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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable George M. McFaddin, Jr.
Circuit Court Judge

Appellate Case No.: 2023-001043

Megan Scott,

Appellant,

v.

Estate of Jonathan Bruner,

Respondent.

INITIAL REPLY BRIEF OF APPELLANT

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REPLY TO RESPONDENT'S FACTUAL REPRESENTATIONS

It is undisputed that Jonathan Bruner, the Decedent, signed a written document during his lifetime, wherein he expressly identified Ms. Scott as the *co-owner* of the dog. (Exhibit #6 to Magistrate's Return, New Client Form, R.__). Contrary to Respondent's characterization, Decedent did not identify Appellant as a mere "point of contact". To the contrary, the form specifically asks: "Please list the individuals whom you authorize to make medical decisions for your pet." The Decedent then—in his own handwriting—wrote: "Ownerss" [Plural, Emphasis Added], unambiguously establishing that the subject dog had another owner beside himself. (Ibid., R.__). Megan Scott, the Appellant, is then expressly identified as the dog's *co-owner* on the form. Ms. Scott's phone number is expressly listed under "Co-Owner's Phone #." The address she shared with Decedent is listed under both their names. (Ibid, R.__).¹ The Decedent's signature, acknowledging all of the above, appears on the form. (Ibid., R. __).

Respondent's contention that "there is no way to truly determine Decedent's intentions" is completely undermined by Decedent's own hand-written entries on the subject form. This Court need not speculate as to what Decedent's intentions were, because they are expressly stated in his own handwriting in a document that he signed and filed with the dog's veterinary clinic, and which was properly admitted at trial as a record maintained in the normal course of

¹ Contrary to Respondent's intimations, Appellant and Decedent had been dating for six (6) months and had moved in together three (3) months prior to Decedent's death. (Magistrate's Return #7, Order, p. 3, R. __). Evie was a mere puppy at the time. Regardless, whether Ms. Scott and Mr. Bruner were together for six months or six years, the fact remains that Mr. Bruner expressly identified Ms. Scott as the dogs co-owner, in his own hand-writing, in a document that he signed during his lifetime.

business.² Contrary to Respondent’s intimations, Decedent’s express, hand-written designations are not “subjective opinions”. They are express statements made by the Decedent—in a signed writing—against his own proprietary interest in the subject property.

“A person who signs a contract or other written document cannot avoid the effect of the document by claiming he did not read it.” *Regions Bank v. Schmauch*, 582 S.E.2d 432, 354 S.C. 648 (Ct. App. 2003), citing *Sims v. Tyler*, 276 S.C. 640, 643, 281 S.E.2d 229, 230 (1981). A person signing a document is responsible for reading the document and making sure of its contents. *Id.* Here, Mr. Bruner clearly and unambiguously identified Ms. Scott as the dog’s co-owner in his own handwriting, in a document which he signed. It was an error of law for the lower court to exclude the New Client Form as competent evidence. Accordingly, Appellant respectfully requests that this Court grant her appeal, reverse the lower court, and find that she is the rightful owner of this beloved dog named Evie.

REPLY TO RESPONDENT’S ARGUMENTS

I. Appellant’s arguments are properly preserved for appeal.

In an effort to side-step Decedent’s clear and unambiguous identification of Ms. Scott as the dog’s co-owner, Respondent argues that any issues relating to the “New Client Form” are not preserved for appeal. Respondent’s contention is incorrect and directly contradicted by the Record. Specifically, Appellant’s Notice of Appeal states that the Magistrate Court abused its discretion by, among other things, disregarding the applicable law and finding that the evidence presented at trial was insufficient to establish Ms. Scott’s ownership of the dog:

² As acknowledged in their Return, “Respondents concede that the appropriate foundation was laid at the Magistrate’s trial through the testimony of the West Ashley Veterinary Practice Manager’s testimony for the physical admission of the document as an exception to the hearsay rule pursuant to Rule 803(6) SCRE.” (Return, p. 12)

The Magistrate Court abused its discretion in its findings of fact and conclusions of law. The Magistrate disregarded the applicable law, instead claiming that the lack of an existing statute relating to gifts between nonmarried parties controls the outcome, then, following Defendant's Motion to Reconsider appears to have changed its position ordering that the evidence presented at trial was insufficient to prove Appellant was a co-owner of the property at issue. Moreover, the Court in its July 20, 2022 Order from Defendant's Motion to Alter/Amend or, in the alternative, Motion to Reconsider, amongst other things, "cherry picks" testimony from the witness who testified to appellant being listed as "co-owner" to get the same outcome as the initial order. As a result of the overwhelming evidence that Appellant was gifted or otherwise transferred co-ownership of the property by Decedent, the Court abused its discretion in failing to conclude that the title to property automatically transferred to Appellant upon Decedent's death." (Notice of Appeal, Exhibit # 12 to Magistrate's Return, R. ___).

Additionally, the Prayer for Relief contained within the Notice of Appeal further demonstrates that the issues raised in Appellant's Brief are indeed properly before this court:

WHEREFORE, based on the foregoing, Appellant hereby prays as follows:

- A) The Court reverse and remand the magistrate court's Order finding that insufficient evidence existed to demonstrate at transfer of ownership occurred prior to Decedent's death;
- B) The Court grant sole, exclusive title and possession of the property at issue to Appellant. (Ibid, R. ___).

Finally, each of the arguments presented in the instant appeal were properly presented to the Circuit Court in Appellant's Circuit Court Brief and at the subject hearing. (Appellant's Circuit Court Brief, R. __; Hearing Transcript, pp. 9:13 – 11:14, R. __). Accordingly, the issues raised in Appellant's Brief are preserved and properly before this Honorable Court.

II. The "New Client Form" does not need to be deemed a contract to give it legal effect.

Respondent incorrectly argues that Appellant wishes to "transmute this document into a binding contract." Appellant does not assert that the New Client form is a contract, but rather that it is a signed, written document, which has legal effect under the law. See *Regions*, stating,

“A person who signs a contract or other written document cannot avoid the effect of the document by claiming he did not read it.” 582 S.E.2d 432, 354 S.C. 648 (Ct. App. 2003), Emphasis added. Here, we have a signed writing, wherein in the Decedent—in his own handwriting—identifies Ms. Scott as the dog’s co-owner. This is not speculation or subjective interpretation; it is what Mr. Bruner unambiguously states in a document which he signed. Mr. Bruner did not identify Ms. Scott as “a point of contact,” but rather expressly identified her as one of the dog’s “Owners” (Plural, emphasis added). Minimally, the “New Client Form” is evidence that Ms. Scott became the dog’s co-owner during Decedent’s lifetime and remained its rightful owner at the time of his death. It was error for the lower court to exclude the “New Client Form” as competent evidence. Accordingly, Appellant respectfully requests that this Honorable Court grant her appeal, apply the law to the facts of this case, and find that she remains the rightful owner of Evie.

III. The New Client Form is not Impermissible Hearsay.

As set forth in Appellant’s Brief, the New Client Form is not impermissible hearsay. To the contrary, the New Client Form was properly admissible under Rules 804(a)(4) and 804(b)(3) of the South Carolina Rules of Evidence. Rule 804, SCRE addresses hearsay exceptions where the declarant is unavailable. Rule 804(a)(4) states, ““Unavailability as a witness includes situations where the declarant is unable to be present to testify at the hearing *because of death* or then existing physical or mental illness or infirmity.” [Emphasis added]. Clearly, Decedent could not be present at trial because of his untimely death. Rule 804(b)(3), SCRE, sets forth the applicable exception to the Hearsay Rule, stating that a statement which is at the time of its making contrary to the declarant’s pecuniary *or proprietary interest*, that a reasonable person in

declarant's position would not have made unless believing the statement to be true, is not excluded by the hearsay rule if the declarant is unavailable as a witness:

Hearsay Exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness. (4) Statement Against Interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or *proprietary* interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true.

Rule 804(b)(3), SCRE

The declaration-against-interest exception of the hearsay rule is well established. It proceeds from a realization of the necessity for such evidence as well as an underlying presumption that the evidence is trustworthy. The trustworthiness element is derived from the presumption that a statement against the proprietary interests of the declarant would not have been expressed by him unless he believes it to be true. *See* Matthias, Ronald S. (1980) "Evidence," *South Carolina Law Review*: Vol. 32: Iss. 1, Article 9.

Here, the Veterinary Clinic Form was competent evidence and properly admitted at trial because (1) Decedent was unavailable because of death, (2) the statements were against his proprietary interest in the dog, and (3) a reasonable person in declarant's position would not have made the statement unless believing it to be true. The Circuit Court's Order misconstrues the law, erroneously finding that this official form, signed by the Decedent himself, and maintained as part of the veterinary clinic's normal business records, constitutes impermissible hearsay. Accordingly, Appellant respectfully requests that this Honorable Court grant her appeal, reverse the Circuit Court's order, and find that Appellant is the rightful owner of this beloved dog, for whom she continues to provide unconditional love and care.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Honorable Court grant her appeal, reverse the lower court's order, and find that she is the rightful owner of this goldendoodle named Evie. Whereas Appellant has lived with and cared for Evie since she was a mere puppy, Respondent had never even met the dog before instituting the underlying action.

It was error for the Circuit Court to find that the evidence does not support Ms. Scott's claim of ownership. It was also error for the Court to find that the veterinary clinic form signed by Decedent, and specifically identifying Appellant as Co-owner of the Subject dog, constitutes impermissible hearsay, particularly where (1) Decedent was unavailable because of death, (2) the statements were against his proprietary interest in the dog, and (3) a reasonable person in declarant's position would not have made the statement unless believing it to be true. For each of the foregoing reasons, Appellant respectfully requests that this Honorable Court grant her appeal and reverse the lower court.

Respectfully submitted,

s/Jesse Sanchez

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January 22, 2024

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APPEAL FROM CHARLESTON COUNTY
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The Honorable George M. McFaddin, Jr.
Circuit Court Judge

Appellate Case No.: 2023-001043

Megan Scott,

Appellant,

v.

Estate of Jonathan Bruner,

Respondent.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Initial Reply Brief of Appellant complies with Rule 211(b), SCACR.

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s/Jesse Sanchez

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January 22, 2024

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
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The Honorable George M. McFaddin, Jr.
Circuit Court Judge

Appellate Case No. 2023-001043

Megan Scott,

Appellant

v.

Estate of Jonathan Bruner,

Respondent.

PROOF OF SERVICE

I, the undersigned, certify that I have served *Appellant's Initial Reply Brief* on Respondent, the Estate of Jonathan Bruner by email on January 22, 2024, addressed to Respondent's attorneys of record at the following AIS-designated email address:

Edward R. Corvey, III, Esquire (ted@corveylawfirm.com)
Kyra McMillan, Esquire (kyra@corveylawfirm.com)

Pursuant to Rule 262(C)(3), SCACR, and the Order of The Supreme Court of South Carolina, RE: Methods of Electronic Filing Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022), a copy of the email correspondence to counsel is attached.

THE LAW OFFICE OF JESSE SANCHEZ, LLC

s/Jesse Sanchez

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January 22, 2024



From: Jesse Sanchez jesse@jessesanchezlaw.com 
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Date: January 22, 2024 at 11:34 PM
To: Ted Corvey ted@corveylawfirm.com, Kyra McMillan kyra@corveylawfirm.com, Jason Stevens jstevens@jsstevenslaw.com

Counsel,

Attached for service, please find Appellant's Initial Reply Brief and Cover Letter, both of which are being filed momentarily with the South Carolina Court of Appeals via OneDrive electronic submission.

Regards,

Jesse



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PLEASE NOTE WE HAVE A NEW ADDRESS:

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January 22, 2024

VIA ONEDRIVE ELECTRONIC SUBMISSION

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211



RE: Megan Scott, Appellant v. Estate of Jonathan Bruner, Respondent,
Appellate Case No. 2023-001043

Dear Ms. Kitchings:

Attached for filing, please find the following:

1. Appellant's *Initial Reply Brief*, and
2. Proof of Service, evidencing service on all counsel of record.

Thank you for your assistance with this matter. Should you have any questions or wish to discuss the filing, please do not hesitate to contact me directly.

Respectfully submitted,

s/Jesse Sanchez

Jesse Sanchez (SC Bar No. 101906)

Enclosures (as stated)

Cc: Jason Stevens, Esquire
Edward R. Corvey, III, Esquire
Kyra McMillan, Esquire