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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM KERSHAW COUNTY

Court of Common Pleas

Daniel Coble, Circuit Court Judge

Appellate Case No. 2024-001152

In Re: Estate of M.K. Jennings, 2010ES28000169

Beverly Hennager, Appellant

v.

Mary E. Deardon, as Personal Representative of the Estate of M. K. Jennings,
Respondent

FINAL BRIEF OF RESPONDENT

October 10, 2024

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STATEMENT OF THE CASE

M. K. Jennings (“Decedent”) died March 20, 2010. By her Will dated September 17, 1999, her probate assets pass to her five (5) children, Mary, Michael, Randy, Beverly and Louis. Beverly (the Appellant herein) and Louis petitioned to have Mary (the Respondent herein) removed as Personal Representative (“PR”) and seeking a Special Administrator which was granted by Probate Judge Harriett S. Pierce in 2013 and then appealed to the Circuit Court.

Upon the Order of Remand by the Circuit Court in 2014, for more specific finding and conclusions, a merits hearing was conducted on July 20 -21, 2016 by Probate Judge Debra Branham (Judge Pierce had retired) resulting in her Order dated October 27, 2016 (“2016 Order”) (R.pp. 12-20) restoring Mary as PR. The 2016 Order, appealed by both parties, was affirmed by Judge Alison Renee Lee’s Order on Appeal dated July 10, 2020 (“2020 Order on Appeal”) (R. pp. 21-37). The 2020 Order on Appeal was not appealed and no Rule 59 motions were made.

Respondent then filed the estate closing documents with probate on September 16, 2020, including an Amended Final Accounting which allocated the three (3) expense items totaling \$55,450.00 and recalculated the final distributions totaling \$86,303.24, all as specified in the 2016 Order, paragraphs A-K (R.pp. 19-20).

In response, Appellant filed a Demand For Hearing on October 3, 2020. A two-part zoom hearing was held by Judge Branham on March 16, 2021 and on June 2, 2021. Judge Branham refused to allow Appellants’ motions to compel by returning the documents by letters filed July 20, 2021 (R.p. 38) and July 29, 2021 (R.p.41) on the basis “there is not pending litigation”. Judge Branham issued her Order dated September 3, 2021 (“2021 Order”) (R.pp. 42-43) which approved the Amended Final Accounting and concluded that the issues raised by Appellant would require the re-trial of issues already decided by the 2016 Order and affirmed by the

2020 Order on Appeal.

Upon appeal of the 2021 Order to the Circuit Court, Judge Daniel Coble affirmed by his Order on Appeal dated June 19, 2024 (“2024 Order on Appeal) (R.pp. 44-47) .

The 2024 Order on Appeal is the subject of this appeal by Appellant, Pro Se.

STANDARD OF REVIEW

The Standard of Review in this matter was set forth in Judge Alison Renee Lee’s 2020 Order on Appeal which affirmed the 2016 Order. The 2016 Order on Appeal mandated the filing of an Amended Accounting with probate to close the estate. Appellant does not contest that the Amended Accounting complies with the 2016 Order. Instead, Appellant seeks to re-litigate the case by simply ignoring the 2020 Order on Appeal where the Standard of Review was applied.

ARGUMENT

1. As to Appellants’ Issue on Appeal No. I

Appellant makes no concise or direct statement as to any issue or alleged error in the 2024 Order on Appeal being appealed here. Appellant’s statement is so vague it should be disregarded.

2. As to Appellants’ Issue on Appeal No. II

The Appellant appealed the October 27, 2016 Order. The 2016 Order was affirmed on appeal by the 2020 Order on Appeal. Appellant’s attorneys did not appeal further, nor did the Appellant, pro se. The 2016 Order became the law of the case. Appellant’s assertion that the 2016 Order was interlocutory subject to review and not a final Order on the merits should be

dismissed based on the record. The first two sentences of the 2016 Order confirm the two day trial was on the merits. The 2020 Order on Appeal (sixteen pages) confirms that the 2016 Order was thoroughly reviewed on appeal.

3. As to Appellants' Issue on Appeal No. III

Appellant makes no concise or direct statement as to any issue or alleged error in the 2024 Order being appealed. Appellant's statement is so vague it should be disregarded.

4. As to Appellants' Issue on Appeal No. IV

Appellant makes no concise or direct statement as to any issue or alleged error in the 2024 Order being appealed. Appellant's statement is so vague it should be disregarded.

CONCLUSION

The Issues on Appeal (I, III and IV) put forth by the Appellant are so general in nature that they “....may be disregarded by the appellate court” under Rule 208 (b)(1)(B), SCACR. Respondent submits they should be disregarded on that basis.


The Issue of Appeal II put forth by Appellant simply ignores the record as summarized in Judge Coble’s 2024 Order on Appeal. Notably, Appellant’s argument does not mention the appeal of the 2016 Order, by her attorneys, resulting in Judge Lee’s 2020 Order on Appeal affirming the 2016 Order. Rule 220(c) of the SCACR provides for “affirmance on any ground appearing in record.” Respondent submits that Judge Coble’s order should be affirmed on that basis.

Judge Coble’s Order makes it plain that the closing of this estate, after the 2016 Order was affirmed on appeal and not further appealed, was fundamentally a mathematical task. The Probate Court approved Respondent’s accounting and, on appeal, Judge Coble affirmed.

Appellant made no objections to the mathematical accounting calculations made by Respondent to comply with the 2016 Order. Instead Appellant continues to attempt to litigate issues that are precluded by the “law of the case” doctrine. See *Sloan Construction Co., Inc. vs. Southco Grassing, Inc.*, 395 S.C. 164 (2011), 717 S.E. 2d 603, 169 (2011); *Judy v. Martin* 381 S.C. 455, 458 - 59, 674 S.E. 2d 151, 153 (2009).

For the reasons stated, this Court should affirm Judge Coble’s Order on Appeal.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "MBS Burns", written over a horizontal line.

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