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FORM 18

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS JUL 26 2023 SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Supreme Court  
APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
Mikell Scarborough, Circuit Court Judge

Ashley Andrews, Esquire  
Attorney for Respondent

Respondent

v.

Carolyn Tolbert Smith  
*Court Appointed Personal Representative for the Estate of Helen A. Grant Tolbert*

Petitioner

PETITION FOR A WRIT OF CERTIORARI

Carolyn Tolbert Smith  
338 Fifth Avenue  
Mount Pleasant, SC 29464  
(843)216-6960  
Pro Se

*Other Counsel of Record*

- Dr. Betty J. Tolbert Jones  
1311 Delaware Ave., S.W.  
Apt. # 843 South  
Washington, DC 20024*
- 2. Attorney Alwyn T. Silver, Esq.  
P.O. Box 1665  
Georgetown, SC 29442*
- 3. William Kalivas, Esq.  
7455 Cross County Rd.  
Ste. I  
North Chas., SC 29418*
- 4. Ashley Andrews, Esq.  
544 Savannah Hwy  
Chas., SC 29407*

INDEX

Carolyn T. Smith Pro Se...✓.....1

Questions Presented...✓.....1

Statement of the Case...✓.....1

Arguments ✓

- 1. PETITIONER DID TIMELY OBJECT TO THE TRIAL JUDGE'S ERRONEOUS MIS-CHARGE ON THE BURDEN OF PROOF *WSP of my Hearing - I Appealed...* 2

Conclusion *The South Carolina Court of Appeals should have denied A. Andrews, Esq. her Motion to Dismiss my case 2022 001815. Ashley Andrews falsely accused me the Appellant in the Circuit court in her deliberate untruth sanctioned by the presiding judge, that I executed several Deeds of Dist in the matter subject herein. The judge favored Andrews and all other Counsel said judge encouraged to or had consent to a clandestine, sinister plan to mis-use my expressly scheduled Hearing, explicitly for hearing arguments in my counterclaim of title to adverse possession to Quiet Title (w) Partition. Judge Mikell Scarborough and all four (4) atty and one Pro Se Party consented to mis-use my schedule time to hear only arguments enhanced by misconceptions amounting to corruption and even obstruction of justice. The judge readily Ordered [Judgment] Summary judgement illegally. My atty. Atty Melena Dinwoodie should never had agreed with nor consented to Judge M. Scarboroughs Plan to have his favored burden me for countless monetary amounts, to pay Charles and Keith, objects, or to have said buy or sell property that my parents left for posterity for scores. Charles and Keith are estranged grandson who contributed nothing to their grand parents nor to the property ever. But they decended on me, 85 yrs. old Matriarch to take all. See where Charles has change interest percentages to suit himself the most undeserving he and Keith. Percentages initial for five (5) child 20% ea. = 100% Charles and sister, Charla Split 20%, 10% ea. Charles and Keith executed their own D'Dist Charles - 4 children 18% ea; Charles 25% = Fall out after Summary judgement*

*Carolyn T. Smith*

## Rule 242

### Certiorari To The Court of Appeals

1. Did the court of Appeals err in holding that they found no law, "material fact of law, that would give reason to reinstate

Partitioner's Case No. 2022 001815?

2. Did the Court of Appeals err in not granting my "Motion to Return To The Motion because Petitioner did not send proof of service to all the Parties but accepted the gross negligence of the Respondents having deliberately withheld notice of her drastic motion "Motion to Dismiss Petitioner's Case herein the subject and to do so with prejudice? The Respondents said notice arrived giving me four days not 30 days to respond.

3. Should the Court of Appeals have denied Respondents Motion TO Dismiss Petitioner's Case with prejudice?

Statement of The Case

See History please.

# The History -

## Statement of The Case

Begin in and about 2021-2023

1) I, Carolyn T. 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 mother

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, for posterity.

7. Persistent in the matter of selling, Sara filed a Claim of Quiet Title with Partition in the Chas. 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 on 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, ~~atrocious~~ un-Christian and ruthless, non-thinking measure is the Courts and filing of Quiet Title (w) Partition, by the two estranged, unloving, greedy grandsons, Keith and Charles Leon McWilliam AKA Charles Tolbert Keith did not attend mother's funeral deliberately.

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 dad but then Mo S.

(3)

At some point Charla battled M. S. but was  
Stalwort,

(13) It comes time for a Hearing, Myatt,

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

(14) Before the Hearing scheduled precise-  
ly for, "My Day-In-Court," where argu-

ments were to be heard for my Counter-  
claim (See exhibits) of title to Adverse Po-  
ssession. The judge calls two conferences  
that I later learned were sinister ones.

(15) Judge M. Scarborough invited all of  
his favorites 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 con-  
vinced all attorneys present into a agreement  
with their clients and (w) judge Scarba-

& rough, except me, to have them agree to

\* bear 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. An-  
drews' lies, bold face lies wherein she falsely  
accused me of signing on to, creating the corrective  
deeds she knew that others created. See exhib-

Please see reverse. →

17.) Said egregious behavior was tolerated and shall be forever tolerated

as long as in the Courts of The U.S.A we allow for, "One Man Judge - And

Jury." It seems that said style has been here a long time, too long. (Everybody is created with a Human Nature). It makes us unable to inject into our judgment that that mimes (mimics) self, ourselves. How

dangerous an ingredient served up with "Justice." There can be nothing

<sup>Worse</sup> more that the persecution I have been put through.

I pray the Supreme Court provide my Day-in-Court

18. When it came time to appeal my attorney had no legs to stand on. She too had consented to denying me "Due Process."

That reaches to federal level. They all need reprimand

19. Respondent, Ashley Andrews, Esq, nor should I have ever ended up in the Ct of Appeal

20 This / The Circuit Court Case needs to be tried by jury, esp

# 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 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. 434, 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 Hennings.

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

dent<sup>did</sup> 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 stake.

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 legal is judges and lawyers and without a jury really of my peers there can be the, "Due Process" no fairer  
NO Justice

Kindly continue to indulge me Pro Se no Bar No  
I cannot type c/s  
c/s

## Argument 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. It seems that partiality entered here. I am punished for deficiencies. The Respondent is not.

## 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 appeal 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 hold to the Court justifiable. See reverse, please

Respondents denying me timely notice is egregious.  
 Much more harmful than ones espe-  
 cially a person Pro Se) slight tardi-  
 ness in announcing an intent to  
 appeal  
 that normally follows a judgment  
 ie appealing as a follow up step  
 toward victory or prevailing.

Only in cases where clandestine  
 schemes are in the plan felt to  
 be lead tight per the plan of judge

Scarborough and Co-Conspirators as  
 evidenced at the "Hearing" that was no  
 more than a FARCE is ONE taken by  
 surprise. CJS

This is to Certify that I, Carolyn Tolbert Smith, have amended my Petition, dated in and about 7/15/2023. I have included the newly assigned Case no: 2023 001134 as corrected by my case manager, Ashley. I've corrected the case title also. I have mailed the foregoing to all the Parties below to also include Proof of Service.

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SC Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Mikell R. Scarborough, Circuit Court Judge

Appellate Case No. 2022-001815

KEITH L. TOLBERT, RESPONDENT

v.

CAROLYN TOLBERT SMITH, CHARLES TOLBERT, BETTY JEAN TOLBERT JONES, SARA JO TOLBERT LATTEN, AND ESTATE OF CHARLA TOLBERT MCMILLIAN, DEFENDANTS,

OF WHOM CAROLYN TOLBERT SMITH IS THE APPELLANT,

AND

CHARLES TOLBERT, BETTY JEAN TOLBERT JONES, SARA JO TOLBERT LATTEN, AND ESTATE OF CHARLA TOLBERT MCMILLIAN ARE THE RESPONDENTS.

PROOF OF SERVICE

Per #7 Rule  
Certificate  
of Service

5  
Extra Xmas



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

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Carolyn Tolbert Smith  
338 5th Avenue  
Mount Pleasant SC 29464

Re: Keith Tolbert v. Carolyn Smith  
Appellate Case No. 2022-001815

**Keith L. Tolbert, Respondent,**

**v.**

**Carolyn Tolbert Smith, Charles Tolbert, Betty Jean Tolbert Jones, Sara Jo Tolbert Latten, and Estate of Charla Tolbert McMillian, Defendants,**

**Of whom Carolyn Tolbert Smith is the Appellant,**

**and**

**Charles Tolbert, Betty Jean Tolbert Jones, Sara Jo Tolbert Latten, and Estate of Charla Tolbert McMillian are the Respondents.**

