

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)
)
Irene K. Clodfelter,)
)
) Appellant,)
)
v.)
)
Karen L. Chappell, & Lynda F. Clinger,)
)
) Respondents.)
)
)
_____)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 2023-CP-22-00783

ORDER ON APPEAL
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SC Court of Appeals

This matter was before the Court on August 22, 2024, by way of an Appeal from an order of contempt against Irene K Clodfelter (hereinafter “Appellant”) issued by the Probate Court of Georgetown County, South Carolina. This Court, having been fully apprised of the judgment from the Honorable Leigh P. Boan, Presiding Judge, and having considered all relevant legal and factual issues raised by Appellant, finds there is no legal or factual error presented and the Probate Court’s issuance of an order of contempt against Appellant is Affirmed.

PROCEDURAL AND FACTUAL HISTORY

This case centers around the Will of Hubert Leon Clodfelter (hereinafter “Decedent”). Appellant is the former spouse of the Decedent; Karen Chappell and Lynda Clinger (hereinafter “Respondents”) are the two adult children of the Decedent. Initially, after Decedent’s Will was probated, Appellant was named as the personal representative of the estate. In July 2019, Respondents filed a petition against Appellant asserting Executor de son Tort, Accounting, Breach of Contract, and Unjust Enrichment. (Appellant’s Br. 1.). After a trial, the Probate Court issued an order which: (1) removed Appellant as the personal representative of the Decedent’s estate; (2) appointed Respondents as the personal representatives of the estate; and (3) concluded

that Appellant and Decedent jointly owned with rights of survivorship, a marital home in Murrells Inlet, South Carolina. *Id.*

Respondents filed an additional petition with the Probate Court in September 2021, asserting the same causes of action as above. *Id.* at 2. In its order dated July 20, 2022, the Probate Court found that the Appellant sold the marital home she owned in November 2021 for Six Hundred Eighty Thousand Dollars (\$680,000.00). (R. at 20). Appellant netted a Four Hundred Thousand Dollar (\$400,000.00) profit. *Id.* The Probate Court granted Respondent's request for relief and assessed Forty-One Thousand Dollars (\$41,000.00) in items missing from Decedent's estate, plus Forty-One Thousand Two Hundred Eighty-Seven and Fifty-Six cents (\$41,287.56) in attorney's fees for Respondents. (R. at 28). On August 1, 2022, Appellant filed a Rule 59(e) motion to reconsider the Probate Court's July 2022 Order. (R. at 30-40). The Probate Court denied Appellant's motion. In addition, the Probate Court ordered Appellant to pay the sum noted in its July 2022 order (total figure = \$82,287.56). (R. at 53-54). Payment was to be made within thirty days of September 26, 2022. (R. at 54).

Appellant did not pay the outstanding sum. Respondents filed a Petition for a Rule to Show Cause on November 30, 2022. (R. at 56-59). A contempt hearing was held on April 18, 2023. On June 20, 2023 the Probate Court issued its order holding the Appellant in contempt. (R. at 110-113). Appellant timely filed this appeal to that order.

STANDARD OF REVIEW

Appeals to the Circuit Court from the Probate Court are subject to the South Carolina Probate Code. *Matter of Howard*, 315 S.C. 356, 360, 434 S.E.2d 254, 256 (1993). South Carolina law states that "The circuit court, court of appeals, or Supreme Court shall hear and determine the appeal according to the rules of law." S.C. Code § 62-2-308(i) (2014). "According

to the rules of law” means “according to the rules governing appeals.” *Howard*, 315 S.C. at 360, 434 S.E.2d at 257. “...if there is neither a statute nor a rule of court expressly prescribing a different standard of review, the circuit court must apply the same standard that this Court or the Court of Appeals would apply where the appeal taken directly to either of them.” *Id.* at 361.

Holding a party in contempt of is a power vested in all courts as a way to preserve order, enforce judgments, and administer justice. *Curlee v. Howle*, 277 S.C. 377, 382, 287 S.E.2d 915, 917 (1982). “A determination of contempt ordinarily resides in the sound discretion of the trial judge.” *State v. Bevilacqua*, 316 S.C. 122, 129, 447 S.E.2d 213, 217 (Ct. App. 1994). “On appeal, a decision regarding contempt should be reversed only if it is without evidentiary support or the trial judge has abused his discretion.” *Hook v. South Carolina Department of Health and Environmental Control*, 439 S.C. 52, 72, 885 S.E.2d 442, 453 (Ct. App. 2023) (quoting *Stone v. Reddix-Small*s, 295 S.C. 514, 516, 369 S.E.2d 840, 840 (1988)). “An abuse of discretion arises in cases in which the judge issuing the order was controlled by some error of law or where the order, based upon factual, as distinguished from legal, conclusions, is without evidentiary support.” *Stewart v. Floyd*, 274 S.C. 437, 440, 265 S.E.2d 254, 255 (1980).

DISCUSSION

Based upon the testimony, Appellant had sufficient funds in her bank account to satisfy the amount owed to Respondents. Appellant offered no explanation for failure to satisfy payment. Appellant suggests that since the funds she had available came from the sale of real property which was previously awarded to her earlier in this action, that there was an attempt by the Respondent to relitigate the ownership of the real property. That contention is unfounded. The Appellant is correct that the real property was determined to belong to her. Thereafter, Appellant could do with the real property as what she pleased. At such time as the real property

was sold it was converted into liquid assets. The availability of such liquid assets to satisfy was properly considered in her ability to pay such obligations pursuant to the Probate Court.

“Civil contempt must be proven by clear and convincing evidence.” *Poston v. Poston*, 331 S.C. 106, 113, 502 S.E.2d 86, 89 (1998). “Contempt results from the willful disobedience of a court order and before a person may be held in contempt, the record must be clear and specific as to acts or conduct upon which the contempt is based.” *Ex parte Kent*, 379 S.C. 633, 637, 666 S.E.2d 921, 923 (Ct. App. 2008). “A willful act is one which is ‘done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say, with bad purpose either to disobey or disregard the law.’” *Miller v. Miller*, 375 S.C. 443, 454, 652 S.E.2d 754, 759-60 (Ct. App. 2007) (quoting *Widman v. Widman*, 348 S.C. 97, 119, 557 S.E.2d 693, 705 (Ct. App. 2001)). See *Matter of Estate of Combis*, 439 S.C. 485, 493, 888 S.E.2d 1, 5 (Ct. App. 2023).

The standard to hold a person in contempt is there must be clear and convincing evidence that the party willfully violated or disobeyed a valid court order, the record supports that. There was a court order obligating Appellant to pay \$82,287.56. The Appellant acknowledges receipt of the order. The order was not appealed and became the law of the case. Appellant had the ability to pay based upon her own testimony and Appellant offered no explanation or extenuating circumstances which could have allowed the Probate Court to determine she was otherwise unable to satisfy her obligation.

As set forth above, the Probate Court’s decision was supported by the evidence. Further, there has been no showing that the Order was controlled by an error of law. Therefore, the order of the Probate Court is Affirmed.

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AND IT IS SO ORDERED!

The Honorable Dale E. Van Slambrook

September 20, 2024
Moncks Corner, South Carolina