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Aug 08 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The
Court Of Appeals

Appellate Case No. 2022-00357

Hon. William A. McKinnon Circuit Court Judge
Hon. Caroline Woodruff, Probate Judge

Case No. 2021-CP-46-02764

2021-ES-46-00777

Joe L. Adams Jr., Appellant,

v.

Betty Ogbuneke, Respondent.

Response Objection to Initial Brief of the Respondent

To the Court of Appeals,

Plaintff Joe L. Adams Jr. Appellant comes before the court of Appeals in response to the Initial Brief of the Respondent. The plaintiff has submitted evidence to the court that there were violations of trial procedure that happened in the initial York County Probate Hearing held by Judge Woodruff in York South Carolina located in the basement of 5 congress st. The plaintiff through the evidence of the Transcripts from the Probate Hearing, to the Transcripts from the Circuit Court hearing that show the plaintiff was subjected to suppression of evidence and denial of the right to Testify on his own behalf.

The plaintiff was not allowed a fair hearing but a hearing that was one sided due to the fact that there were no closing arguments, no evidence submissions or finding of fact and conclusions of law.. The plaintiff ask the court if there is video evidence from the plaintiff entering the court at the hearing and the court will see that all the plaintiffs evidence was available but no opportunity to present it was given.. The judge promised the plaintiff in several sections of the transcript that she would allow him time to testify but did not. The time never came so the plaintiff appealed the descision and Judge McKinnon can be heard stating that he was going to adopt the ruling of the lower court with no finidng of facts or even taking a recess to review the transcripts of the case.

During the hearing with Judge McKinnon, the plaintiff did state to the judge that the reason for the appeal was because he never got a chance to testify. But during the hearing the judge was curt with the plaintiff and did not

like it that the plaintiff appeared pro se. But the court does not seem to consider that the plaintiff spends all his money in the estate and tryin to keep things going and a nice place to stay and does not make enough to afford an attorney not being employed at the time.. That is the reason the plaintiff appeared pro se.. The plaintiff has not been able to do a fraction of what Mrs. Ogbuneke has been able to do with her night clubs, transportation company, and nursing agency.. Mrs. Ogbuneke during the time the plaintiff was struggling to pay the taxes and bills was able to put her children through **medical school** and another through college and **pay their rent** and **buy her kids a car** and other things. Mr Joe Adams Jr. could not do half of what he could have accomplished because he has been taking care of the estate as one person responsible for all the expenses when Mrs. Ogbuneke has not contributed anything.. not cut one blade of grass or step foot in the front door without police escort and a scene.. Plaintiff contends this causes a lot of embarrassment when if there was a dual Executor or Personal Representative there would be no need for any police or any disturbance whatsoever..

At the time when Mrs. Ogbuneke came in 2020 she had told all my other relatives she was coming and never told me.. She came with police several cars of them and they took over everything.. I was in shock as no notice.. Then she did it again.. no notice and taking pictures of all my belongings and supplies.. I thought it was very unfair.. She came a couple times when I was not home.. my neighbors took photographs of her going through the yard taking pictures.. All the things she was taking pictures of were things I had been maintaining that were in the condition that she was seeing through my efforts and expenditure of my monies hard earned.

I have been living here all my life and have contributed more than any one has ever contributed.. I have remodeled the houses and put new roofs on.. I have painted and cut grass for 4 acres alone for more than 19 years and invested all my money and savings into keeping our home in good condition.. When I was in high school I drove a school bus.. My father and mother would take all of my check each month to help them with the taxes for the house.. I never complained one time... I believed in my fathers dreams and they became my dreams...

I have always supported my parents.. I opened a bank account at first union bank and had 10% of each check deposited into the account so my mom could keep her hair fixed and have money to help with bills.. All this time I have lived here and dedicated everything I must step aside now and allow the only child that has not helped keep anything or pay anything come in and make decisions. I am pleading with this court to not allow Mrs. Ogbuneke to be the sole Executor of this estate as she is from Charlotte NC and if there is any business here it is a lot more feasible to have the executor or co executor close..

After Reading over the defense brief I was disappointed that there was no mention of any of the topics and exhibits that I have presented for the court.. No comments on the Credit Card Fraud or other issues because they were all true. I will submit my response to the statements made to the court by Mr. Corbett in Opposition to his submission. The plaintiff ask that the court also examine the moral issues with this case as it is investment of a lifetime for the plaintiff. Plaintiff has the statements highlighted that are from the defense brief and his response is immediately after..

The plaintiff objects to these statements in the brief and ask that the court consider his pleadings and review his evidence so he can have a fair trial.

I.

STATEMENT OF THE CASE

After the death of her father, Ms. Betty Ogbuneke proffered the will of her father to the probate court. The will appointed her as the Personal Representative and granted her half of his estate, along with her brother, Joe Adams Jr. The siblings have apparently not spoken in a number of years. Mr. Adams acknowledged the will and petitioned the court to remove the Personal Representative.

Plaintiff Objects:

1. Mrs. Ogbuneke falsely documented the application for personal representative to the probate court by not stating that Mr. Joe L. Adams Jr. was and is an “interested Party” as well as falsely documented other sections of the application to be able to gain control of the Personal Representative status.
2. Mr. Joe L. Adams Jr. went to the probate court to contest the appointment due to Mrs. Ogbuneke’s history of **credit card fraud violations** and **theft** against Mr. Joe L. Adams Sr. Estate coupled with her abandonment of any responsibility to help maintain the estate.
 - a. Plaintiff would like to ad that Mrs. Ogbuneke regularly drives around the estate and visits all her friends here in Rock Hill SC but will not enter the driveway or call.
 - b. Plaintiff contends that Mrs. Ogbuneke’s attorney is only proclaiming a one sided story and he knows how to manipulate the court as he has additional lawyers and connections.
 - c. Plaintiff contends that Mrs. Ogbuneke has committed fraud in the application for personal representative and purposely did not serve the paperwork to Mr. Joe L. Adams Jr. so he would be behind the process by the time he knew what was happening.
3. Mr. Joe L. Adams Jr. and Mrs Betty Ogbuneke were speaking at the funeral arrangements for our father..
 - a. All of the number of years of silence is due to Mr. Corbett instructing Mrs. Ogbuneke not to speak to me.
 - b. It was Mrs. Betty Ogbuneke that were together to choose the casket that our father is buried in.

4. Mr. Joe L. Adams Jr. has reached out to Mrs. Ogbuneke on several instances during the year and has included her name in the ad for his fathers memorial each year including this year 2023 when he sent a copy of the ad to Mr. Corbet to send to his sister for his fathers birthday.

II.

At the hearing, Mr. Adams appeared pro-se and presented his case in chief. He called two witnesses and, due to not being familiar with the rules of evidence, he was unable to put forward any of his 13 documents. After calling the Respondent (Ms. Ogbuneke) and her husband as witnesses, the Petitioner, Joe Adams Jr. closed his case in chief without realizing he could call himself to the stand. Upon a proper motion for directed verdict, the judge dismissed Mr. Adam's petition.

Plaintiff Objects:

1. There were no 13 Documents and there was no submission of evidence during the trial according to the official transcripts.
2. There was no testimony from Mr. Joe L. Adams Jr.. and no final arguments because the judge did not allow the plaintiff to say almost anything without constantly cutting him off.
3. Plaintiff contends that the official transcript is available and has been transcribed that was delivered by Judge Woodruff herself.
 - a. In the transcripts the court will see that the plaintiff was not given any opportunity to testify or to present any arguments or final presentations.
 - b. Plaintiff contends that the trial was unfair as he was not able to speak or say anything on his own behalf and all the evidence was in the court during the hearing.
 - c. Plaintiff ask the judge on several occasions but was still not allowed to have final arguments or present the evidence of fraud and stealing that were deposited directly to the circuit court.

III.

Mr. Adams subsequently appealed pursuant to S.C. Code 62-1-308(i). Filing a brief consisting of all the reasons he disagrees with the Probate Judge. (Circuit Brief for the Petitioner). In his brief, Mr. Adams fails to state a single legal issue to which he seeks to base his appeals; he failed to follow the procedural requirements of 62-1-308(i); and he failed to provide a statement of issues within 45 days, rendering his appeal untimely. (Tr. 11:15-20). Petitioner instead argues that the facts and exhibits that he was unable to properly admit onto the record should be considered by the Circuit Court. (Circuit Brief for the Petitioner. 1-2). At the Circuit Court Appeal, Mr. Adams submitted 13 exhibits consisting of documents that he failed to properly admit into evidence at the probate hearing.

Plaintiff Objects:

1. The transcript of the hearing is also included in evidence and it will show the court that the plaintiff did indeed offer the transcript of the hearing to the judge as evidence.
2. The transcript of the hearing will show that the plaintiff did present a legal issue of “never getting to testify”, never getting to present my evidence to the court that was available in the court documents.
3. Plaintiff contends that the judge inherited the same issue that was present from the probate court because the plaintiff’s evidence was suppressed.
4. The appeal was not sent on time because Mr. Corbet never served the appeal. he would have his process servers to come at night and leave notices tied to the outside fence and they would come right back and take the notices down prior to the plaintiff getting home in the afternoon.
5. Plaintiff called the police and made a report about the activity.
6. The plaintiff’s appeal was submitted as soon as the judge released the orders to the public the plaintiff went to the court and submitted the appeal.
7. The plaintiff would like for the court to closely examine the response submission of their informal response brief, it is signed as the attorney for the plaintiff and he is not the attorney for the plaintiff but the attorney for the defendant.
8. Plaintiff also contends that the defendant has not served any notice through the proper service procedure. The notice was sent through email and the letter contained statements that there was an official service hard copy being put in the mail. This is the same thing they did with all the other letters and notices. Either they are late or never come at all, but he points out my mistakes and never mentions the contributions his law firm contributed to the confusion.

IV.

Respondent, through her counsel, filed a motion to dismiss on the grounds that Mr. Adams failure to provide a proper brief to the Court of Appeals and failure to state a legal issue for the court to consider. The Honorable Judge McKinnon, after reviewing his brief and hearing from the parties, dismissed the appeal on the merits since he did not comply with the rules or present a legal issue for the court to consider. (Tr.16:18-24).

Plaintiff Objects:

1. There is a Transcript available that will show that Judge McKinnon did not brief on the case and had to be given the case information at the trial..
2. Plaintiff contends that if the Honorable Judge McKinnon had taken time to review the transcript he would have known that the plaintiff was not given a chance to say anything or present anything on his own behalf even after explaining to Honorable Judge Woodruff that he had the evidence available in open court.
3. Plaintiff contends that at the onset of the court proceedings that evening that the defense council and Judge Woodruff were both late to enter the court almost at the same time.
4. Plaintiff contends that the hearing was biased and that his evidence was suppressed.

V.

ARGUMENT

I. THE CIRCUIT COURT CORRECTLY DISMISSED PETITIONERS COMPLAINT FOR NONCOMPLIANCE WITH S.C. CODE 62-1-308 AND RULE 208 SCACR.

This matter comes by way of a probate court appeal to the Circuit Court pursuant to S.C. Code 62-1-308. Circuit Court appeals from the probate court are held to the rules and requirements of the Court of appeals. *See, Cumbee*, 333 S.C. 664, 670, 511 S.E.2d 390, 393. This Court, along with the lower appeal conducted at the Circuit Court before the Hon. W. McKinnon are governed by Rule 208 SCACR. *See, Id.*

Rule 208 requires the brief of Appellant to include a statement of issues on appeal. Rule 208(b)(1), SCACR. Appellant at his first appeal did not submit a statement of issues on appeal before the hearing and did not have a properly formatted brief thus justifying the dismissal of his appeal. *See, Rule 208(b)(1), SCACR.*

Plaintiff Objects:

1. Plaintiff contends that these rules are set for “Fair Trials” not trials that are not fair and deprive the plaintiff of his rights and suppress the evidence of one or the other side.
2. Plaintiff contends that the trial was unfair and that through all the evidence of Forgery Stealing and Manipulation that the defendant has not once denied that she did those things.
3. Plaintiff contends that he has put forth a lifetime of suffering through all the trials and tribulations of maintaining this estate and is now too old to start over.
4. Plaintiff contends that the defendant has not given on quarter to the taxes that have been paid by the plaintiff on time each year but used her taxes for North Carolina where she lives.
 - a. Plaintiff contends that Mrs. Ogbuneke lives in North Carolina and has never paid any taxes to South Carolina not for anything and has never contributed to the tax burden of maintaining the estate.
 - i. Instead Mrs. Ogbuneke has lived her life as if this property didn’t exist and has abandoned her responsibilities all together for the last 19 years.
5. Plaintiff ask why has Mrs. Ogbuneke not mentioned the “Credit Card Fraud” or any of the other numerous violations against our father or denied any one of them..
6. Plaintiff contends there is no denial of any of the evidence that was brought before this court and all of the evidence was properly held in storage at the York County Courthouse of York South Carolina where all the original documents are located.

VI.

II. THE PETITIONERS FIRST APPEAL DID NOT IDENTIFY AN ISSUE ON APPEAL, THUS PETITIONER HAS NOT PRESERVED HIS ISSUES FOR REVIEW.

Appellant has failed to preserve his issues on appeal by failing to argue his listed points before the Circuit Court Appeal. *See, Freiburger*, 366 S.C. at 134, 620 S.E. 2d at 741. Appellant's brief fails to cite any error of law that was attributable to the court, nor case precedent providing authority for his arguments; thus, his issues on appeal are not properly preserved for this review. *See, Crocker*, 366 S.C. at 399, 621 S.E.2d at 893. Petitioner's failure to familiarize himself with the rules of evidence mirror the age-old legal concept of *maxim ignorantia juris non excusat* (Ignorance of the law is not an excuse).

Appellant further fails to challenge the dismissal of the Circuit Court appeals anywhere in his brief presented for review. (See Brief pg 3-4). The dismissal is presumed correct as a matter of law, and the Petitioner is unable to overcome that presumption to demonstrate reversible error without addressing it in his brief to this court. *See, IKON*, 380 S.C. at 659-60, 670 S.E.2d 701.

Plaintiff Objects:

1. Plaintiff contends that because the first Hearing was unfair as to not allowing the plaintiff to testify that in reading through the transcripts of both hearings there is evidence that the same error was inherited again.
 - a. Plaintiff contends that the transcript of the hearing at the probate court was offered to Judge McKinnon but because the plaintiff appeared as a Pro Se Litigant the Judge was quick to reprimand the plaintiff and through the transcripts the court will be able to see where the evidence has been in the same location at the York County Courthouse in York South Carolina 5 Congress St.
2. Plaintiff has been complaining from the beginning of the hearings at the York County Courthouse of all the theft and the abandonment form more than 19 years.
 - a. Plaintiff contends that not even this year did Mrs. Betty Ogbuneke offer or pay any taxes on any of the property of this estate.
 - b. Plaintiff contends that Mrs. Ogbuneke did not contribute to the purchase of the Headstone at my fathers Grave.. Mr. Joe L. Adams Jr paid the money for the headstone out of his mothers money she left him while Mrs. Ogbuneke did not pay one dime... but now she intends to set the new writing on the headstone for my father.. if she is able to be executor alone she will be awful to have to deal with and the plaintiff does not deserve that ending after a lifetime of dedication, paying taxes even while in high school, living here day by day.. the plaintiff does not deserve to be

uncounted when the evidence was secured and safe at the courthouse in York where it is docketed and assigned the same case numbers that are listed in the declaration of evidence.

VII.

CONCLUSION

Based on the foregoing discussion and analysis, Respondent Ms. Betty Ogbunke respectfully requests that this Appellate Court uphold the dismissal of the first appeal by the Circuit Court so that the Probate Estate can be concluded.

Respectfully submitted,

s/Cyrus Corbett
Cyrus Corbett BAR # 103156
Cyrus Corbett, Attorney at Law, LLC
813 Davis Drive
P.O. Box 1038
Chester, SC 29706
Phone: (803) 209-5635
Attorney for Plaintiff

Plaintiff Objects,

1. Plaintiff contends that the attorney for the respondent/defendant has signed his submission as the attorney for the Plaintiff who is Joe L. Adams Jr.
 - a. Plaintiff contends that the respondent has signed his submission as the attorney for the plaintiff and the submission should be disqualified.
2. Plaintiff contends that Mr. Corbet ends his letter stating that the court should uphold the rulings and dismissal so the Probate Estate can be concluded but if you look at the history of this appeal Mr. Corbett and the defendant are the primary reasons behind the delay as they have not tried not even once to set up any meeting so we can all speak together and resolve any questions.
3. Plaintiff ask the court to please see Exhibit 1. where the defense had to be sent letters to remind them of the deadlines for submission.
 - a. Plaintiff contends that this is the type of business etiquette that the plaintiff would have to endure if he is not allowed to be granted Co Executor with all signing privileges.

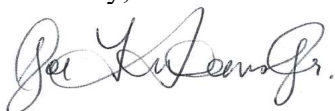
Conclusion

Plaintiff ask this court to please review the transcripts. The transcripts will tell the story of what happened in the court room during the probate trial for Mr. Joe L. Adams Sr. The plaintiff has had the

audio CD transcribed for the court to review and will submit the copies of both the “Probate Hearing by Judge C. Woodruff” and the “Circuit Court Hearing by Judge McKinnon”. In those transcripts the court will see the plaintiff is not lying but telling the truth regarding the violations of court procedure and denial of finding of fact.. The court did not allow any closing arguments or submission of evidence from the plaintiff.. The plaintiff also points out that the court did not order any type of “**Bond**” be required in this appointment which I feel that the court would have ordered had they allowed the testimony and submission of evidence of **Credit Card Fraud** and abandonment of the estate by the plaintiff. The Plaintiff also contends that along with the signing is wrong there is no designation of Subject Matter included with the defense submission. Plaintiff ask that the submission be disqualified since Mr. Corbett is a real lawyer with layers of assistance.. The brief was submitted with signed as the lawyer for the plaintiff a type of Fraud and should be disqualified.

Plaintiff contends that the court was not able to make a decision based on finding of fact and conclusion of law but depended only on a one sided story and no evidence. Plaintiff would also like to point out that there has been no denial of any of the evidence of Credit Card Fraud and fraudulent applications.. But the defendant is relying on the court to be non forgiving to the plaintiff and ignore his Pro Se litigant status in holding these statutes against him.. But the plaintiff contends that these statutes were written for fair trials based on the finding of fact and conclusions of law as well as the evidence submitted.. The court relies on the closing arguments and both plaintiff and defendant get a fair trial based on the courts ability to hear each litigant fairly.. But in this case the plaintiff was muted and not allowed to present the evidence.. That is why the judge did not impose a bond on the respondent because she had not hear the full case only the one sided version. The plaintiff ask and pleads to the court of appeals to overturn this judgment and allow the plaintiff to be coexecutor with all signing privileges due to his investment and interest contributed to the welfare and maintenance of the estate for the past 19 years.

Sincerely,

A handwritten signature in cursive script that reads "Joe L. Adams Jr.".

Joe L. Adams Jr.

8/7/2023

EXHIBIT I

Letter from Appeals Court on Late Submissions from Defense Council



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
DEPUTY CLERK

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July 07, 2023

Mr. William Cyrus Corbett, Esquire
PO Box 1038
Chester SC 29706

Re: Joe Adams Jr. v. Betty Ogbuneke
Appellate Case No. 2022-000357

Dear Counsel:

According to our records the initial brief of respondent and designation of matter were due to be served and filed by June 26, 2023. As of today's date we have not received your brief, nor have we received an extension of time in which to file the brief. If you wish to file an initial brief of respondent and designation of matter you must do so within ten (10) days of the date of this letter, or the Court will continue without consideration of your brief.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine S. Harrison, deputy".

CLERK

The South Carolina Court of Appeals
1220 SENATE STREET
COLUMBIA , SOUTH CAROLINA 29201

Appellate Case No. 2022-000357

Joe L. Adams Jr.)
)
)
vs)
)
)
Betty Ogbuneke)
)

Certificate of Service

RECEIVED
Aug 08 2023
SC Court of Appeals

Dear Court of Appeals,

This is to certify that a copy of the forgoing “ Response to Informal Response Brief” has been served upon the following Defendant Attorney “Cyrus Corbett” by causing a copy of the same to be placed in the United States mail, Postage Prepaid, addressed as shown below, this 8, day of August 2023.

Cyrus Corbett
Gaston Marion and Stubbs
124 Gadsden St
Chester SC 29706
corbettwc@gmail.com

Sincerely,



Joe L. Adams Jr.

08/07/2023