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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Probate Court

The Honorable Judge George M. McFaddin, Jr.

Probate Case No.: 2019-ES-10-00394
Common Pleas Case No.: 2024-CP-00921
Appellate Case No.: 2024-001074

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.

AND

Kathleen Anderson aka Kathleen Elizabeth Anderson, in her individual Capacity, Party in Interest/Counterclaimant.

APPELLANT'S INITIAL BRIEF

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September 25, 2024

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STATEMENT OF FACTS

This case involves a family dispute stemming from the Veronique H.W. Pickett probate estate. Mr. Bayard S. Pickett, Jr. the son of Mrs. Pickett, was named and appointed as personal representative and trustee under the Will. The granddaughters of the decedent are Laura V. Jones and Kathleen Elizabeth Anderson. The original Will of Mrs. Pickett could not be located, and the parties entered into a family settlement agreement. All parties agreed that Bayard Scott Pickett Jr. would serve as sole personal representative. The agreement was filed in the Charleston County Probate Court. On March 11, 2019, Mr. Bayard Scott Pickett, Jr. was appointed as personal representative. (R. at __).

The will devised the Estate as follows: Fifty (50%) percent to Bayard Scott Pickett, Jr. Trust; Twenty-Five (25%) percent to Laura V. Jones Trust; and Twenty-Five (25%) percent to the Kathleen E. Anderson Trust. The Pickett estate was compromised of a residence in the old village in Mount Pleasant known as 213/215 King Street.

In the Summer of 2019, Bayard Scott Pickett, Jr. met with a Certified Public Accountant, Shirley Decker, and Mr. Shawn Flannagan of Buist, Moore, Smythe & McGee to ascertain what assets were probate and non-probate. At that time, he believed that all required filings were made with the probate court. (R. at__)

Thereafter on December 26, 2019, a lawsuit was filed by Duke Highfield, Esq., case number 2019-CP-10-06634, concerning the property located at 213/215 King Street, Mount Pleasant, South Carolina. Highfield was a tenant at 213/215 King Street and filed a lawsuit asserting damages because of alleged mold exposure. (R. at ___) Mr. Highfield was initially claiming damages of $100,000 but increased to $268,520 at mediation. Mr. Paul Ferrara and Mr. Shawn Bevans were hired to represent the Trust of Bayard Scott Pickett, Sr.; however, the real

party in interest was the Estate of Veronique H.W. Pickett.

After Highfield moved out, the home located at 213/215 King Street, was sold in late 2020 for $4,000,000.00. It was agreed that fifty percent of the net proceeds were disbursed to the beneficiaries and the remaining 50% be held by the estate for expenses of administration and the pending lawsuit. Each beneficiary received their share of the $1,760,425.15. No further estate disbursements have been made to Bayard Scott Pickett, Jr. However, Laura Jones has received $139,510 and Kathleen Jones received $35,000.

On June 14, 2021, Bayard Scott Pickett, Jr. directed counsel to request an extension to file the documents because of the pending Highfield litigation affecting the estate and the questioned status, by Bayard Scott Pickett, Jr.'s certified Public Accountant, about what property passed through the estate after the sale of the residence. After several extensions On September 17, 2021, Bayard Scott Pickett, Jr. directed counsel to file an additional extension because of the ongoing litigation with Mr. Highfield, and the CPA's advisement that she was backed up with returns due to the COVID pandemic. Counsel was requested to file proof of litigation with the probate Court and did so. The Probate Court closed the Estate by the Order dated January 19, 2022, but granted leave to refile/reopen the estate. (R. at __) Appellant was under the belief that the Court would grant a motion for subsequent administration once the litigation was settled, and the estate was ready to be closed.

The Highfield litigation concerning the estate settled and a stipulation of dismissal was filed on May 18, 2023. (R. at 61) That same day, Mr. Pickett promptly filed a motion to reopen Veronique H.W. Pickett's estate and requested that he be named as personal representative. (R. at 57) Every single item of income and expense is detailed in the court filings. (R.at 138) The total estate proceeds, as result of interest, have increased to One Million Four Hundred Thirty Thousand

Four Hundred Forty-Seven and 39/100ths ($1,430,447.39) Dollars.

STATEMENT OF CASE

On September 27, 2023 C. Mac Gibson was appointed special administrator of the estate of Veronique H.W. Pickett. (R. at ___). Mr. Pickett subsequently and timely filed a motion to reconsider the probate court's order dated September 27, 2023, on October 9, 2023. The probate court denied Mr. Pickett's motion for reconsideration on January 24, 2024. On February 2, 2024, Mr. Pickett timely filed and perfected his first appeal objecting to the probate court's failure to transfer this formal proceeding to the circuit court and challenging the appointment of a special administrator. (R. at ___); (See 2024-CP-10-00591). After the initial appeal was filed on February 2, 2024, the probate court issued a new order on February 8, 2024 that directed the parties to recognize the appointment of the special administrator and produce documents and funds despite the pending appeal in Common Pleas Case 2024-CP-10-00591. (R. at ___). On February 20, 2024, Mr. Pickett served his Notice of Intent to Appeal the Order dated February 8, 2024. (R. at ___).

On February 27, 2024 Respondent Jones filed a motion to dismiss, that concerned Mr. Pickett's appeal of the order dated February 8, 2024, which was later amended on March 6, 2024. (R. at ___). The basis of the Respondent's motion to dismiss is that Mr. Pickett's Notice of Intent to Appeal was not timely filed and The Order for Appointment of Temporary Special Administrator is not a final order and is not immediately appealable. (R. at ___). On April 24, 2024 the Court of Common Pleas granted the Respondent's motion to dismiss. (R. at ___). On May 6, 2024 Mr. Pickett timely filed his motion to reconsider the order dated April 24, 2024. (R. at ___). On August 12, 2024 Mr. Pickett's motion to reconsider was denied. (R. at ___). Subsequently, on August 16, 2024 Mr. Pickett filed his Notice of Appeal of the April 24, 2024 and August 12, 2024 orders. (R. at ___).

STANDARD OF REVIEW

The rules governing appeals at law and in equity are well settled. "The standard of review applicable to cases originating in the probate court depends upon whether the underlying cause of action is at law or in equity." *In re Estate of Hyman*, 362 S.C. 20, 25, 606 S.E.2d 205, 207 (Ct. App. 2004). The underlying nature of the matter before the probate court was the appointment of a special fiduciary to manage the estate assets, which is akin to the removal of a personal representative; thus, the action is in equity. *See Fisher v. Huckabee*, 2016-UP-528 (S.C. App. Dec 21, 2016); *See Dean v. Kilgore*, 313 S.C. 257, 259, 437 S.E.2d 154, 155 (Ct. App. 1993) (holding an action to remove a personal representative appointed pursuant to the terms of a will is equitable in nature). If probate proceedings are equitable in nature, then the circuit court on appeal may make factual findings according to its own view of the preponderance of the evidence. *Ex parte Small*, 69 S.C. 43, 48 S.E. 40 (1904); *Eagles v. South Carolina National Bank*, 301 S.C. 402, 392 S.E.2d 187 (Ct.App. 1990).

Whether a court has subject matter jurisdiction is a question of law that is reviewed *de novo*. *Deborah Dereede Living Tr. dated Dec. 18, 2013 v. Karp*, 427 S.C. 336, 346, 831 S.E.2d 435, 441 (Ct. App. 2019); *Dove v. Gold Kist, Inc.*, 314 S.C. 235, 237-38, 442 S.E.2d 598, 600 (1994); *Capital City Ins. Co. v. BP Staff, Inc.*, 382 S.C. 92, 99, 674 S.E.2d 524, 528 (Ct. App. 2009); *Proctor v. Steedley*, 398 S.C. 561, 573, 730 S.E.2d 357, 363 (Ct. App. 2012), (stating an appellate court employing the de novo standard of review is "is free to decide questions of law with no particular deference to the trial court"); see *Transp. Ins. Co. v. S.C. Second Injury Fund*, 389 S.C. 422, 427, 699 S.E.2d 687, 689 (2010), (holding questions of statutory interpretation are questions of law which are subject to de novo review).

ARGUMENT

I. THE APPEAL OF THE FEBRUARY 8, 2024, ORDER WAS NOT REQUIRED TO BE PERFECTED, AS IT WAS VOID AB INITO.

The probate court lacked subject matter jurisdiction to issue an order on February 8, 2024, after an appeal of the probate court's order on the same matter was filed on February 2, 2024, and the probate court's subsequent actions were void *ab initio* due to the circuit court's exclusive jurisdiction triggered by the initial appeal on February 2, 2024.

Under South Carolina law, when an appeal is filed, the appellate court gains **exclusive jurisdiction** over the matters on appeal, and the lower court is divested of its authority to issue orders related to the subject matter of the appeal. Rule 205 SCACR. South Carolina Appellate Court Rule 205 ("SCACR") provides that the appellate court has **exclusive jurisdiction** over the matters on appeal, and SCACR 241 establishes that the service of a notice of appeal acts as an automatic stay of the matters decided in the order on appeal. *Id.*; Rule 241 SCACR. This stay remains in effect for the duration of the appeal unless lifted by an order from the trial judge, appellate court, or a judge or justice thereof. Moreover, any order issued by a court without jurisdiction is void *ab initio* and has no legal effect. See *Arnal v. Frasier*, 371 S.C. 512, 641 S.E.2d 419 (2007); *Coon v. Coon*, 356 S.C. 342, 588 S.E.2d 624 (Ct. App. 2003). (Establishing that an order issued without jurisdiction is a nullity, or void.)

Here, Mr. Pickett filed an appeal on February 2, 2024, challenging the probate court's order for failing to transfer the matter to the circuit court for a *de novo* trial and the appointment of a special administrator. (R. at ___). When the appeal was filed and served the probate court was thereby divested of any jurisdiction over the matters related to the appeal under Rule 205 SCACR. Despite this, the probate court issued a new order on February 8, 2024, addressing the same issues

that were the subject of the appeal. (R. at ___). Therefore, the order issued by the probate court on February 8, 2024 is void *ab initio*.

The issuance of the February 8, 2024, order by the probate court directly contravenes the jurisdictional limitations imposed by SCACR 205 and 241. The appellate court had **exclusive jurisdiction** under Rule 205 and should have been the only court to issue any orders on the matter on February 8, 2024. Additionally, under Rule 241 the probate court was stayed from issuing any orders on the matter on appeal. Because the probate court acted without jurisdiction when it issued the order dated February 8, 2024, the order is void from the outset, or *ab initio*. *See Conner v. Slotchiver*, 2009-UP-502 (2009)(unreported). (Where the court held that actions by the probate court that were affected by an appeal were void if issued without lifting the automatic stay.)

Moreover, the subsequent actions of the special administrator, which flowed from the order dated February 8, 2024, are also void because they were based on an order issued without subject matter jurisdiction. Since the probate court was divested of its jurisdiction upon the filing of the appeal under Rule 205 SCACR, the probate court's order of February 8, 2024, and any actions taken pursuant to that order, are null and void.

Therefore, the probate court had no jurisdiction over the matters on appeal once the notice of appeal was filed and served on February 2, 2024. The probate court's subsequent issuance of the February 8, 2024, order was void *ab initio* as it was issued without jurisdiction, due to the appellate court having exclusive jurisdiction over the matter. Consequently, the actions of the special administrator based on that order are also void. This Court should hold that the probate court's February 8, 2024 order and all subsequent actions taken under it are null and without legal effect because the February 8, 2024 order was void from the time of its issuance. The appeal to the Circuit Court was not required to be perfected since the order in question was issued without jurisdiction,

due to the properly perfected appeal on February 2, 2024.

II. THE PROBATE COURT ERRED IN FAILING TO APPLY THE PROPER STARDARD IN EVALUATING THE REAPPOINTMENT OF THE SUCCESSOR PERSONAL REPRESENTATIVE BAYARD SCOTT PICKETT, JR.

S.C. Code Ann. § 62-3-203(e)(2), a court may deny administration to a person deemed unsuitable, but this discretion is not absolute. A thorough, case-by-case analysis is required, focusing on whether appointing the proposed personal representative would jeopardize the estate's safety or undermine justice. As established in *Ex parte Small*, 48 S.E. 40, 69 S.C. 43 (1904), complete unfitness must be clearly substantiated in the record.

The statute specifies that “no person is qualified to serve as a personal representative who is: (2) a person whom the Court finds unsuitable in formal proceedings.” However, "unsuitable" necessitates a careful evaluation of facts and circumstances, as noted in *Parkman v. Hanna*, 426 S.E.2d 743, 311 S.C. 20 (1992). The court in *Parkman* emphasized that a personal representative’s character or conduct could raise convincing concerns about their intentions regarding the estate's assets. Furthermore, *Ex parte Small* clarified the rights of beneficiaries and the responsibilities of personal representatives, asserting that the administration process is primarily for the collection and distribution of assets in accordance with the law.

The law prioritizes the rights of interested parties to ensure assets are handled properly. If granting a particular person, the right to manage these assets would jeopardize this objective, such a claim must be denied. The presumption is always in favor of the claimant identified by statute, with letters of administration granted unless evidence overwhelmingly indicates otherwise (Ex parte Small, 48 S.E. 40).

Moreover, our Supreme Court has consistently shown strong deference to the personal representative chosen by the testator. As stated in *Blackmon v. Weaver*, 366 S.C. 245, 250-51

(2005), courts are reluctant to remove personal representatives, as this would undermine the testator's intentions. The Court of Appeals has also stated:

> "The [c]ourts have ever been reluctant to take the management of an estate from those to whom it has been confided by the testator, for to that extent the intention expressed in his will would be defeated.' " *Id*. (quoting *Smith v. Heyward*, 115 S.C. 145, 164, 105 S.E. 275, 282 (1920)). "The power to remove a personal representative 'should be [exercised] with great caution, and not at all, unless it is made to appear to be necessary for the protection of the estate, to prevent loss or injury to it from misappropriation, maladministration or fraud.' " *Id*. (quoting *Smith*, 115 S.C. at 164–65, 105 S.E. at 282). (*Church v. Mcgee*, 391 S.C. 334, 705 S.E.2d 481 (S.C. App. 2011)).

The removal power should be exercised cautiously and only when necessary to protect the estate from potential harm *See Smith v. Heyward*, 115 S.C. 145, 164. Finally, the Court stated in *Parkman*, that a personal representative's character or conduct could be "convincing reasons for the conclusion that he designed to divert the assets from the purposes of administration." *Id*.

Finally, S.C. Code Ann. § 62-3-1101 (Supp. 2019) states "A compromise of a controversy as to . . . the construction, validity, or effect of a probated will, the rights or interests in the estate of the decedent, of a successor, or the administration of the estate, if approved by the court after hearing, is binding on all the parties . . . ." *See Bennett v. King*, 436 S.C. 614, 875 S.E.2d 46 (S.C. 2022) Moreover upon the making of the order and the execution of the agreement, all further disposition of the estate is in accordance with the terms of the agreement. S.C Code Ann. §62-3-1102 (2023).

In this case, the trial court failed to fully appreciate the facts regarding Mr. Bayard Scott Pickett, Jr.'s fitness as a personal representative. The record does not substantiate claims of unsuitability or character flaws that would impair the beneficiaries' rights. In fact, the probate court acknowledged that Mr. Pickett had not engaged in any improper conduct, stating, "I don't think that the testimony here today has shown – and it may change, but nothing has shown that

you've done anything improper." (R. at __) Furthermore, counsel for Ms. Anderson confirmed, "an accounting has been given to us and we've verified the funds— the total funds are there." Even the attorney for Mrs. Anderson admitted that the special administrator was requested "not because of misconduct or anything else on the part of Mr. Pickett as far as misappropriating money or anything like that" (R. at __). A complete review of the record demonstrates that Mr. Pickett was not unfit to serve. There is no evidentiary dispute as to the fitness of Mr. Pickett. Finally, the family settlement agreement establishes that Mr. Pickett would be the personal representative.

Moreover, Mr. Pickett was named in the will as the personal representee, accepted his appointment, and was qualified. Mr. Pickett was qualified to serve as a general personal representative in this estate twice. Once on March 11, 2019 (R. at __) and again on April 15, 2024. (R. at __). The second appointment was limited to Mr. Pickett being a fiduciary of the estate and ensured the estate tax return was timely filed. This order is the first time that there are formal findings of unfitness. Respectfully, those findings are without evidentiary support as elicited below and do not demonstrate complete unfitness by Mr. Pickett. It is simply not the truth that Mr. Pickett's past conduct of late filing an accounting or inventory and appraisement rise to the level of complete unfitness such that the estate is harmed. The record does not demonstrate that one penny was misappropriated or mismanaged.

Judge McFaddin's order found Mr. Pickett unsuitable because 1) Mr. Pickett had a pattern of disregarding the probate process and directives from the probate court; 2) Mr. Pickett disbursed $2,830,909.27 and possessed $1,430,447.39 in funds belonging to the estate; 3) Pickett never properly filed an inventory and appraisement or proposal for distribution with the probate court; and 4) Pickett disbursed over $40,000 in estate funds without authority as personal representative.

The trial court's decision if\ unsupported by the evidence, is an error of law. *See Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006). Findings of fact by the court require evidentiary support. See *Fontaine v. Peitz*, 291 S.C. 536, 538, 354 S.E.2d 565, 566 (1987). A court cannot consider facts appearing only in argument of counsel. *Gilmore v. Ivey*, 290 S.C. 53, 58, 348 S.E.2d 180. 184 (Ct. App. 1986).

Here, the trial court erred in reviewing the record as a whole and failing to properly appreciate the following: Each of the 4-basis unpinning Judge McFaddin's Order determining Mr. Pickett's unsuitability are addressed below. The Judge's Findings of fact are numbered 2-5.

Erroneous Finding of Fact #2 & 5

As to point one, the lack of filing the required inventory and appraisement and accounting timely was not a willful violation of the probate court's directive. Mr. Pickett's uncontroverted affidavit, in paragraph 16, established he could not properly complete the require probate filings as there was a pending lawsuit concern the estate and that the certified public accountant had yet to determine the probate/non-probate assets. (R. at __). A review of the probate court's docket evidence that the when the time for filing the initial inventory and appraisement a rule to show cause was scheduled for 11/17/2021. (R. at. __) However, a review of the probate docket established that the probate never served nor scheduled a rule to show cause to allow Mr. Pickett to explain the delay in filings. Importantly, S.C, Code Ann. §62-3-1001(b) provides the probate court with the procedure, that requires a hearing, when the personal representative fails to file an accounting, proposal for distribution, or application for settlement within the proscribed time. A review of the probate record would have revealed that no such hearing was ever had. A complete review of the record or an evidentiary hearing to fully understand the conduct by Mr. Pickett would have allowed the trial court a substantial understanding of Mr. Pickett's attempted compliance.

The record also established that Mr. Pickett filed five requests for continuances. (R. at ___). This conduct demonstrates that he respected the probate process and deadlines.

Secondarily, the trial court failed to appreciate that the issues concerning the appointment of special administrator were on appeal. Moreover, the only evidence before the court was the affidavit of Bayard Scott Pickett, Jr. while there was a memorandum in opposition filed by Laura Jones, on April 8, 2024, it did not contain an affidavit of Laura Jones. As a result, Respondent had no admissible evidence before the Court on Petitioner's Motion for Appointment of Successor Personal Representative.

Erroneous Finding of Fact #3 of Order dated 4/24/2024- Receipt of $84,963,38 in cash and disbursement $2,830,909.27 and possession of $1,430447.39

Judge McFaddin's Order held that Mr. Pickett received $84,963.38 in cash belonging to the estate and funds totaling $1,760.423.15, and further disbursed $2,830,909.27. (R. at __) Moreover the Order found that Mr. Pickett's unlawfully possessed $1,430,447.39 in funds belonging to the estate. The above findings of fact and conduct by Mr. Pickett was fully authorized and uncontroverted by admissible evidence and truth. The erroneous findings of fact are established below:

At the moment of his mother's death in 2018, Mr. Pickett was the trustee of testamentary trust for his mother as established in paragraphs 2-4 and 8 of the affidavits of Bayard Scott Pickett, Jr. (R.at __). Mr. Bayard Scott Pickett Jr. was authorized as trustee of Veronique H.W. Pickett Trust to possess the proceeds of $84,963.37. All the above was authorized by the Will of Bayard Scott Pickett, Sr. and the Will of Veronique H.W. Pickett. (R. at __) On September 21, 2023, Mr. Pickett executed a detailed accounting for every penny of estate and trust property in this case. (R.at __) Further, these funds were documented in the September 27, 2023, at 5:12 pm filed accounting with the probate court. (R. at __). Mr. Pickett's affidavit establishes that all estate and

trust proceeds were accounted for, and inventory was filed the probate Court on September 22, 2023 at 10:15 am. Importantly, the $2,830,909.27 was disbursed on 9/29/2020 when Mr. Pickett was still the personal representative, and those proceeds were sent via wire from Hellman Yates law firm to each beneficiary as directed by the will in this case. (R. at __) Moreover $1,760,423.15 was the hold back amount of estate proceeds, properly held the estate checking account, to be disbursed to the beneficiaries, subject to costs of administration. Ultimately, the net of these proceeds were deposited with the Charleston County Clerk of Court, after disbursements to beneficiary Kathleen Anderson (R. at __). Bayard Scott Pickett was the trustee of the Kathleen Anderson Trust at the time of her advancements and disbursements (R at __). Importantly, the Order has an important erroneous finding of fact that "no initial or final inventory or proposal or any other filings were filed". A review of the probate record demonstrates this is patently false.

Erroneous Finding of Fact #4 of Order dated 4/24/2024.

Judge McFaddin's Order held that Mr. Pickett was without authority to disburse $40,000 in estate funds. This too is an erroneous finding and establishes that the Court failed to recognize that Bayard Scott Pickett was also the successor trustee of the Kathleen Anderson Trust that was created pursuant to the Will of Veronique H.W. Pickett. This trust was a 25% beneficiary of the Estate and Mr. Pickett was legally authorized to disburse proceeds to Kathleen Anderson as her trustee (R. at __) Moreover, there was a consent order, dated October 26, 2023, authorizing Bayard Scott Pickett, Jr. to transfer $25,000 to The Kathleen Anderson Trust. (R. at _)

III. THE PROBATE COURT VIOLATED APPELLANT'S DUE PROCESS RIGHTS IN NOT ALLOWING AN EVIDENTIARY HEARING, SUBJECT TO CROSS EXAMINATION, TO FULLY EVAULATE THE SUCESSOR PERSONAL REPRESENTATIVE'S MOTION TO BE REAPPONTED.

As our supreme court has held, "[t]he fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review." *Kurschner v. City of Camden Planning Comm'n*, 376 S.C. 165, 171, 656 S.E.2d 346, 350 (2008). Fundamental fairness and due process requires this Court to carefully review the factual and procedural history in this action, provide for an evidentiary hearing, allow cross examination of witnesses, and determine admissible evidence prior to making a final determination in this matter. Our Supreme Court has held *In Carolina Department of Social Services ex rel. Texas v. Holden South*, 319 S.C. 72, 459 S.E.2d 846 (1995) "[t]he right to confrontation, although historically limited to criminal prosecutions, has been applied in the civil context." *Id*. at 78. In determining when this right should attach, the court *in Brown v. South Carolina State Board of Education*, 301 S.C. 326, 391 S.E. 2d 866 (S.C. 1990) held "Where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses." *Id*. at 329. Due process was not met in this case. The matter that was before the Court was Petitioner's motion to be appointed successor personal representative and nothing more. This proceeding was carved out from the probate court matter and transferred to the Circuit Court for a *de novo* trial hearing. There has never been a trial, nor a live testimonial hearing, nor any other testimony before this court other than the affidavit of Scott Pickett.

The Court improperly reviewed the procedural history and necessity of appointing a special administrator, that was heard in the probate court, and used those facts to underpin the ruling in this matter. This obfuscated the *de novo* command per S.C. Code Ann. 62-1-302(d) and further violated the due process mandate that is

codified at S.C. Code Ann. §62-1-302(d). In this matter, the trial court, despite a formal request via motion to reconsider, failed to set a hearing whereby Appellant could have a meaningful evidentiary hearing, allow for cross examination of witnesses, and determine all relevant admissible evidence prior to making a final determination in this matter. S.C. Const. art. 1, § 22; *Stono River Envtl. Protection Ass'n v. S.C. Dep't of Health and Envtl. Control*, 305 S.C. 90, 94, 406 S.E.2d 340, 342 (1991); *Kurschner v. City of Camden Planning Com'n*, 656 S.E.2d 346, 376 S.C. 165 (S.C. 2008).

For the reasons, Appellant respectfully requests the Court to remand this matter back to the circuit court to set an evidentiary hearing in compliance with *Kurschner v. City of Camden Planning Comm'n.*

CONCLUSION

Based upon the above, the Order dated February 8, 2024, in the probate court 2019-ES-10-00394, the Order dated April 24, 2024 in case number 2024-CP-10-00921 must be vacated and the matter being remanded back to probate court for further proceedings administering the estate. and the Order dated April 24, 2024 in case number 2024-CP-10-01325 must be vacate and the matter being remanded back to probate court for further proceedings administering the estate.

September 25, 2024

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Respondents.

AND

Kathleen Anderson aka Kathleen Elizabeth Anderson, in her individual Capacity, Party in Interest/Counterclaimant.

CERTIFICATION BY COUNSEL

I, the undersigned counsel, hereby certify that I have served the Appellant's Initial Brief and Designation of Matters to be Included in the Record on Appeal upon the Respondents, 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 and Kathleen Anderson aka Kathleen Elizabeth Anderson, in her individual capacity, Party in Interest/Counterclaimant by depositing a copy of the same in the United States Mail, postage prepaid, on September 25, 2024, addressed to their attorney of record:

Elizabeth J. Palmer, Esq., 151 Meeting St., Suite 400, Charleston, SC 29401 and by electronic mail to: ep@saxtonstump.com and;

Eric B. Laquiere Esq., 3674 Old Charleston Hwy, Johns Island, SC 29455 and by electronic mail to:eric@laqlaw.com.

Respectfully submitted this 25th day of September, 2024.

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