

FORM 18
PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEALS

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Opinion No. 2012-210726 (S.C. Ct. App. filed

July 18, 2013)

Coleman Doe Jr., as Personal
Representative of the Estate of
Mildred Doe,

Respondent,

v.

Cheryl M. Doe,

Petitioner.

PETITION FOR A WRIT OF CERTIORARI

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CERTIFICATE OF COUNSEL

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Counsel for petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on July 18, 2013.

QUESTIONS PRESENTED

Did the Court of Appeals err in holding that this action is not barred by res judicata?

Did the Court of Appeals err in holding that petitioner had failed to timely object to the trial judge's charge on the burden of proof?

STATEMENT OF THE CASE

On April 22, 2007, Coleman Doe Jr. brought this action. . . .

[The Respondent Mr. Coleman Doe Jr. showed up to the decedent's home around 10:00 p.m. alone. He drafted the Will himself. Janice D. Parker and Anthony Doe signed the Will, because the Respondent told them it was for Power of Attorney, The Respondent went to the decedent asking her to sign it. She was not aware of what she was signing.

The Court of Appeals affirmed the judgment of the circuit court. Coleman Doe Jr. as Personal Representative of the Estate of Mildred Doe, Op. No. 2012-210726 (S.C. Ct. App. filed July 18, 2013). Petitioner seeks a writ of certiorari to review that decision.

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ARGUMENT

XLIII. Because the Respondent could have raised fraud drafting the Will himself. A

misrepresentation was made by the Respondent to the decedent and those present that the document he needed the decedent to sign was to help pay her bills and keep her affairs in order, leading to the decedent and others to believe that the document was a Power of Attorney. This statement was false as she was not signing a Power of Attorney but executing a Will leaving all property to the Respondent.

[1. The Respondent stated in Probate Court that he helped the decedent sign the Will, but the Notary , Mrs. Cox stated that the Respondent was not present. How could this be possible? The Notary also stated Rosa Doe at that time the wife, of the Respondent, went with her to the decedent's home. Mrs. Rosa Doe is listed as the alternate representative. Mrs. Cox stated Mrs. Rosa Doe was in the kitchen getting some water, because she didn't want anything to do with it. Rosa Doe is listed as the Alternate representative. My belief and the witness's Mrs. Cox was never in the home. The Respondent was there alone.

XLIV. PETITIONER DID TIMELY OBJECT TO THE TRIAL JUDGE'S ERRONEOUS CHARGE ON THE BURDEN OF PROOF.

1. The South Carolina Code of Law provides in &62-2-502 that every will drafted within the jurisdiction of the State of South Carolina shall be signed by at least persons each of whom witnessed either the signing or the testator's acknowledgement of the signature of the will. Set out discussion and citations of authority.

2. Two alleged witnesses of the document last Will and Testament of Mildred Doe appear to be Anthony C. Doe and Janice D. Parker, both heirs of the decedent. Both witnesses will attest to the fact that Mildred did not know what she was signing nor did they know they were witnessing her last Will and Testament.

3. The South Carolina Code of Laws &62-2-503 requires that in order to be self-proven, a Will must be acknowledged by the testator and the affidavit of at least one witness, each made before and officer authorized to administer oaths under the laws of the state where execution occurs and evidenced by the officers certificate.

4. There was no witness the witness to acknowledge that he/she saw the within names party execution occurs and evidenced by the officer's certificate.

5. Upon information and belief, the Notary was not present at the time the Will was executed, nor were the signatures later affirmed before the Notary. The South Carolina Code of Laws determines priority in determining appointment of a personal representative. Petitioner priority is considered &62-3-202(a)(5) as being a heir of the decedent.

CONCLUSIONS

For the reasons stated, petitioner asks the Court to grant the petition for a writ of certiorari.

Respectfully submitted, Cheryl M.

Doe

August 14, 2013

/s/ Cheryl M. Doe

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8/14/2013