

STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

COURT OF COMMON PLEAS  
2022-CP-10-03304

Athena L. Irland,  
Appellant

-vs-

Brandy Culp,  
Respondent

)  
) TRANSCRIPT OF RECORD  
)  
) September 27, 2023  
)  
)  
) Moncks Corner, South  
) Carolina

B E F O R E:

The Honorable Bentley Price, Judge

A P P E A R A N C E S:

Athena Irland, Pro Se Appellant

Daniel Slotchiver, Esquire  
Steve Slotchiver, Esquire  
Jesse Sanchez, Esquire  
Attorneys for the Respondent

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DEC 05 2023

SC Court of Appeals

Reported By:

Yvestre Torres, OCR  
Circuit Court Reporter for the  
Ninth Judicial Circuit

1           THE COURT: Thank you very much. All right.  
2 All right, specifically, what motions are outstanding  
3 that need to be ruled on?

4           MR. SANCHEZ: Your Honor, we're here on the  
5 actual appeal itself. We have a few procedural issues  
6 that we would like to take up. This is Ms. Irland's  
7 appeal from probate court. We're the Respondent;  
8 we represent Ms. Brandy Culp, who's here ---

9           THE COURT: But my recollection is  
10 I submitted a Form 4 on that appeal sending it back  
11 to the probate court. And I contacted my old law clerk,  
12 and she indicated that what she could find in her notes  
13 was I ruled on it, did a Form 4, and y'all didn't like  
14 it, and y'all said, y'all wanted to have more  
15 information.

16           MR. SANCHEZ: Well, what happened ---

17           THE COURT: So, technically, I ruled  
18 on the appeal, correct?

19           MR. SANCHEZ: No, sir. What happened was  
20 we had a hearing on the motion to dismiss the appeal.  
21 Your Honor issued an order ---

22           THE COURT: What did the order say?

23           MR. SANCHEZ: It was a Form 4 order, like  
24 Your Honor stated. We filed a motion to alter ---

25           THE COURT: I'm asking you, what did my

1 order say?

2 MR. SANCHEZ: Your order granted the appeal  
3 and remanded it to probate court.

4 THE COURT: So, I did rule on it.

5 MR. SANCHEZ: You ruled on the -- you ruled  
6 on an appeal that was never presented to Your Honor.  
7 There was never a brief filed in this case.

8 THE COURT: I'm not asking that.  
9 The question is, I did rule on it, correct?

10 MR. SANCHEZ: You did not rule on that first  
11 hearing, on the motion to dismiss. And then we had  
12 a subsequent hearing before Your Honor, and that  
13 subsequent hearing was on the motion to alter or amend  
14 and for a petition for rehearing under the appellate  
15 rules. Your Honor had a hearing on that issue. And  
16 then, ultimately, issued an order which I have in my  
17 hand here where it says, "A rehearing will be held only  
18 on the issue of the appeal from probate court."

19 THE COURT: So, I did rule on that?

20 MR. SANCHEZ: You said that you would have  
21 a hearing.

22 THE COURT: Okay. All right.

23 MR. SANCHEZ: That's what we're here for  
24 today.

25 THE COURT: Okay. So when did you reach

1 out to my office and request a hearing on that?

2 MR. SANCHEZ: Well, Your Honor, we had  
3 a hearing on this on January 26, 2023. And then at the  
4 end of that hearing, which was 11 minutes, Your Honor  
5 said you would have ---

6 THE COURT: I'm not worried about  
7 the timeline and the timeframe of all that stuff.  
8 Just please answer the question. When did you reach  
9 out to my office and ask for a rehearing on that motion?

10 MR. SANCHEZ: After you actually issued  
11 this order.

12 THE COURT: Okay. And what did my office  
13 set up?

14 MR. SANCHEZ: Your office set up this  
15 hearing.

16 THE COURT: I'm not talking about that.  
17 I'm talking about -- you're talking about a year ago.  
18 So when you file a motion for a reconsideration,  
19 you have to file it with the Court, not with the clerk  
20 of court. So my question is, y'all have taken this  
21 to the Supreme Court and got a writ of mandamus for  
22 me to rule on something that I've already ruled on.  
23 I'm very clear about that.

24 If you wanted a rehearing on something else,  
25 you have to file it with my court and reach out to my

1 staff and ask for a hearing. You will get that hearing  
2 immediately. I usually do it the same week. When did  
3 you reach out to my office and ask for the rehearing  
4 to be scheduled?

5 MR. SANCHEZ: It would have been sometime  
6 before ---

7 THE COURT: I didn't say it would have been.  
8 I want to know the specific exact date because,  
9 obviously, I have to keep the record straight for the  
10 Supreme Court.

11 MR. SANCHEZ: Yes, Your Honor. But the fact  
12 remains we had a hearing on this issue before Your  
13 Honor.

14 THE COURT: Okay. And I ruled.

15 MR. SANCHEZ: You did not issue a ruling  
16 until after the petition for writ of mandamus was filed.

17 THE COURT: Okay.

18 MR. SANCHEZ: And then in that ruling,  
19 you said you were denying the motion to dismiss,  
20 but you are also saying that you were granting the ---

21 THE COURT: In between the time that y'all  
22 filed the writ of mandamus with the Supreme Court and  
23 my initial ruling, when did you reach out to my office  
24 to have it scheduled?

25 MR. SANCHEZ: Your Honor, we asked for it.

1 We already had the hearing; we had that actual hearing.  
2 As I stated earlier, we had that hearing on January 26,  
3 2023.

4 THE COURT: Okay.

5 MR. SANCHEZ: The hearing was scheduled.

6 THE COURT: Okay.

7 MR. SANCHEZ: Okay. And then Your Honor  
8 said you would have a ruling by the end of day.

9 THE COURT: Okay.

10 MR. SANCHEZ: In that hearing, we asked  
11 for a rehearing.

12 THE COURT: Okay.

13 MR. SANCHEZ: Okay. And then Your Honor  
14 issued a ruling after the mandamus came down.

15 THE COURT: Before the mandamus, when did  
16 you ask for a hearing on this appeal?

17 MR. SANCHEZ: It was -- okay. November  
18 21st, 2022.

19 THE COURT: What did my law clerk say?

20 MR. SANCHEZ: I'm not aware that your law  
21 clerk said anything, Your Honor.

22 THE COURT: Me either. So what was ---

23 MR. SANCHEZ: But we had a hearing on the  
24 issue.

25 THE COURT: All right. All right.

1 What's before the Court?

2 MR. SANCHEZ: All right. So, Your Honor,  
3 we're here on the appeal itself. As I stated,  
4 Ms. Irland is the Appellant from probate court.  
5 Mr. Slotchiver will address any substantive arguments  
6 which she may present. But before we address the  
7 substance of those arguments, we have to address a few  
8 procedural issues which are critical to this appeal.

9 As Your Honor is aware, appeals in probate  
10 court are handled differently than appeals from  
11 magistrate court. Specifically, those appeals are ruled  
12 under the probate statute, Section 62-1-308. I'm going  
13 to go through those different sections and demonstrate  
14 to the Court what has not been complied with, and I have  
15 a copy of the statute if Your Honor would like me to  
16 pass it up to you.

17 THE COURT: I'm okay.

18 MR. SANCHEZ: Okay. All right. So the  
19 statute sets forth requirements which an Appellant must  
20 meet in order to pursue an appeal. And the Supreme  
21 Court has stated in both State v. Brown, which is a 2004  
22 case, at 358 S.C. 382, and Great Games, Inc v. South  
23 Carolina Department of Revenue, which is a 2000 case,  
24 at 339 S.C. 79, that an Appellant who fails to follow  
25 the procedural requirements strips the Court of

1 jurisdiction over the appeal. And so we have gone  
2 through and made a list of all the elements which  
3 Ms. Irland has not followed.

4 First, under South Carolina Code, Section  
5 62-1-308(b), she's required to file a statement  
6 of issues on appeal within 45 days of receiving notice  
7 of the order. She's also required to serve it on us  
8 and file a proof of service. The record shows, based  
9 on her notice of appeal that she filed, that she  
10 received notice of the order on July 14, 2022.

11 So 45 days later, lands on a Sunday,  
12 so the following Monday, August 29th, 2022. She never  
13 filed a statement of issues on appeal, as required  
14 by the statute. She never served a statement of issues  
15 on appeal on us, as required by the statute. She never  
16 filed a proof of service, as required by the statute.

17 Then, she's supposed to file and serve  
18 a designation of matter to be included in the record  
19 on appeal, subsections C and D. She never did that.  
20 Then, she's required to file and serve a copy of an  
21 appellate brief, as required by 62-1-308(e). It's  
22 been over a year since Ms. Irland has filed this appeal.  
23 She's never filed an appellate brief, as required  
24 by the statute. She has never filed and served a record  
25 on appeal, as set forth under Section 62-1-308(f).

1 And the statute is clear that it must comply with  
2 the appellate court rules.

3           So our position, Your Honor, is she hasn't  
4 taken a single step to perfect this appeal. And based  
5 off the Supreme Court's orders, or rulings, in State v.  
6 Brown and Great Games, Inc v. South Carolina Department  
7 of Revenue, she has failed to follow the procedural  
8 requirements, and that strips the Court of jurisdiction  
9 over the appeal. It is impossible for us to respond  
10 to an appeal which has not been briefed in the first  
11 place. The statute requires her to file a brief,  
12 then in response to her brief, we would file a brief.  
13 That has never been done.

14           So that's why we're here before Your Honor  
15 today. We have no idea what Ms. Irland is going to  
16 say in court, what her issues are. She hasn't briefed  
17 anything; she hasn't put forth any case law; she hasn't  
18 followed any of the statutory requirements for appeals,  
19 as the legislature has set out under 62-1-308.

20           THE COURT: All right. Yes, ma'am.

21           MS. IRLAND: First, Your Honor, when you  
22 stated that we were coming for a rehearing, that only  
23 the things that were brought up in the original trial  
24 could be presented today. So, I ask the Court not  
25 to consider most of what he has said because when they

1 first filed their motion to reconsider, they based  
2 it solely on two matters.

3           They based it on -- the first matter was  
4 that -- the allegation that I failed to notify parties  
5 under court rules, specifically Isadore Psaras and  
6 Christina Culp. And they weren't notified because they  
7 were no longer a party to this action, to a settlement  
8 agreement executed on March 26, 2020, which says,  
9 assigns all of his right, title, and interest in the  
10 estate of Dolly Legare Coleman to Brandy Culp.

11           In addition to that, it relinquished their  
12 right to title interest in estate. Section 5 of that  
13 settlement agreement stated the undersigned parties,  
14 each intends and hereby released from each other  
15 and any and all other persons of and from all cases --  
16 causes of action.

17           As to the argument of not being notified  
18 in a timely manner, the court docket clearly shows  
19 that I filed the necessary documents in compliance  
20 with the court rules. On January -- I mean, excuse  
21 me, on July 13th, 2022, the probate court ordered that  
22 the estate of Dolly Coleman be administered as a testate  
23 estate, having erroneously decided that Ms. Coleman  
24 had a valid Will at the time of her death. The record  
25 supports the fact that there was no Last Will and

1 Testament in effect at the time of death.

2 That being said, that was their main cause  
3 of action against me in asking for that. And I proved  
4 that with the Court -- giving the Court the mediation  
5 agreement and the court order by Judge Kirchner showing  
6 that she approved that settlement, that neither party  
7 were a party to this action. And just putting their  
8 name on there was not -- it was an error on my part,  
9 I guess. But they also did it in references to e-mails,  
10 leaving their names off because they're not a party  
11 to this action.

12 The second thing they said that I -- the  
13 45 days was supposed to be in August, and I also showed  
14 in the first trial that I was in compliance of the 45  
15 days because I had filed it. We had a holiday of Labor  
16 Day, and I filed it the day after. In that section,  
17 it states the different ways that it has to be done.  
18 And it was my understanding from the date I did it,  
19 which was the 13th of July, upon receiving, and I did  
20 the issuances to the court on the intent to appeal.  
21 And then within the 45 days, I sent the appeal. It was  
22 not after 45 days, and that is on record from the first  
23 hearing.

24 THE COURT: All right.

25 MR. SANCHEZ: Your Honor, to be clear,

1 her notice of appeal, which she filed on July 22nd,  
2 2022, says that she received notice of the order on July  
3 14, 2022. At 45 days, lands on a Sunday, the 46th day,  
4 which is on a Monday, August 29, 2022. Your Honor,  
5 may look through the record in this case and clearly  
6 see that she did not file a statement of issues on  
7 appeal, she did not file a proof of service, didn't  
8 serve a statement of issues on appeal.

9 Beyond that, she did not file a designation  
10 of matter to include in the record. She didn't file  
11 a record, in accordance to the way that the statute  
12 requires. She did not even file an appellate brief,  
13 which is a statutory requirement, where she sets forth  
14 her arguments in case law. There's been nothing filed  
15 in accordance with the statute.

16 And again, I would say to this Court,  
17 under the Supreme Court's rulings, that strips the Court  
18 of jurisdiction over an appeal where the Appellant has  
19 taken zero steps under the probate statutes to perfect  
20 the appeal.

21 THE COURT: All right.

22 MS. IRLAND: I did file this with the court;  
23 I did issuances, and then I filed -- this is my appeal  
24 that I had filed.

25 THE COURT: All right.

1 MR. SLOTCHIVER: Your Honor, I'm happy to  
2 address the Appellant argument, once she's completed --  
3 is she done at this point? I'm happy to proceed.

4 MS. IRLAND: Well, am I done forever today?  
5 No. You can say what you want, and then I can respond,  
6 if that's okay with the Court.

7 THE COURT: Are you finished presenting  
8 your argument?

9 MS. IRLAND: Well, I have some -- I have  
10 some paperwork to present to the Court, and I have  
11 a copy for them.

12 THE COURT: All right.

13 MS. IRLAND: Do you want me to do that now?

14 THE COURT: Sure.

15 MS. IRLAND: And then I filed a, quote  
16 on quote, you know, what he keeps saying is a brief  
17 into that structural procedure. I might not have done  
18 it in that structural procedure, but I did ask this  
19 Court in my appeal to overturn it. I did not put  
20 something in there for you to just sign and go away,  
21 as I'm asking today, but this is the rehearing.  
22 So that's why I presented it.

23 But I did put what I wanted done in the  
24 appeal, but not in, you know, maybe a legal definition  
25 of brief. But I did it -- I did do it, and I did do

1 my issuances, and I did do the appeal work, and I did  
2 do it in the proper time.

3 THE COURT: All right.

4 MS. IRLAND: And I presented that to the  
5 Court at the other hearing.

6 THE COURT: I recall.

7 MS. IRLAND: Thank you.

8 THE COURT: All right. Are there any other  
9 issues that need to be placed on the record, apart from  
10 just the procedural issues that y'all are suggesting  
11 that she has not complied with?

12 MR. SLOTCHIVER: I don't believe -- if today  
13 is her appeal, I don't believe there's been any facts  
14 submitted, other than procedural responses from her.  
15 But talking about the merits of the case itself and  
16 the failings of Judge Kirchner -- the alleged failings  
17 of Judge Kirchner, an order they haven't been addressed  
18 with in court.

19 These are things that the brief would give  
20 us notice of what the complaints are and the law to  
21 support our positions. We don't have any of that before  
22 us, nor has she addressed those with the Court.  
23 She keeps focusing on the fact that she believes that  
24 she noticed the right parties. We don't have any type  
25 of briefing. She said that she gave a brief; we don't

1 have any briefs that we've received from her.

2 THE COURT: All right.

3 MR. SLOTCHIVER: Regardless whether they're  
4 proper or not. So we still don't have the ability to  
5 respond to the appeal because we haven't -- she hasn't  
6 told us what she's appealing.

7 THE COURT: I understand. But are we going  
8 forward on the appeal today, or are we not?

9 MR. SANCHEZ: Your Honor, that's what ---

10 THE COURT: Do you want to give her time  
11 to file a brief, is that what you're asking?

12 MR. SANCHEZ: No, sir. We're asking ---

13 THE COURT: So why are you making  
14 that argument that you don't know what to argue?  
15 Are we arguing the appeal or not? He's indicated  
16 that we're not.

17 MR. SANCHEZ: Well, I think what  
18 Mr. Slotchiver had said is that Ms. Irland has  
19 not presented an appeal to this Court. There's  
20 no statement of issues on appeal. There's no ---

21 THE COURT: I understand all that, but there  
22 is a valid motion before the Court that has to be ruled  
23 on, and you're just saying that y'all don't know how  
24 to respond because she hasn't filed the appropriate  
25 documentation.

1 MR. SANCHEZ: Your Honor, the only thing  
2 before this Court right now is a rehearing on the actual  
3 appeal. There was never a hearing on the ---

4 THE COURT: Hold on. I asked you earlier  
5 what was before the Court, and I asked you if it was  
6 a rehearing, and you said, no, that I had not ruled  
7 on the appeal. If it was a ---

8 MR. SANCHEZ: No, sir.

9 THE COURT: If it was a reconsideration,  
10 then that's different.

11 MR. SANCHEZ: Respectfully, no, sir.  
12 That is not what I said. What I said to the Court was  
13 we are here because we filed a motion that was captioned  
14 a motion to alter or amend a petition for rehearing,  
15 citing both the Civil Procedure Court Rule and the  
16 Appellate Court Rule. This Court came and said it  
17 was denying the motion for reconsideration on the motion  
18 to dismiss and that it would have a rehearing on the  
19 issue of the appeal. That is what we're here for today.

20 THE COURT: Okay.

21 MR. SANCHEZ: This Court could never have  
22 considered the appeal in the first place because she  
23 never followed any of the steps.

24 THE COURT: That's the same thing that  
25 you presented to me in the first hearing, though,

1 correct?

2 MR. SANCHEZ: From a procedural ---

3 THE COURT: And so I said I would give  
4 you a rehearing on the appeal, correct?

5 MR. SANCHEZ: Right.

6 THE COURT: So why didn't you just contact  
7 my office and ask for a rehearing? I don't understand  
8 this.

9 MR. SANCHEZ: Your Honor, I think we might  
10 be going in circles and maybe ---

11 THE COURT: No, we're not going in circles  
12 at all. You just won't answer my question.

13 MR. SANCHEZ: Your Honor, I think I've  
14 answered your question.

15 THE COURT: All right.

16 MR. SANCHEZ: Which is, we did ask your  
17 clerk for a rehearing. We had a rehearing. You said  
18 you would have an order to us by the end of day.  
19 We communicated with your office half a dozen times,  
20 which are documented. Eight months went by, we had  
21 still not received a response, so we filed a petition  
22 for writ mandamus.

23 THE COURT: All right.

24 MR. SANCHEZ: That's the timeline,  
25 Your Honor.

1 THE COURT: I got it. All right. At this  
2 time, I'm going to -- ma'am, do you want to make this  
3 part of the record?

4 MS. IRLAND: Yes, sir.

5 THE COURT: All right. I'll deny the appeal  
6 at this point in time. Prepare an order, have it to  
7 my office tomorrow by four o'clock. Anything else that  
8 needs to be addressed, taken up? What else do we need  
9 to do?

10 MR. SANCHEZ: No, sir, Your Honor.

11 THE COURT: All right. For the future,  
12 next time you need something from my office, we work  
13 very hard and diligent to make sure that we get these  
14 orders out. I pride myself on that. Please just  
15 communicate with us, and we'll be happy to get you  
16 a hearing. You do not need to contact the Supreme Court  
17 to have me make a ruling on a motion to reconsider.  
18 Fair enough?

19 MR. SANCHEZ: Thank you, Your Honor.

20 MS. IRLAND: Your Honor ---

21 THE COURT: Ms. Ireland, I've heard enough.  
22 If you need to file anything, I'll be happy to --  
23 you can file whatever you would like. But for now,  
24 the hearing is over. All right.

25 (End of Transcript of Record)

CERTIFICATE OF REPORTER

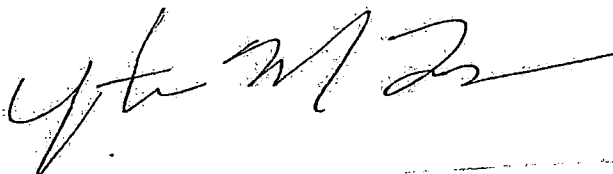
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State of South Carolina            )  
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I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 27th of September, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 27, 2023



Yvestre Torres  
Circuit Court Reporter