

THE STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS

Appeal from Charleston County
Probate Court

David L. Michel, Associate Judge of Probate

RECEIVED
Aug 16 2024
SC Court of Appeals

Probate Case No. 2019-ES-10-00394
Appellate Case No.: 2024-CP-10-00921

In re: Veronique W. Pickett

Bayard Scott Pickett, Jr.,..... Appellant,

v.

Laura V. Jones, as Trustee of the Laura V. Jones Trust as Established by the Will of Veronique H.W. Pickett Dated March 31, 1999 and as Trustee of the Kathleen E. Anderson Trust as Established under the Will of Veronique H.W. Pickett Dated March 31,1999..... Respondents.

ORDER DISMISSING APPEAL

This matter came before the Court on the Motion to Dismiss Appeal, filed by Respondent Laura V. Jones as Trustee of the Laura V. Jones Trust as Established by the Will of Veronique H.W. Pickett Dated March 31, 1999 (“Respondent”), on February 27, 2024, and amended on March 6, 2024. For the reasons set forth below, the Motion to Dismiss is **GRANTED** and this appeal is dismissed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1) On February 8, 2024, the Charleston County Probate Court entered an Order for Appointment of Temporary Special Administrator (the “Order”) in the Estate of Veronique W.

Pickett (Probate Case No. 2019-ES-10-00394).

2) Appellant Bayard Scott Pickett, Jr., received notice of the entry of this Order on February 8, 2024. As such, with the President’s Day holiday, any Notice of Intent to Appeal the Order was required to be served on all parties and filed in both the Circuit Court and Probate Court by February 20, 2024. See S.C. Code Ann. § 62-1-308(a) (“The notice of intention to appeal to the circuit court must be filed in the office of the circuit court *and in the office of the probate court* and a copy served on all parties not in default within ten days after receipt of written notice of the appealed from order, sentence, or decree of the probate court.” (emphasis added); see also Witzig v. Witzig, 325 S.C. 363, 479 S.E.2d 297 (Ct. App. 1996) (holding that the specific ten-day period provided by S.C. Code Ann. § 62–1–308(a) controls over the general provisions of Rule 74, SCRCF (“Procedure on Appeal to the Circuit Court”), which allows a thirty-day period only “when no time is fixed by statute”).

3) On February 20, 2024, Appellant Pickett served his Notice of Intent to Appeal the Order on all parties and also filed it in the Circuit Court. However, he did not file it in the Probate Court until February 21, 2024. Therefore, it was not timely filed, and this Court lacks appellate jurisdiction to consider the appeal. See Gallagher v. Evert, 353 S.C. 59, 68, 577 S.E.2d 217, 221 (Ct. App. 2002) (because appellant did not timely file and serve his appeal from the probate court, the circuit court lacked jurisdiction to address the merits of the appeal); see also Witzig, 325 S.C. at 366–67, 479 S.E.2d at 298 (finding appeal from the probate court to the circuit court not timely filed, thus, reinstatement of the probate court’s order was required).

4) The Court also finds that the Order, which appointed a temporary special administrator, was not a final order and otherwise not immediately appealable. Only final orders from the probate court are appealable. See S.C. Code Ann. § 62-1-803(a) (“A person interested in

a *final* order, sentence, or decree of a probate court may appeal to the circuit court...” (emphasis added); Fulmer v. Cain, 380 S.C. 466, 670 S.E.2d 652, 654 (2008) (holding that only final orders of the probate court are reviewable under S.C. Code Ann. § 62-1-308); Estate of Boyce v. Work, 305 S.C. 43, 44, 406 S.E.2d 184, 185 (Ct. App. 1991) (holding that an order appointing a temporary special administrator is not a final order and not immediately appealable).

IT IS HEREBY ORDERED that Respondent’s Motion to Dismiss Appeal is GRANTED;
and

IT IS FURTHER ORDERED that this appeal is dismissed and the matter is remanded to the Charleston County Probate Court for further proceedings.

AND IT IS SO ORDERED!

Judge George M. McFaddin, Jr.

April _____, 2024
Charleston, SC



Charleston Common Pleas

Case Caption: Bayard Scott Pickett Jr , plaintiff, et al VS Laura V Jones , defendant, et al
Case Number: 2024CP1000921
Type: Order/Other

So Ordered

S/George M. McFaddin, Jr., #2759