

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Bently D. Price
Circuit Court Judge

Appellate Case No. 2023-001852

RECEIVED
MAY 09 2024
SC Court of Appeals

Athena Irland

Appellant,

v.

Brandy S. Culp

Respondent.

ANSWER TO RESPONDENT'S MOTION TO DISMISS APPEAL

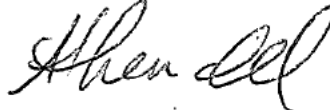
Counsel for Respondent, Brandy S. Culp, puts forth five erroneous reasons for the court to dismiss Appellant's, Athena Irland, Appeal. (1) Counsel for the Respondent falsely claims that I, Athena Irland (Appellant) failed to adhere to S.C. code 62-1-308. Though it may not be recognized as such a Notice of Appeal was filed on July 22, 2022 (Appendix A). (2) Counsel for the Respondent falsely claims that I failed to notify all necessary parties to the appeal. However, according to a settlement agreement signed on March 16, 2020, Isadore John Psaras and Christina Culp are not parties to the appeal. (Appendix B). (3) Counsel for the Respondent repeatedly accuses me of not strictly adhering to the South Carolina Appellate Court Rules when it is well known that a pro se litigant is not held to the same strict standards as a licensed attorney as adjudicated in *Haines V. Kerner* U.S. 404 U.S. 519 (1972) wherein the U.S. Supreme Court ruled that a Pro Se litigant is held to less stringent standards than formal pleadings drafted by lawyers. (4) Counsel for the Respondent falsely claims that I have failed to address each independent ground cited and (5) I have filed this instant appeal "for the impermissible purpose of delay." The Initial Brief of Appellant received by the court on March 27, 2024 answers these "grounds"

(Appendix C) and it is not my intention to delay the court, but to have this case remanded back to the Probate Court or uphold my appeal granted on November 11, 2022.

CONCLUSION

Therefore, Appellant respectfully moves the court to vacate the order issued on July 13 2023. and remand the entire case back to the Probate Court for a rehearing. Or, in the alternative, grant my appeal as initially granted on November 11, 2022.

Respectfully Submitted



Athena Ireland
186 Dolly Dimples Trail
Huger, SC 29450
(843)697-3631

Date 05/06/2024

APPENDIX

A

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Athena Ireland

Plaintiff(s)

Isadore JOHN Psomas
Christina D. Culp, Brandy S. Culp

Defendant(s)

Submitted By: Athena Ireland
Address: 1816 Dolly Dimples Trl
HUGER, SC. 29450

SC Bar #: _____
Telephone #: 843-336-4834
Fax #: _____
Other: _____
E-mail: KARMA1234@myyahoo.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint
- NON-JURY TRIAL demanded in complaint
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|--|---|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Fraud/Bad Faith (150) <input type="checkbox"/> Failure to Deliver/Warranty (160) <input type="checkbox"/> Employment Discrim (170) <input type="checkbox"/> Employment (180) <input type="checkbox"/> Other (199) <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) <input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Permanent Restraining Order (680) <input type="checkbox"/> Interpleader (690) | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case # <u>20 -NI-</u> <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Drv. License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order (850) <input type="checkbox"/> Other (899) | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Assault/Battery (370) <input type="checkbox"/> Slander/Libel (380) <input type="checkbox"/> Other (399) <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Confession of Judgment (770) <input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780) <input type="checkbox"/> Incapacitated Adult Settlement (790) <input type="checkbox"/> Other (799) | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input checked="" type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Public Service Comm. (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) |
|---|---|--|---|

JULIE J. ARYSTROM
CLERK OF COURT
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Submitting Party Signature: Athena Ireland

Date: 7-22-2022

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

2022-CP-10-3304

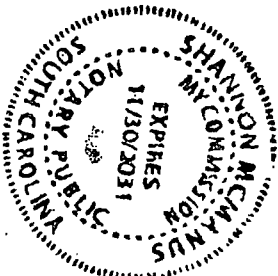
STATE OF SOUTH CAROLINA)
)
 COUNTY OF Charleston)
)
 IN THE MATTER OF: Dolly L. Coleman)
)
 (Decedent))
Athena L. Irland)
)
 Appellant(s),)
)
 vs Isadore John Psaras, Christina D Culp,)
Brandy S Culp)
)
 Respondent(s).)

IN THE CIRCUIT COURT
 Appeal from Probate Court for Charleston County
 CASE NUMBER: 2019-ES-10-1368

**NOTICE OF INTENT TO APPEAL TO
 CIRCUIT COURT**

Pursuant to SCPC 62-1-308, Appellant hereby provides his/her/its Notice of Appellant's Intent to Appeal the Order/Sentence/Decree of the Probate Court dated July 13, 2022. Said Order/Sentence/Decree was received by the Appellant or Appellant's counsel on July 14, 2022. A copy of said Final Order is attached.

SWORN to before me this 22
 day of July, 2022
Shannon McManus
 Notary Public for: South Carolina
 My Commission Expires: 11/30/2023



Respectfully submitted,

Signature: *Athena L Irland*
 Print Name: Athena L Irland
 Address: 186 Dolly Dimples Trail
Huger, SC 29450
 Telephone (Work): _____
 (Home): 843-336-4834
 (Cell): _____
 Email: Karma1234@myyahoo.com
 Relationship to Decedent/Estate: Daughter
 Attorney: Self Representation
 Address: _____
 Telephone: _____
 Email: _____

IMPORTANT:

1. This Notice must be filed with the Probate Court, the Circuit Court, and all parties not in default within ten (10) days after receipt of written notice of the appealed-from order, sentence, or decree of the Probate Court. Parties must comply with requirements set forth in SCPC 62-1-308.
2. This form is not intended for appeals other than appeals to the County Circuit Court. An Appeal to a Court other than the County Circuit Court must follow SCPC 62-1-308(l) and the South Carolina Appellate Court Rules, as applicable.

2022 JUL 22 PM 2:12
 J. AMSTUTZ
 CLERK OF COURT
 FILED

Pg 2

Case 2019-ES-10-1368
Estate of Dolly L Coleman
Order July 13, 2022
Received July 14, 2022

Notice has been served to:

1. John Sinclair III, in his capacity as Personal Representative for the Estate of Dolly L Coleman. Hand delivered
2. David Michel, Esq., Estate Attorney. Hand delivered.
3. Charleston County Probate Clerk of Court office, Presiding Judge Lenna S Kirchner. Hand delivered.
4. Circuit Court of Charleston County, Clerk of Court. Hand delivered.
5. David and Stephen Slotchiver, attorney for Brandy S Culp. Hand delivered.

Notice of Appeal on the findings and ruling of the probate court are as follows:

Pg. 2 (4)
Pg. 2 (5) cont. pg 3
Pg. 3 (6)
Pg. 3 (11)
Pg. 4 (18)
Pg. 5 (21)
Pg. 5 (22)
Pg. 5 (23)
Pg. 6 (7)
Pg. 6 (25)
Pg. 6 (26)
Pg. 6 (27)

The court erred in the undue influence by Athena Irland. The court erred in the legal standing of testamentary capacity, contractual testamentary vs. the testamentary capacity to execute, tear up or discard a will. All in accordance with South Carolina law and the precedence of the statute regarding testamentary capacity since 1807.

Therefore notice given that this matter is being appealed to the Circuit Court of Charleston County.

2022-CP-10-3304

NOTICE OF PROOF OF SERVICE July 22, 2022

David L. Michel, Esquire
Attorney for P.R.

Daniel Michel

7/22/22

Hand Delivery
NOTICE OF APPEARANCE

Susan C. Mauldin 7/22/2022
Susan C. Mauldin for Daniel S. Slotchiver

Josh Gilman 7/22/2022

FILED
2022 JUL 22 PM 2:12
JULIE J. AMBROSIO
CLERK OF COURT

APPENDIX B

APPENDIX
B

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE PROBATE COURT

2019-ES-10-_____

In the Matter of:

Estate of Dolly Legare Coleman

SETTLEMENT AGREEMENT

Mediation was held on March 16, 2020. Present at the Mediation was Brandy Culp, Christina Culp, Athena Irland, Isadore Psaras, and Jack Sinclaire. Brandy Culp, Christina Culp, and Isadore Psaras have agreed to fully and finally resolve this matter as follows:

1. Isadore Psaras, individually and on behalf of his Estate and his heirs, assigns all of his right, title and interest in the Estate of Dolly Legare Coleman to Brandy Culp in exchange for a lump sum payment of One Hundred Ninety Thousand (\$190,000) Dollars to be paid by the Estate of Dolly Legare Coleman to him upon Court approval.

2. Christina Culp, individually and on behalf of her Estate and hers heirs, assigns all of his right, title and interest in the Estate of Dolly Legare Coleman to Brandy Culp in exchange for a lump sum payment of One Hundred Ninety Thousand (\$190,000) Dollars to be paid by the Estate of Dolly Legare Coleman to her upon Court approval.

3. As a result of this Settlement, in the event that the Court is to determine that the Estate shall pass in accordance with intestacy, and Brandy Culp would be entitled to receive 2/3 of the Estate, representing the shares that would have otherwise passed to Christina Culp and Isadore Psaras. In the event the 2009 Will is upheld, then the shares that would have otherwise passed to Christina Culp and Isadore Psaras would then pass to Brandy Culp (in addition to the bequest made to her therein).

4. ~~The Personal Representative of the Estate believes the above Settlement is reasonable and further agrees to Petition the Court for authority to release the necessary distributions to Isadore Psaras and Christina Culp, and the balance of their respective shares to Brandy Culp would at that point be vested.~~ CDC BSC

5. The undersigned parties further agree that in exchange for the terms as set forth herein by the undersigned parties, each intends to and hereby release each from the other, and any and all other persons, of and from any and all causes of action, demands and costs and all claims of any nature including, but not limited to, any claims of any kind whatsoever, known or unknown, which the undersigned parties have or may in the future, be entitled to have, against the other, whomsoever, on account of or in any way

BSU

CDC

BRP

related to the Estate of Dolly Legare Coleman. This Release specifically does not apply to Athena Irland.

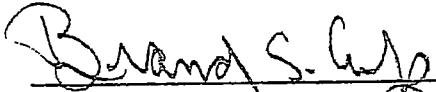
6. In consideration of the above, the undersigned agree that the counsel for Brandy Culp will draft a Consent Order, which all ~~parties~~ heirs, other than Athena Irland will execute.

7. Each of the parties shall be responsible for their own attorney fees and costs associated with this matter.


8. Each of the undersigned parties agrees that they will not, individually, jointly or in a representative capacity, initiate against any other party to this release any legal or equitable proceedings of any nature based on, account of or in any way related to the Estate. Each party further agrees to indemnify and hold harmless any party against any loss or damage, including without limitation attorney fees, in the event such party asserts any claim in violation of this release.

9. This Settlement Agreement may be submitted to the Probate Court for approval and the parties shall execute a Consent Order for submission to the Probate Judge for review and approval.


WE AGREE:



Brandy Culp



Christina Culp



Isadore Psaras

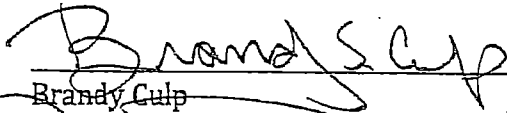
~~Jack Sinclair, Personal Representative~~

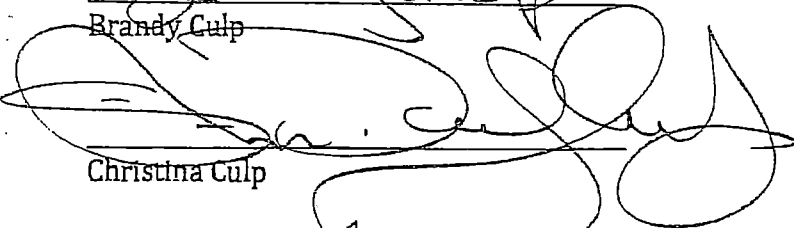
Date: March 16, 2020

ADDENDUM TO SETTLEMENT AGREEMENT

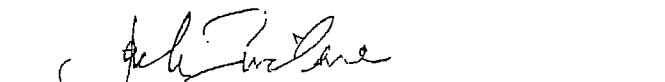
1. It is agreed upon that the Personal Representative of the Estate will not sign the Settlement Agreement, and that Paragraph 4 of the Settlement Agreement has been stricken.
2. It is also represented and agreed that neither Christina Culp nor Isadore Psaras are represented by legal counsel. Both were advised of their right to have counsel and the mediator recommendation to be represented and both have agreed to proceed pro se.

WE AGREE:


Brandy Culp


Christina Culp


Isadore Psaras


Jack Sinclair, Personal Representative
Agree that I am bound by 62-3-912 of the
South Carolina Probate Code, and shall abide
by the terms of the attached Settlement Agreement.

and subsequent orders of the Court.
I take no position on the
sufficiency of the Settlement Agreement.

Date:

3/16/2020

BSC CDC 

DAVID L. MICHEL
ATTORNEY AT LAW
751 JOHNNIE DODDS BLVD., SUITE 200
MT. PLEASANT, SC 29464

MICHEL LAW FIRM, LLC
DAVID@MICHELLAWOFFICE.COM

WWW.MICHELLAWOFFICE.COM

TEL (843) 722-0020
FAX (843) 278-9177

April 8, 2021

Athena L. Irland
186 Dolly Dimples Trail
Huger, SC 29450

Isadore John (Johnny) Psaras
1586 Hidden Bridge Drive
Mt. Pleasant, SC 29464

Re: Estate of Dolly L. Coleman
Case No. 2019-ES-10-01368

Dear Athena and Johnny:

Enclosed, please find an Order To Approve Settlement Agreement Reached at Mediation dated March 22, 2021. At this time, Jack has been ordered by the Court to follow this agreement.

Thank you for your time and consideration concerning this matter.

Sincerely,


David L. Michel

DLM/kl

Enclosures – as stated

cc: client

~~Exhibit 1~~

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 IN THE MATTER OF: THE ESTATE OF DOLLY)
 LEGARE COLEMAN)
)
 JOHN SINCLAIRE, III, in his capacity as Personal)
 Representative for the Estate of Dolly L. Coleman,)
)
 Petitioner,)
)
 vs.)
)
 ATHENA L. IRLAND, CHRISTINA D. CULP,)
 ISADORE JOHN PSARAS, and BRANDY S. CULP,)
)
 Respondents.)

IN THE PROBATE COURT
 CASE NO.: 2019-ES-10-1368

**ORDER TO APPROVE
 SETTLEMENT AGREEMENT
 REACHED AT MEDIATION**

THIS MATTER comes before this Court upon a Motion to Approve Settlement Agreement Reached at Mediation filed by Brandy S. Culp on January 25, 2021. Pursuant to the South Carolina Supreme Court's Order dated April 3, 2020, titled RE: Operation of the Trial Courts During the Coronavirus Emergency (as amended March 5, 2021) and the Memorandum issued by Chief Justice Donald W. Beatty dated September 14, 2020, this Court finds that this Motion can be ruled upon without the necessity of a hearing.

Based upon the Petition, consent of the parties, and the laws of the State of South Carolina, this Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Decedent, Dolly L. Coleman, died March 21, 2019, a resident of Charleston County, South Carolina.
2. Mediation was held on March 16, 2020 regarding the outstanding issues in the Estate of Dolly L. Coleman with David K. Haller, Esq. serving as Mediator.

3. Present at the Mediation were Brandy S. Culp, represented by Daniel S. Slotchiver, Esq. and Stephen M. Slotchiver, Esq., John Sinclair, III, in his capacity as the Personal Representative of the Estate, David L. Michel, Esq., as attorney for the Personal Representative, Athena L. Irland, Christina D. Culp, and Isadore John Psaras.
4. A Settlement was reached by and between Brandy S. Culp, Christina D. Culp, and Isadore John Psaras, wherein those parties executed a written Settlement Agreement. Likewise, John Sinclair, III, in his capacity as the Personal Representative of the Estate, does not take a position regarding the Settlement Agreement, but has agreed in writing to be bound by the Settlement Agreement and that he is bound by S.C. Code Ann. § 62-3-912.
5. Brandy S. Culp filed a Motion to Approve the Settlement reached at Mediation with this Court on January 25, 2021.
6. S.C. Code Ann. § 62-3-912 provides in pertinent part that “successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions.”
7. Furthermore, S.C. Code Ann. § 62-3-1102 states that “upon application to the court and after notice to all interested persons or their representatives, including the personal representative of the estate, ... the court, if it finds that the contest or controversy is in good faith and that the effect of the agreement upon the interests of persons represented by fiduciaries or other representatives is just and reasonable, shall make an order approving the agreement.”
8. This Court finds that, although Athena L. Irland did not consent to the Agreement reached between Brandy S. Culp, Christina D. Culp, and Isadore John Psaras, the Settlement Agreement reached, and the transfer of rights between the parties to the Settlement

Agreement do not in any way impact Athena L. Irland's potential claims and/or her potential rights in the Estate.

- 9. This Court further finds that, having reviewed the Settlement Agreement, for good cause shown and upon the Motion to Approve Settlement Agreement Reached at Mediation filed by Brandy S. Culp, with the consent of Isadore John Psaras and Christina D. Culp, and the agreement by John Sinclair, III, in his capacity as the Personal Representative of the Estate, to be bound by the terms of the Settlement Agreement, the controversies here are settled in good faith, and the effect of the Settlement Agreement on the interest of the interested persons effected by the Settlement Agreement is just and reasonable.

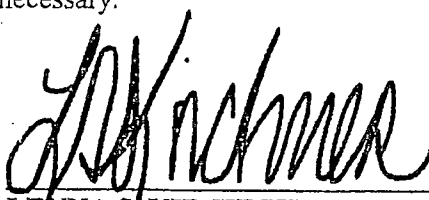
Therefore, based upon the forging, it is hereby

ORDERED, ADJUDGED, AND DECREED that Motion to Approve Settlement Agreement Reached at Mediation is hereby **GRANTED**; it is further

ORDERED, ADJUDGED, AND DECREED that the Agreement is approved and made an Order of this Court; it is further

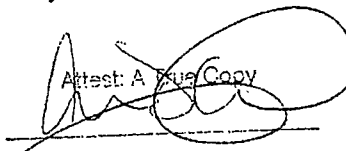
ORDERED, ADJUDGED, AND DECREED that this Order shall be subject to such further Orders of this Court as may become necessary.

IT IS SO ORDERED.



LENKA S. KIRCHNER
Associate Judge of Probate
Charleston County

This 12th day of March, 2021
Charleston, South Carolina.



Clerk Probate

Charleston Court

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

Appeal From Charleston County
Court Of Common Pleas

Bently Price Circuit Court Judge

Case No. 2023-001852

Athena Irland

Appellant

v.

Brandy S. Culp

Respondent

INITIAL BRIEF OF APPELLANT

RECEIVED
MAR 27 2024
SC Court of Appeals

Athena Irland
186 Dolly Dimples Trail
Huger, SC 29450
(843) 697-3631

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TABLE OF AUTHORITIES
CASES

1. In re Estate of Berg
Supreme Court of South Dakota
783 N.W. 2d831 (S.D. 2010)
2. In re Estate of Cumbee
Court of Appeals South Carolina
333 S.C. 664 (S.C. Ct. App. 1999)
3. Noblin v. Burgess
Court of Appeals Mississippi
54 So. 3d 282 (Miss. Ct. App.2011)
4. Ellis v Davidson
Ct. Of App. S.C.
358 S.C. 509 (S.C. Ct. App. 2004)
5. In re Estate of Tank
Supreme Court of South Dakota
938 N.W. 2d 449 (S.D. 2020)
6. Hembree v Estate of Hembree
Ct. Of Appeals South Carolina
311 S.C. 192 (S.C. Ct. App. 1993)
7. Church v Trotter
Supreme Court of South Carolina
278 S.C. 504 (SC 1983)
8. Thompson v Moore
Supreme Court of South Carolina
227 S.C. 417 (S.C. 1955)
9. Verdery v Daniels (In re Thames)
South Carolina Court of Appeals
344 SC 564, 544 (Ct App. 2001)
10. Dixon v Dixon
Supreme Court of South Carolina
362 S.C. 388 (S.C. 2005)
11. Calhoun v Calhoun
Supreme Court of South Carolina
277 S.C. 527 (S.C. 1982)

12. Hairston v In re Estate of Normall O. Hudson
SC Court of Appeals Opinion #4657 (S.C. 2010)
13. Haines v Kerner U.S., 404 U.S. 519 (1972)
14. Testamentary Capacity

Jonathan Raub, MD, MPH,
Fellow in Forensic Psychiatry

J. Richard Ciccone, MD
Professor of Psychiatry and Law Program
University of Rochester Medical Center, Rochester, NY

STATEMENT OF ISSUES ON APPEAL

1. Judge Bently Price seemed confused as to the subject matter before the court on September 27, 2023.
2. Order dated September 13, 2023 Judge Bently Price reversed his decision granting the Appeal and ruled in favor of the Respondent dismissed Appellant's instead of gathering evidence supporting his original ruling granting the Appeal as instructed by the Supreme Court.
3. The Circuit erred in allowing arguments for motions during the hearing on September 27, 2023 not entered into evidence at the first hearing on October 27, 2022.
4. The Order issued by the Probate Court dated the 13th day of July 2022 signed by Lenna S. Kirchner is invalid pursuant to Section 14-23-1120.

STATEMENT OF THE CASE

Before the court was the issue of Judge Price's Order dated July 14, 2023 (Appendix A) wherein he denied Petitioner's (Brandi Culp) motion to reconsider the circuit court's denial of Petitioner's motion to dismiss Respondant's (Athena Irland) appeal from Probate Court. In that same order, Judge Price granted Respondant's Petition for a rehearing.

However, Judge Price began the proceedings by asking, "All right, specifically, what motions are outstanding that need to be ruled on?" When, in fact, there were no motions before the court. The subject matter before the court was an Order from The Supreme Court of South Carolina (Appendix B) wherein Judge Price was directed to convene a hearing to, "consider all issues properly before the circuit court." Instead Judge Price argued that he had already ruled on Petitioner's motion (Transcript of Record September 27, 2023. (Appendix C) , pg.2 lines 9-11, pg3. lines 2-4, pg.4 lines 18-22) and was very agitated that he had to repeat himself in hearing a case that he had already ruled on. It seemed as though Judge Price was reinforcing the correctness his ruling. The fact is that Judge Price was not being asked to make a ruling, he was being told by the Supreme Court to support his existing ruling. Instead, it seems Judge Price was trying to shift blame of his failure to adequately perform his duties as a judge (possibly contributing to his being deemed unqualified according to a report released October 6, 2023 from the South Carolina Bar). Pg.5, lines 16-23 of the same transcript illustrates Judge Price's frustration of opposing counsel petitioning the Supreme Court to get an answer supporting his ruling.

Opposing counsel (Mr. Sanchez) went on to misrepresent facts in the case claiming Ms. Irland failed to follow procedures required for an appeal (pg8. lines 1-25, pg.9 lines 1-13). Keeping in mind Haines v. Kerner where pro se litigants are afforded some leeway in court proceedings, the record will show that Ms. Irland did, in fact follow correct procedure. Though it may not be recognized as such Ms. Irland filed a notice of appeal with a statement of issues and notices on July 22, 2022 (Appendix D).

STATEMENT OF FACTS

I, Athena Irland, am the youngest child of the decedent Dolly Coleman. Dolly Coleman lived solely with me at 186 Dolly Dimples Trail Huger, SC 29450 for approximately 10 years. Parcels of land measuring 38 acres and 1 acre were purchased by me in 1995. Included on the Deed was my husband at the time, Daniel Irland, and my mom Dolly Coleman.

In 1997 Dolly Coleman purchased an additional parcel of land measuring 33 acres. Collectively, the three parcels of land are referred to as “the property” located in Berkeley County.

Since 1995 I, Athena Irland, have lived on the the property, uncontested, managing a farm including but not limited to cows, goats, horses, and chickens. I fenced in the entire property.

Isadore John Psaras testified that the home he lived in on Palmeto St. In Mt. Pleasant was given to him by Dolly Coleman in 2008. He also testified that it was his understanding that Ms. Coleman intended to give me her interest in “the property”.

Even though Dr. Judith Rubano diagnosed Ms. Coleman with short term memory loss, she placed no restrictions on her and testified that her long term memory remained intact. Dr. Rubano also testified that she had no reason to believe that Ms. Irland was taking advantage of or otherwise abused, neglected or exploited.

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

RECEIVED

MAR 27 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM CHARLESTON COUNTY
Court Of Common Pleas

Bently Price, Circuit Court Judge

Appellate Case No. 2023-001852

Brandy S. Culp Respondent

V.

Athena Irland Appellant

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

1. Order Denying and Dismissing Appeal from Probate Court. October 2, 2023
2. Form 4. Statement of Judgement Remanded. Appeal granted November 11, 2022.
3. Order denying Appellant's Motion For Reconsideration of Appeal from Probate Court
4. Reconsideration of Dismissal of Appeal from Probate Court October 11, 2023
5. Transcript of Motion October 27, 2022
6. Notice of Intent to Appeal July 22, 2022
7. Order of Probate Court, July 13 2022
8. Transcript of Hearing, Case# 2019-ES10_1368 April 7, 2022
9. Motion to dismiss Appeal September 6, 2022
10. Transcript of Record September 27, 2023
11. Order Dismissing Appeal August 22, 2017

12. Order Recinding Deeds September 6, 2022
13. Order denying Respondant Brandy Culp's Rule 59e Motion to Alter or amend Order and Granting Rule 221a Petition for rehearing July 14 2023 (sent prior, Appenndix A)
14. Supreme Court Order, September 3, 2023 (prior sent Appendix B)
15. SC code of Laws Title 14 Chapter 23 Probate Courts
Section 14-23-1100. Duties of Clerk
Section 14-23-1120 . Court of record; seal.
Section 62-1-305 Records and certified copies
Section 62-1-307 Probate Judge; powers. Order , Judge Lenna Kirchner, dated July 13, 2022.
Letter from OFFICE OF THE ATTORNEY GENERAL dated February 28, 2024 to The Honorable Joe H. Jefferson, Jr., Member
16. Bon Secours St. Francis Hospital Imaging Services. Byron Bailey, MD.
Exam Date: May 26, 2015.

ARGUMENTS

Transcript of Motion October 27, 2022 Court of Common Pleas Case# 2022-CP-10-03304

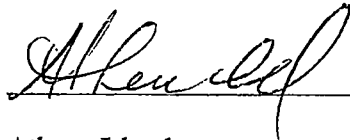
1. Pg. 4 line 25, pg 5 lines 1-6 are untrue statements by opposing counsel and does not apply.
2. Pg. 5 lines 14-20. 2 deeds were at issue. One deed transferred to me, Athena Irland. Another deed was to be transferred after the death of Dolly Coleman, my mother. I had absolutely no influence in her decision to transfer any property. I took her to the office of Attorney Jack Williams, whose services she had used before. I left the two of them to conduct business in private. When I returned to pick up my mom, Mr Williams invited me into a conference room where I was first informed of what was decided.
3. Pg. 5 lines 6-20. South Carolina has defined contractual capacity as a person's ability to understand at the time the contract is executed. A mere infirmity of mind, if it does not amount to an incapacity to understand at the time of execution of a contract, the nature of the act done and the effect thereof, does not render a person incapable of executing a valid and binding contract.
Verdery v Daniels (In re Thames) 344 S.C. 564. (Ct App. 2001)
4. Pg. 5 lines 16-22. Dr. J. Rubano had not seen Dolly Coleman as a patient for two and a half years. She based her opinion on what she believed to be the natural progression of the disease. No restrictions were placed on Ms. Coleman. Dr. Rubano stated that her short term memory was affected, not her long term memory; her long term memory was intact. Attorney Jack Williams testified that he observed nothing about Ms. Coleman gave him concern about her state of mind or mental capacity. It was made clear that I did not accompany my mom, Dolly Coleman, during her consult with Attorney Jack Williams wherein she conveyed 1/3 interest in the 38 acre parcel and a retention of a life estate in the 33 acre parcel.

5. Pg. 5 lines 21-22. The law was misapplied when Athena Irland was accused of exercising undue influence over Dolly Coleman regarding the properties and the 2009 will. There is no evidence on record to support this accusation. Athena Irland was not present during Ms. Coleman's meetings with Attorney Jack Williams or Attorney Lynn McCants.
6. Pg.5 line 25, pg.6 lines 1-3. Opposing counsel, Sanchez, misled the court when he claims I did not file an appeal in time. He knew my attorney at the time, Joseph Dawson filed in the wrong court causing it to be dismissed. Mr. Dawson then filed in the correct court but it was too late and subsequently denied under Section 62-1-308(a)
7. Pg.7 lines 9-25. False premises, conjecture and baseless facts. The testamentary capacity of a person making contractual decision is quite different from executing a Will or destroying one. The testamentary capacity referring to an individual's ability to make or destroy a Will and the testator is presumed competent until proven otherwise. In the matter of The Estate of Berg 783 N.W. 2d 831 (S.D. 2010)
8. Pg.8 lines 6-18. All parties involved were served. Judge Bently Price was given evidence of the following:
 - A) Settlement Agreement reached at Mediation on March 16, 2020 between Brandi Culp, Christina Culp and Isadore John Psaras.
 - B) Letter (dated April 8, 2021) from Attorney David Michael stating that the Order from the Court reiterates that said Settlement be followed.
 - C) Order to Approve Settlement Agreement reached at mediation Case # 2019-ES-10-1368 by Probate Judge Lenna Kirchner, March 22, 2021. (Courts closed due to covid crisis)
9. Pg.9 lines 17-25. Though I am not an attorney, I did take steps, to the best of my ability, to follow applicable court rules in filing a Notice of Appeal and gave proper notice of service and am given some leeway in this matter according to Haines v

Kerner U.S. 404 U.S. 519 (1972) wherein the U.S. Supreme ruled that a Pro Se litigant is held to less stringent standards than formal pleadings drafted by lawyers.

CONCLUSION

Therefore, Appellant respectfully moves the court to vacate the order issued on July 13 2023. and remand the entire case back to the Probate Court for a rehearing. Or, in the alternative, grant my appeal as initially granted on November 11, 2022.



3-25-2024

Athena Irland
186 Dolly Dimples Trail
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(843) 697-3631

Date

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

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MAR 27 2024
SC Court of Appeals

INITIAL BRIEF OF APPELLANT
Appellate Court

Case No. 2023-001852

Athena Irland

Appellant

V.

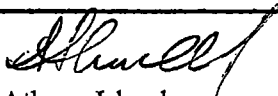
Brandy S. Culp

Respondent

PROOF OF SERVICE

I certify that I have served the Attorneys for the Respondent an Initial Brief Of Appellant. Copy sent through US Post Office on March 25, 2024

Slotchiver & Slotchiver
Jesse Sanchez, Esq.
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Mt. Pleasant, SC 29464
(843)577-6531 attorneys
For Brandy Culp


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SOUTH CAROLINA COURT OF APPEALS

Case No.2023-001852
Hon. Bently Price

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MAR 27 2024

SC Court of Appeals

Athena Irland

Appellant

v

Brandy Culp

Respondent

Certificate of Counsel
Pro Se Litigant

I certify that all paperwork of Initial Brief is relevant to the appeal.

Athena Irland 3/25/2024

Athena Irland, Appellant
186 Dolly Dimples Trl.
Huger, SC 29450
(843) 697-3631

Haines v. Kerner

404 U.S. 519 (1972) · 92 S. Ct. 594
Decided Jan 13, 1972

CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SEVENTH
CIRCUIT

No. 70-5025.

Argued December 6, 1971 Decided January 13,
1972

Prisoner's *pro se* complaint seeking to recover damages for claimed physical injuries and deprivation of rights in imposing disciplinary confinement should not have been dismissed without affording him the opportunity to present evidence on his claims.

427 F.2d 71, reversed and remanded.

Stanley A. Bass, by appointment of the Court, 401 U.S. 1008, argued the cause for petitioner. With him on the briefs were *Jack Greenberg*, *James M. Nabrit III*, *William B. Turner*, *Alice Daniel*, and *Max Stern*.

Warren K. Smoot, Assistant Attorney General of Illinois, argued the cause for respondents *pro hac vice*. With him on the brief were *William J. Scott*, Attorney General, *Joel M. Flaum*, First Assistant Attorney General, and *James B. Zagel*, *Morton E. Friedman*, and *Jayne A. Carr*, Assistant Attorneys General.

Briefs of *amici curiae* were filed by *Charles H. Baron* for Boston College Center for Corrections and the Law, and by *Julian Tepper* and *Marshall J. Hartman* for the National Law Office of the National Legal Aid and Defender Assn.

PER CURIAM.

Petitioner, an inmate at the Illinois State Penitentiary, Menard, Illinois, commenced this action against the Governor of Illinois and other state officers and prison officials under the Civil Rights Act of 1871, 17 Stat. 13, 42 U.S.C. § 1983, and 28 U.S.C. § 1343 (3), seeking to recover damages for claimed injuries and deprivation of rights while incarcerated under a judgment not challenged here. *520 Petitioner's *pro se* complaint was premised on alleged action of prison officials placing him in solitary confinement as a disciplinary measure after he had struck another inmate on the head with a shovel following a verbal altercation. The assault by petitioner on another inmate is not denied. Petitioner's *pro se* complaint included general allegations of physical injuries suffered while in disciplinary confinement and denial of due process in the steps leading to that confinement. The claimed physical suffering was aggravation of a pre-existing foot injury and a circulatory ailment caused by forcing him to sleep on the floor of his cell with only blankets.

The District Court granted respondents' motion under Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss the complaint for failure to state a claim upon which relief could be granted, suggesting that only under exceptional circumstances should courts inquire into the internal operations of state penitentiaries and concluding that petitioner had failed to show a deprivation of federally protected rights. The Court of Appeals affirmed, emphasizing that prison officials are vested with "wide discretion"

in disciplinary matters. We granted certiorari and appointed counsel to represent petitioner. The only issue now before us is petitioner's contention that the District Court erred in dismissing his *pro se* complaint without allowing him to present evidence on his claims.

Whatever may be the limits on the scope of inquiry of courts into the internal administration of prisons, allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient to call for the opportunity to offer supporting evidence. We cannot say with assurance that under the allegations of the *pro se* complaint, which we hold to less stringent standards than formal pleadings drafted by
521 lawyers, it appears *521 "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). See *Dioguardi v. Durning*, 139 F.2d 774 (CA2 1944).

Accordingly, although we intimate no view whatever on the merits of petitioner's allegations, we conclude that he is entitled to an opportunity to offer proof. The judgment is reversed and the case is remanded for further proceedings consistent herewith.

Reversed and remanded.

MR. JUSTICE POWELL and MR. JUSTICE REHNQUIST took no part in the consideration or
522 decision of this case. *522

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

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SC Court of Appeals

ANSWER TO RESPONDENT'S MOTION TO DISMISS APPEAL
Appellate Court

Case No. 2023-001852

Athena Irland

Appellant

V.

Brandy S. Culp

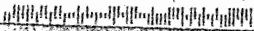
Respondent

PROOF OF SERVICE

I certify that I have served the Attorneys for the Respondent an ANSWER TO RESPONDENT'S MOTION TO DISMISS APPEAL. Copy sent through US Post Office on May 6, 2024.

Slotchiver & Slotchiver
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For Brandy Culp

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Athena Ireland
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Hyersc 29450

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The Honorable Jenny Abbott Kitchings

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