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notice of appeal in a civil case

THE STATE OF SOUTH CAROLINA

In the Court of Appeal

APPEAL FROM CHARLESTON COUNTY and

Court of Common Pleas

Judge Jennifer McCoy, Circuit Court Judge

Number 2019 – C.P – 10 – 06647

George S. Jenkins, pro se

Appellant

v

Florence Heyward Davis

respondent,

---

NOTICE OF APPEAL

George Jenkins appeals the order of summary judgment of the Hon. Judge Jennifer McCoy dated October 17, 2024

The appellant George Jenkins received written notice of entry of this order on October 19, 2024

  
November 17, 2024

*George S Jenkins*

George S. Jenkins, pro se

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Charleston SC 29407

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email: [gjen11748@aol.com](mailto:gjen11748@aol.com)

Other counsel of record

Finkel law firm

1000 Faber Pl., Drive, Suite 450

North Charleston, South Carolina

(843) 577-5460

RECEIVED

Nov 18 2024

SC Court of Appeals

George S. Jenkins  
1348 S. Sherwood Dr.  
Charleston, South Carolina 29407

November 17, 2024

the South Carolina Ct. of appeals

Attention: the Catherine S. Harrison

, case number 2024 – 001929

George S. Jenkins verse Florence Haywood Davis

Mrs. Harrison, I was making correction that you recommended to me on November 14 and saw that I use a date that came from the electronic file – 2024 October 29, 1:57 PM, Charleston, common plea, case number 219 CP 100-6647. I was told at the Court of Common Pleas that I had to wait until I receive the court order had been filed. However, the notice of entry of judgment.\Order pursuant to rule 77 SCR CP the judgment is showed and entered in on October 17 and was mailed on 18 October I went to the clerk of court and was told I had to wait until there was a written order to start the appeal process. I am praying that the information that I received was correct. However, I am mailing to you a amended copy with the date that the order was rendered because I would like to correct that, along with the other information that you requested

Would you please give me a call at 843-813-0640. I believe that I have all of the other information already spent to your office

Please find a copy of the electronic filing with the dates enclose in which I got the dates that I originally sent to you

*George Jenkins*

George S. Jenkins

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Jonathan Altman

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**From:** George S. Jenkins Sr. <gjen11748@aol.com>  
**Sent:** Friday, October 25, 2024 9:11 PM  
**To:** Transcripts <transcripts@sccourts.org>  
**Subject:** Request for transcript fromMaria-Emanuel Klein, DCRP

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Re: Request for transcript fromMaria-Emanuel Klein, DCRP

From George S. Jenkins Sr. <gjen11748@aol.com> ▾

To Transcripts ×

Cc Bcc

Re: Request for transcript fromMaria-Emanuel Klein, DCRP

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On Monday, October 28, 2024 at 10:34:10 AM EDT, Transcripts <transcripts@sccourts.org> wrote:

Good morning,

Can you please submit the docket number to process as soon as possible. This information can be obtain from you local clerk of court.

Thank you

Court Reporter Section

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STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS

George Jenkins, et al, )

CASE NO.: 2019-CP-10-06647

Plaintiffs, )

v. )

**ORDER GRANTING DEFENDANT'S  
MOTION FOR PARTIAL SUMMARY  
JUDGEMENT**

Florence Heyward Davis, )

Defendant. )  
\_\_\_\_\_ )

This matter comes before the Court on Defendant Florence Heyward Davis's Motion for Partial Summary Judgment pursuant to Rule 56, South Carolina Rules of Civil Procedure ("SCRCP"). Having considered the motion, supporting memorandum of law, affidavits, and all other materials properly before the Court, the Court finds and orders as follows:

**FINDINGS OF FACT**

1. The Principal, Florine Jenkins Heyward, was the owner in fee simple of various parcels of real property located on Wadmalaw Island in Charleston County (collectively, the "Wadmalaw Properties").

2. In 2012, the Principal met with attorney D. Nathan Davis to have him prepare a Durable Power of Attorney ("POA"), pursuant to which Defendant was made her attorney-in-fact.

3. The POA explicitly granted Defendant the power "to manage real property, to sell, convert and mortgage realty... to execute acknowledge and deliver deeds of real property... which (s)he considers necessary" and "to convey property to himself/herself for less than full consideration or no value at all."

4. Attorney Davis specifically prepared these provisions to effectuate the Principal's expressed desire that her attorney-in-fact be able to convey real property to herself for little or no consideration.

5. The Principal had the capacity to grant the POA in 2012, and the parties do not dispute this fact.

6. Pursuant to the POA, Defendant transferred the House to herself and the Principal as joint tenants with rights of survivorship in 2015, and transferred the remaining Wadmalaw Properties to herself and the Principal as joint tenants with rights of survivorship in 2019.

7. The Principal died on November 4, 2019.

8. None of the Plaintiffs were devisees of the Wadmalaw Properties under the Principal's Last Will and Testament.

### CONCLUSIONS OF LAW

1. Summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRPC.

2. A power of attorney is an instrument in writing by which a principal appoints an agent and confers authority to perform certain specified acts on the principal's behalf. *Watson v. Underwood*, 407 S.C. 443, 454 (Ct. App. 2014).

3. The South Carolina Supreme Court has held that gifts by an attorney-in-fact to themselves are permissible where there is "clear intent to the contrary evidenced in writing." *Fender v. Fender*, 285 S.C. 260, 262 (1985).

4. The POA in this case unambiguously authorized Defendant to convey the Principal's property to herself for little or no consideration. This authorization was explicitly stated in writing, satisfying the requirements of *Fender*.

5. The 2017 amendments to the South Carolina Probate Code regarding specific language requirements for powers of attorney do not apply retroactively to the 2012 POA or the 2015 property transfer.

6. Defendant's transfers of the Wadmalaw Properties were within the scope of authority granted by the POA and were valid under South Carolina law at the time they were made.

7. Plaintiffs cannot establish damages from these transfers as they were not devisees of the Wadmalaw Properties under the Principal's Will.

### ORDER

Based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. Defendant's Motion for Partial Summary Judgment is GRANTED.

2. Plaintiffs' claims for fraud, negligent misrepresentation, and breach of fiduciary duty are DISMISSED with prejudice.

AND IT IS SO ORDERED.

---

The Honorable Jennifer B. McCoy



Charleston Common Pleas

**Case Caption:** George Jenkins , plaintiff, et al VS Florence Heyward Davis  
**Case Number:** 2019CP1006647  
**Type:** Order/Summary Judgment

So Ordered

s/Jennifer B. McCoy #2764

Electronically signed on 2024-10-29 10:50:45 page 4 of 4