Chas, Co county, Circuit Ct.; from there into the SC Appeals Ct.

8) When Sara's Case was dismissed she urged and scared some siblings to file

the same claim, saying that those who did

not get involved they would lose their inheritance. Because there was a "Will" involved that threat of loss was invalid tactic.

9) I first offered to buy Sara's interest refused by her. I made the offer of \$50,000.00 fifty thousand dollars to each heir. I would get another mortgage on the house. They were not interested

10) I sent each a composite picture of their contributions = nothing - no more negotiating.

11) Then abruptly the drastic, ~~amoral~~ un-Christian and ruthless, non-thinking measure is the Courts and filing of Quiet Title (w) Partition by the two estranged, unloving, greedy grand-sons, Keith and Charles Leon McWilliam AKA Charles

12) The process (court) begins with interrogatories proving that not a single heir contributed a single thing to Fred and Helen most especially Keith and Charles. Bet and Gary have given love to Ma and Pa. It started at infancy throughout life; Keith didn't even attend Mother's funeral. Charles and Charla wrote nasty threatening letters to mother and were ousted for years especially from 1985 to present. Charles came for Pa' and Ma's funeral, Charla for daddy then Ma's.

13.) It comes time for a Hearing, My attorney,

Attorney Melena Dinwoodie files a Counter-Claim to Quiet Title... Then it disappears!

14.) Before the hearing scheduled precisely for, "My Day-In-Court," where arguments were to be heard for my Counter-claim (See exhibits) ref. title to Adverse Possession the judge calls two conferences that I later learned were sinister ones.

15.) Judge M. Scarborough invited all of his favored i.e. Atty. Kabivas, Atty. Ashley Andrews, Dr. Betty Jean Tolbert Jones and perhaps Atty. Alwyn Silver along (w) my own attorney M. Dinwoodie.

During these sessions said judge convinced all attorneys present into a agreement with their clients and (w) judge Scarba

& roughly, except me, to have them agree to bar my arguments at my hearing in deference for allowing the judge to put in my place, Ashley Andrews, Esq. to argue Quiet Title (w) Partition then shut the so called hearing for my Adverse Possession down like an in-and-out car wash only less time spent in said hearing, a FARCE

16.) Herein the judge accepted Atty. Andrews lies, boldface lies wherein she falsely accused me of signing on to, creating the corr' deeds she knew that others created. See exhibits.

Please see reverse

## Arguments

1.) The South Carolina Court of Appeals did err in holding that they found no "Material Fact of Law," that would give reason to Reinstate Petitioner's Case No: 2022 001815.

the court

The Court should have governed itself by the Supreme Court of SC's ruling which conflicts with the ruling of the SC Court of Appeals, Under Rule 242

b.) Considerations Governing Review.

Please see number 5 under b. Respondent A. Andrews, Esq. used the Henning matter in her Motion To Dismiss w/ Prejudice, my case, subject herein and I write the same below on my behalf.

→ In Henning v. Kaye, 307 S.C. 436, 415 S.E. 2d 794 (1992) respondents sought to dismiss an appeal claiming deficiencies. Counsel advised... Although this court would be completely justified in dismissing this appeal based on appellants numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to the Henning's.

I see here that Counsel belonging to the bar, Counsel made many errors. Respon-

dent add to the Supreme Court's ruling that makes one error or deficiency. Superior not all views Used by the Supreme Court of SC respect Justice and find justice superior to justifying criticism when justice is at state.

I have numerous family members that have served our beloved Country. Some have given their life. As an educator, I have made my pledge to our flagably with a focus on, "Liberty and Justice For All." I believe that, Human Nature often dictates something different. The Goliaths take All by "hook or crook," "Lil David", take what you get. So being categorized as "Lil David" Respondents Cheat me in plain view, knowing that buddies in place shall, "Look-the-other-way". I'm reminded that God see and judges from the ultimate and current, "Seat Of Justice". I further believe that some justices and judges always pray and judge here, right here on earth in a godly manner.

Case 2022 001815 should be remanded TO the Circuit Court, without all new legale is judges and lawyer and without a jury really of my peers there can be the, "Due Process" no fairer  
NO Justice

K'llly continue to indulge me Pro Se no Bar No c/s  
I cannot type c/s

## Argument 2

2) The Court did err in overlooking, and discounting completely my Motion to Return To The Motion which I learned later reached the Court in and about the time of Respondent's Motion To Dismiss (w) Prejudice my Case herein;

## Argument 3

Respondent, Ashley Andrews' Complaint against me was the untimely notice of my "Intent To Appeal" which should never present any harm or damage to a competent lawyer or law firm. The anticipate appeals why did they not indicate preparedness? Did they make their Complaint to dismiss not for justice but to justify getting themselves "out of the Fire?" Respondent's withholding her Motion To Dismiss up to four (4) days before I had to answer her Complaint and all would see my / this complaint I took / told to the Court see reverse, please

Much more harmful than one (spe-  
cial a person Pro Se) slight tardi-  
ness in announcing an intent

that normally follows a judgment  
ie. appealing as a follow up step  
towards victory or prevailing,

only in cases where clandestine  
schemes are in the plan felt to

be held tight per the plan of judge

Scarborough and co-conspirators as

evidenced at the "Hearing" that was no  
more than a FARCE

CJS

## INDEX

Carolyn T. Smith Pro Se

Questions Presented

Statement Of The Case

Arguments

1. Petitioner Now Objects To The  
Errors Of The Court Of SC Court Of Appeals

Conclusion

Petitioner has expressed herein  
what I perceive to be errors in  
rulings by the SC Court Of Appeals

I have also pointed out partiality in  
the Court's rulings person to person  
Finally I pray God guide all judges  
so that God is pleased with their ruling

I have not been given Due Process  
My Day In Court was denied  
me by Judge Scarborough and Kalua,  
Andrews Charles and Keith, <sup>win</sup>  
I shall appreciate your just considera- <sup>win</sup> CPS

07/14/2023

(1)

## Please Note The Following

Because I, using case law from *Fende v Atlaw Heris of Smashum* as case law and authority, accomplished all elements necessary to successfully claim and prevail in my

Case No. : CP 10 04058, title to Adverse

Possession of lot 326 and lot and dwelling 327

(326 and 327 maybe switched) dwelling lot. Dwelling place # 338 Fifth Ave. Mt. Pleasant, SC 29464, because of said accomplishment(s) the Respondents, anticipating their loss, hastened to find ways any manner they could conjure up to prevail even illegal, or unlawful or completely unethical ways see, please, the following: Ouster which is

not in position to be defeated since it took place in "ouster", did before there was any Deed of Dist' especially in and regarding Keith Tolbert and Charles Leon, A.K.A Charles Tolbert.

*Ouster - Grant v. Grant*, 288 S.C. 86, 340 S.E. 2d, 791 (Ct. App.) (1986) ... Actual Ouster of a tenant. *Woods v. Bivens*, 292 S.C. 76, 354 S.E. 2d 909 (1987);

*Brevard v. Fortune*, 221 S.C. 117, 69 S.E. 2d 355 (1952)

Please see "Causes," in statements by Atty. M. Dinwardie, my former atty, who is not appealing

Cont'

As to real property, the general rule is that

where the state has passed a perfect legal title, the doctrine of abandonment is not appli-

cable thereto. In my case the title on subject properties is and has been Fee Simple (still is)

except that one recently created doc' someone has added to Fee Simple the word add, 'absolute.'

who did this? Was it Charles, the presiding judge or atty, for Respondents?

So far as land is concerned (subject herein - the vacant lot lived on by Petitioner, family and dogs) there can be an abandonment only in a case where the title is imperfect or less than absolute.

← Here is the rub, The word absolute has been recently added by an authority figure unauthorized to add this added word absolute to block my claim of abandonment per all covenants for non-use of vacant land titled Fee Simple.

\* All heirs failed to assert his title to the lot, subject herein except Charles in 2022 or 2023 since Case CP10 04058 since '22 went into effect, Respondents herein grope to grab an inheritance tho to which they've contributed absolutely Nothing, Charles and Respondent are attempting, taking from my 1/2 and adding it to Charles' - Egregious! Shamefull Tragesty of Justice, Please see same case laws herein cited in Fender V, At Law Heir of S.



Xtra?

That possession of the property which is the subject of this cause of action has been in actual, open, notorious and exclusive possession of [Fender and a business associate] under claim of title and that there has been such continued occupation and possession of the premises for over ten (10) years.

Plaintiff's claim a recent corrective "D" of Distribution, non-existent. Queen Smashum answered on behalf of herself and the heirs of Thomas Smashum in May 2000, and counterclaimed to quiet title to the property in the name of the Heirs. The Heirs claimed Queen Smashum, Henrietta Jones, Sarah Shepard, and Lucy Smith each owned an undivided one-eighth interest in the property. Queen Smashum spoke/wrote that there was Deed of Distribution, she owned  $\frac{1}{8}$  interest. She counterclaimed successfully. In June 2001, Fender made a motion for summary judgment. The circuit court conducted a hearing on Fender's motion the following month. In its order issued in August 2000, the court granted summary judgment to Fender. This appeal follows.

Judge Scarborough Ignored this

**STANDARD OF REVIEW** The SC Court of Appeals missed this too and I made errors in my Initial Brief.

Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Fleming v. Rose, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). When determining whether any triable issue of fact exists, the evidence and all inferences, which can reasonably be drawn from it, must be viewed in the light most favorable to the nonmoving party. Faile v. S.C. Dep't of Juvenile Justice, 350 S.C. 315, 324, 566 S.E.2d 536, 540 (2002). If triable issues exist, those issues must be submitted to the jury. Young v. S.C. Dep't of Corrections, 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999). Even where no dispute as to evidentiary facts exists, but (only as to the conclusions or inferences to be drawn from them), summary judgment should not be granted. Hall v. Fedor, 349 S.C. 169, 173-74, 561 S.E.2d 654, 656 (Ct. App. 2002). (Moreover, summary judgment is a drastic remedy that should be cautiously invoked to ensure no person is improperly deprived of a trial of disputed factual issues.) Lanham v.

Please note  
need sheet 4 copy page 2  
copy 1 set  
mine no more except pg 4  
needed

Please see pg 66  
Sheet # (2) herein

03/17/2023

1

Preface

Focus - Cor-  
ruption and  
Support in this  
Case per "Ouster"  
and Deed Dist  
"Ouster" herein

Per "Deed of  
Distribution"  
is irrelevant  
herein. For there  
was in "Deed of  
Dist" when ouster  
occurred. Fur-  
ther, the judge  
and Ashley An-  
drews confined  
their argument  
to "Ouster" per  
Case law in  
Fender v. By  
Law Nevils of  
Smashum

wherein no case  
law was mentioned  
neither did Alby  
Andrew nor judge  
M. Scarborough  
cite any case  
law herein.

CPJ

The South Carolina Court of Appeals

The Appellant, Carolyn Tolbert Smith Akin

to the biblical widow who with unshakable  
faith and steadfast in spirit, lacking representa-  
tion in the courts gained the care and the mercy  
of the merciful Court which permitted said wi-  
dow to be heard. Carolyn T. Smith begs again  
your indulgence for me, unable to encourage  
any of several attorneys to take over my case.  
Why do I continue this battle? It's because I  
am the child who has a fervent desire to preserve  
what our parents sacrificially struggled to leave for  
generations of heirs to enjoy and preserve. Mother's

Appellante is laboring to do it right <sup>cf.</sup>

2

is a testimony to her intention and hope for the

use of the subject land. Helen believed that heirs

would be thoughtful, honorable, enterprising and

appreciative of their gift left for heirs. There is no

end to ways that all can profit herein rather than

via Quiet Title with Partition, so I need to con-  
tinue

to fight this worthy fight. I, the Appellant,

has had the job of three (3) persons, i.e. legal personnel,

paralegal, co-counsel in my firm, but I've not been

blessed thus. So I've had to, lately, study five hun-

dred copies of filings; copy same away from home;

mail copies to two courts and 3 attorneys and a pro

se-party certified and overnight at time. At age 85, I

am still willing to honor Md + Pa and posterity. I forfeit dishon

*9/28/21  
1/20/22  
This argument never argued at Hearing. Judge Scarborough allowed it and fostered it. Please see exhibits SS, SSS, +SSSS*

*copy recy*

*Finkel*

*Attorneys*

*Dinwoodie*

*asks for Justice*

*June page 49 ①*

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Keith L. Tolbert,

CASE NO.: 2021-CP-10-04058

Plaintiff,

AMENDED ANSWER AND  
COUNTERCLAIM OF DEFENDANT  
CAROLYN TOLBERT-SMITH

v.

Carolyn Tolbert-Smith; Charles Tolbert;  
Betty Jean Tolbert Jones; Sara Jo Tolbert  
Latten; and Estate of Charla Tolbert  
McMillan,

Defendant(s).

*June mate  
rial never ar  
gued. Prevented  
by Judge Mr. Scar*

*I suspect it was planned + promised*

Defendant Carolyn Tolbert-Smith ("Defendant"), by and through her undersigned  
counsel, hereby submits her Amended Answer and Counterclaim to Plaintiff's Complaint (the

"Complaint") filed on September 2, 2021. In support of her Amended Answer and  
Counterclaim, Defendant states as follows: *Name the Complaint. I 439*

*by Keith L. Tolbert* *Quiet Ti-  
tle (w)  
Partition*

**ANSWER**

1. Each and every allegation of the Complaint not expressly admitted herein is  
denied, and Defendant demands strict proof thereof.

2. As to Paragraph 1 of the Complaint, Defendant denies any allegations therein that  
are inconsistent with the public records and demands strict proof of same. *Proof, please, cps*

3. As to Paragraphs 2, 4, and 6, Defendant admits the allegations of those paragraphs  
to the extent that they identify the residency and citizenship of the various parties, but denies the  
remainder of the Paragraphs to the extent that they may be inconsistent with the public records  
and demands strict proof thereof. *Proof please, cps*

4. Defendant admits the allegations of Paragraph 3.

*Godliness and  
Truth lead  
to balanced  
scales and to  
Justice!*

6

34. Defendant has solely paid all property taxes for the Subject Properties since 2003 without any assistance or contribution from any other Party to this action. *Proven*

35. Defendant has solely maintained the Subject Properties since 2003 without any assistance or contribution from any other Party to this action. *Did so regularly. Had recent*

*problems with recent minor repairs; plumbing created a hole in one ceiling below, cont'd repair to fencing damaged by recent Hurricane Ian*  
36. Defendant has solely paid for property insurance on the Subject Properties for approximately the past five (5) years without any assistance or contribution from any other Party to this action.

*and by SCGB and Xylem branch cutters who failed to catch branches that destroyed fencing also remaining due to too fee workers to hire & cap*  
37. Defendant has incurred significant financial expenses in maintaining and improving the Subject Properties since 2003, including but not limited to necessary roof repairs *actual new complete roofs exterior painting HVAC window air (2) yard sand build up chainlink* and land build up, without any assistance or contribution from any other Party to this action.

**FIRST COUNTERCLAIM  
(Adverse Possession)**

38. The allegations of the preceding Paragraphs are realleged as if fully set forth *separately* verbatim herein. *Kitchen update*

39. Defendant has possessed the Subject Properties for a continuous and uninterrupted period of at least ten (10) years. *27 years now 28 yrs. 2023. cpl.*

40. Defendant's possession of the Subject Properties has been continuous, open, hostile, actual, notorious, and exclusive.

41. Upon information and belief, Defendant is entitled to an order from the court granting her title and ownership of the Subject Properties in fee simple, free and clear of any claims of any other Party herein to any right, title or interest in the Subject Properties. *If any*

*element necessary herein, these listed along with proof shows by case law in Defendant's Initial Brief & now Appellant's support title of Adverse Possession.*

9/21  
4-9  
Complete

4

**ANSWER AND AFFIRMATIVE DEFENSE TO SECOND CAUSE OF ACTION**  
**(Partition)**

17. The allegations of the preceding Paragraphs are realleged as if fully set forth verbatim herein.

18. A response is not required to Paragraph 21 of the Complaint, however, to the extent a response is required, Defendant denies the allegations stated therein and demands strict proof thereof. *Proof, please*

19. As to Paragraph 22 of the Complaint, Defendant admits, upon information and belief, that Plaintiff has standing to bring this action, but denies that Plaintiff is entitled to

compel partition, which Defendant contends is a conclusion of law, and strict proof of same is demanded.

*There is no proof of action herein by Plaintiff(s) defeat the decedent's last will and Testament*  
*Defendant lacks sufficient knowledge to either admit or deny the allegations of*

Paragraph 23 of the Complaint, and therefore denies same and demands strict proof thereof.

*Supply proof, please in documented form*

20. Paragraph 24 of the Complaint is a conclusion of law and requires no response, however, to the extent a response is required, Defendant denies the allegations stated therein and demands strict proof of same. *Proof, please*

**FURTHER ANSWER TO COMPLAINT**

22. The allegations of the preceding Paragraphs are realleged as if fully set forth verbatim herein.

23. Defendant moved into the residence located on Property-~~1~~ to care for her parents,

Helen and Fred Tolbert, in or around 1995. *#495 and remained exclusively and*

*not consistently openly, actual and naturally who knew?*  
*& who knew??* 24. Defendant walked away from her career and uprooted her life in Miami, FL to

*ie school* move into the residency to care for her parents. *Truth*

*long staff member (1995-2020 Sch. Shut Down)*

*State Service*

*neighbors*

*who speak up and*  
*See Defendants*

*Parties part of the subject claims?*

5

25. Defendant's children also made personal sacrifices by leaving college to move into the residence and assist their mother with the care of Helen and Fred Tolbert.

26. It was Defendant's primary purpose and goal to care for her parents and avoid the need of placing them in an assisted living or nursing care facility. No other Party hereto assisted Defendant with the care of Helen and Fred Tolbert or the Subject Properties from 1995 to 2003

when Helen Tolbert passed away. *My devotion, love, care and compassion gives and gave me, Defendant/Appellant permission and right to live on subject prop-*

27. But for the sacrifices made by Defendant, Helen and Fred Tolbert would have <sup>parties</sup> needed to be placed in an assisted living or nursing care facility, and the Subject Properties would have gone to tax sale. *forever The*

28. Due to Defendant's long-time residency at the Subject Properties with her parents, *the change came with my arriving to aid to our worthy parents* and the respect and goodwill developed over the years by Helen and Fred Tolbert prior to their deaths, Defendant has a strong sentimental attachment to both the Subject Properties and the

Scanlonville / Remly's Point community. *these are monumentally real & true, cont heart settlly*

29. No other Party to this action resides in the area. *Never. They reside on their cont multiple properties across the country*

30. No other Party to this action, other than Betty Jean, has even visited the Subject

Properties since 2003.

31. Upon information and belief, all their Parties have their own residences. *In fact,*

certain Parties have multiple residences. *True while C. Tolbert Smith has only 338 Fifth Ave, Mt Pleasant, SC 29469 for a roof over her head*

32. The Subject Properties of this action are Defendant's sole and primary residence *cont*

in which she lives full time. *Now 28 yrs with Power of Atty. 8 of those years cont with assigned full control of our parents health health safety finances and all.*

33. No other Party to this action, other than Defendant, has made any contribution to *cont*

the Subject Properties, whether financial or via sweat equity *See #32 just above.*

*Defendant provided the best in life for Fred and Helen Tolbert and Fred regarding, foods, medicals regularly, hospitalizations, out of state travel to Hypocretes Health Resort, to Miami, to funeral, out of state hotels and not*

*Keith Tolbert v. Carolyn Tolbert Smith, et al.*  
*Case No. 2021-CP-10-04058*  
*AMENDED ANSWER AND COUNTERCLAIM OF CAROLYN TOLBERT-SMITH*

Copy 9

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Respectfully submitted,

FINKEL LAW FIRM LLC

s/ Malena A. Dinwoodie  
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[mdinwoodie@finkellaw.com](mailto:mdinwoodie@finkellaw.com)  
*Attorneys for Defendant Carolyn Tolbert-Smith*

March 1, 2022

ELECTRONICALLY FILED - 2022 Mar 01 9:16 AM - CHARLESTON - COMMON PLEAS - CASE#2021CP1004058

9/5/2021  
1 year  
This argument never argued at Hearing. Judge Scarborough allowed it and feasted it. Please see exhibits 55, 555, 7-5555

copy all year  
Finkel  
Attorneys  
Dinwood  
asks for Justice  
Page 4-9 (1)

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

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v.

Carolyn Tolbert-Smith; Charles Tolbert;  
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Defendant(s).

True mate  
Mial never an  
gued, prevented  
by Judge M. Scar

I suspect it was planned + promised

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Counterclaim, Defendant states as follows: *Name the Comp Vain to I495*

by Keith L. Tolbert  
Quiet Ti-  
tle W  
Partition

**ANSWER**

1. Each and every allegation of the Complaint not expressly admitted herein is denied, and Defendant demands strict proof thereof.
2. As to Paragraph 1 of the Complaint, Defendant denies any allegations therein that are inconsistent with the public records and demands strict proof of same. *Proof, please, eqs*
3. As to Paragraphs 2, 4, and 6, Defendant admits the allegations of those paragraphs to the extent that they identify the residency and citizenship of the various parties, but denies the remainder of the Paragraphs to the extent that they may be inconsistent with the public records and demands strict proof thereof. *Proof please, eqs*
4. Defendant admits the allegations of Paragraph 3.

Godliness and  
Truth lead  
to balanced  
scales and to  
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4

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35. Defendant has solely maintained the Subject Properties since 2003 without any assistance or contribution from any other Party to this action. *Did so regularly. Had recent*

*problems with recent minor repairs; plumbing created a hole in one ceiling below, cont' repair damaged to fencing damaged by recent Hurricane Ian*

36. Defendant has solely paid for property insurance on the Subject Properties for approximately the past five (5) years without any assistance or contribution from any other Party to this action.

*and by SCEG and Xylem branch cutters who failed to catch branches that destroyed fencing also remaining due to Hurricane Ian cleanup free workers to hire*

37. Defendant has incurred significant financial expenses in maintaining and improving the Subject Properties since 2003, including but not limited to necessary roof repairs and land build up, without any assistance or contribution from any other Party to this action. *actual new complete roof, exterior painting, HVAC, window air (2) yard sand buildup chainlink fence*

**FIRST COUNTERCLAIM  
(Adverse Possession)**

38. The allegations of the preceding Paragraphs are realleged as if fully set forth verbatim herein. *General Kitchen update*

39. Defendant has possessed the Subject Properties for a continuous and uninterrupted period of at least ten (10) years. *27 years now 28 yrs. 2023. cpl.*

40. Defendant's possession of the Subject Properties has been continuous, open, hostile, actual, notorious, and exclusive.

41. Upon information and belief, Defendant is entitled to an order from the court granting her title and ownership of the Subject Properties in fee simple, free and clear of any claims of any other Party herein to any right, title or interest in the Subject Properties. *If any*

*element necessary herein, these listed along with proof shown by case law in Defendants Initial Brief*

*Now Appellants support title of Adverse Adverse Possession*

Page 4-9  
Complete

ANSWER AND AFFIRMATIVE DEFENSE TO SECOND CAUSE OF ACTION  
(Partition)

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19. As to Paragraph 22 of the Complaint, Defendant admits, upon information and belief, that Plaintiff has standing to bring this action, but denies that Plaintiff is entitled to compel partition, which Defendant contends is a conclusion of law, and strict proof of same is demanded. There is no proof of action herein by Plaintiff(s) defeat the decedent's last will and Testament. Defendant lacks sufficient knowledge to either admit or deny the allegations of

Paragraph 23 of the Complaint, and therefore denies same and demands strict proof thereof.

20. Supply proof, please in documented form  
21. Paragraph 24 of the Complaint is a conclusion of law and requires no response, however, to the extent a response is required, Defendant denies the allegations stated therein and demands strict proof of same. Proof, please

FURTHER ANSWER TO COMPLAINT

22. The allegations of the preceding Paragraphs are realleged as if fully set forth verbatim herein.

23. Defendant moved into the residence located on Property-# to care for her parents, Helen and Fred Tolbert, in or around 1995. 1995 and remained exclusively and consistently openly, actual and naturally who knew? Defendant walked away from her career and uprooted her life in Miami, FL to

move into the residency to care for her parents. Truth  
24. he school staff members (1995-2020 Sch. Shut down)  
staal Service

nt' consistently openly, actual and naturally who knew?  
at who knew??  
he school  
item  
staff members (1995-2020 Sch. Shut down)  
staal Service  
ghbars  
much friends and  
ins who speak up and  
fully. See Defendants  
Included Proof that the...

5

25. Defendant's children also made personal sacrifices by leaving college to move into the residence and assist their mother with the care of Helen and Fred Tolbert.

26. It was Defendant's primary purpose and goal to care for her parents and avoid the need of placing them in an assisted living or nursing care facility. No other Party hereto assisted Defendant with the care of Helen and Fred Tolbert or the Subject Properties from 1995 to 2003

when Helen Tolbert passed away. *My devotion, love, care and compassion gives and gave me, Defendant/Appellant permission and right to live on subject properties*

27. But for the sacrifices made by Defendant, Helen and Fred Tolbert would have needed to be placed in an assisted living or nursing care facility, and the Subject Properties would have gone to tax sale. *forever*

28. Due to Defendant's long-time residency at the Subject Properties with her parents, and the respect and goodwill developed over the years by Helen and Fred Tolbert prior to their deaths, Defendant has a strong sentimental attachment to both the Subject Properties and the Scanlonville / Remly's Point community. *Cont the change came with my arriving to aid to our worthy parents*

29. No other Party to this action resides in the area. *these are monumentally real+true, Cont heart feltly,*

30. No other Party to this action, other than Betty Jean, has even visited the Subject Properties since 2003. *Cont multiple properties across the Country*

31. Upon information and belief, all their Parties have their own residences. *In fact, certain Parties have multiple residences. True while C. Tolbert Smith has only*

32. The Subject Properties of this action are Defendant's sole and primary residence in which she lives full time. *338 Fifth Ave, Mt Pleasant, SC 29469 for a roof over her head*

33. No other Party to this action, other than Defendant, has made any contribution to the Subject Properties, whether financial or via sweat equity. *Now 28 yrs With Power of Atty. 8 of those years Cont With assigned full control of our parents health health safety finances and all. See #32 just above.*

Defendant provided the best in life for Fred and Helen Tolbert and Fred regarding, foods, medicals regularly, hospitalizations, out of town travel to Hyattsville Health Resort, to Miami; to funerals out of town; restaurants in hotels and not walks on Lake (Colonial) ...

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Respectfully submitted,

FINKEL LAW FIRM LLC

s/ Malena A. Dinwoodie

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*Attorneys for Defendant Carolyn Tolbert-Smith*

March 1, 2022

FORM 7  
PROOF OF SERVICE OF A NOTICE OF APPEAL

RECEIVED

JUL 17 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

George E. Brown, Circuit Court Judge

Case No. 2000-CP-00-0000

Stephen L. Doe, as Personal  
Representative of the Estate of  
John B. Doe,

Respondent,

v.

Jane C. Roe,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Stephen L. Doe by depositing a copy of it in the United States Mail, postage prepaid, on September 15, 2000, addressed to his attorney of record, Mary P. Jones, Post Office Box 456, Greenville, South Carolina 29000 [by personally delivering a copy of it to his attorney of record, Mary P. Jones, at her office at 123 Oak Street, Greenville, South Carolina 29000, on September 15, 2000].

September 15, 2000

~~s/ John E. Smith~~  
John E. Smith  
Post Office Box 123  
Greenville, South Carolina 29000  
(864) 000-000-0000  
Attorney for Appellant

*Carolyn Tolbert Smith*  
*338 Fifth Ave,*  
*Mt Pleasant, SC 29414*  
*216-6960*  
*Petitioner, Pro Se*

I, Carolyn Tolbert Smith certify that  
a copy of  
the foregoing is being delivered via U.S.  
mail today, Sat 15<sup>th</sup> July, to the following  
Parties.

x Carolyn Tolbert Smith

Betty J. Tolbert Jones  
1311 Delaware Ave, SW.  
Apt. South 843  
Washington, DC 20024

RECEIVED

JUL 17 2023

SC Court of Appeals

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Ashley Andrews  
544 Savannah Hwy  
Chas, SC 29407

Clerk of Courts  
The S.C. Court of Appeals

Clerk of Courts  
The Supreme Court of SC

Alwyn Taylor Silver, Esq  
P.O. Box 1665  
Georgetown, SC 29442

