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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM OCONEE COUNTY CIRCUIT COURT

Order of Honorable Judge R. Lawton McIntosh

Appellate Case No. 2024-001641

Dorothy Pierce-----Appellant,

v.

Samantha Leigh a/k/a Pierce, and Cody Hiott-----Respondents.

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**MOTION TO REVERSE DISMISSAL AND REMAND FOR FURTHER PROCEEDINGS**

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COMES NOW, the Appellant, Dorothy Pierce, and respectfully moves this Honorable Court to reverse the Circuit Court’s September 23, 2024, dismissal order in the above-captioned case and remand it for further proceedings. The Circuit Court dismissed the case solely on the basis of Appellant’s alleged lack of standing as Personal Representative. However, this motion is grounded in the **October 25, 2024, Court of Appeals order in case 2024-000455**, which unequivocally resolves the issue of appellant’s standing. The appellate court affirmed that Appellant retains her authority to act as Personal Representative, specifically for the purpose of preserving and protecting the estate’s assets pending appeal. The collection of unpaid rent is a core duty necessary to preserve the estate’s financial health and integrity, making it well within the scope of Appellant’s authority as Personal Representative. Reversing the Circuit Court’s dismissal and remanding the case will allow these claims to be heard on their merits, consistent with the appellate court’s binding ruling and South Carolina law. In support of this motion, the Appellant states as follows:

## **I. BACKGROUND AND STATEMENT OF FACTS**

1. In June 2020, respondents approached decedent Doyle Elton Pierce, in the presence of Appellant, to discuss renting the property at 745 Mourning Dove Lane, Oconee County, South Carolina. An agreement was reached, requiring them to pay \$370 per month, with the first two months of rent allocated for repairing the trailer stand.
2. Appellant's husband, Doyle Elton Pierce, passed away on September 14, 2020. Following his passing, Appellant was duly appointed as the Personal Representative of his estate on September 23, 2020. Her removal by the Probate Court on August 18, 2021, and November 2, 2023, was not based on any misuse or failure to fulfill her fiduciary duties. These removal orders are currently stayed pending appeal under South Carolina Appellate Rule 241, as confirmed by the South Carolina Court of Appeals in its order dated October 25, 2024.
3. After the two-month rental credit period, Respondents' rent obligations began in October 2020. Despite residing in the trailer for over 50 months, they have failed to pay any rent since October 2020.
4. Samantha Leigh, the step-granddaughter of Doyle Elton Pierce, and her boyfriend, Cody Hiott, are not heirs or beneficiaries of the estate of Doyle Elton Pierce. They do not qualify as heirs under the decedent's will or South Carolina's intestate succession laws. Additionally, neither Samantha Leigh nor Cody Hiott has asserted any claim to the estate, nor are they parties to any legal proceedings currently pending on appeal.
5. As non-heirs, Samantha Leigh and Cody Hiott have no legal or equitable interest in the estate of Doyle Elton Pierce. Their continued occupancy of estate property without paying rent constitutes unjust enrichment, depriving the rightful beneficiaries, including Appellant, of assets and income to which they are entitled.
6. Acting as the Personal Representative of the Estate of Doyle Elton Pierce and as an heir to the estate, Appellant filed a lawsuit in the Circuit Court to recover rent arrears from non-heirs Samantha Leigh and Cody Hiott in the amount of \$16,650.

7. On September 12, 2024, the Circuit Court of Oconee County heard the Respondents' Motion to Dismiss. Respondents argued that Appellant lacked standing to bring claims because she was removed as Personal Representative.
8. On September 23, 2024, the Circuit Court issued an order granting the Motion to Dismiss solely on the basis that Appellant lacked standing as Personal Representative, citing the Probate Court's removal orders. The Circuit Court did not address the merits of the claims. **[A copy of circuit court order is herein attached]**
9. Appellant appealed the Circuit Court's decision to the South Carolina Court of Appeals. The appeal has been perfected and is currently pending the filing of briefs.
10. While the South Carolina Court of Appeals has not yet ruled specifically on the case involving Samantha Leigh and Cody Hiott, it has addressed the issue of Appellant's standing as the Personal Representative in a related case, **2024-000455**, which also involves the Estate of Doyle Elton Pierce and the scope of Appellant's authority as Personal Representative.
11. On October 25, 2024, the South Carolina Court of Appeals issued a ruling in case 2024-000455, definitively resolving the question of Appellant's standing as the Personal Representative. The Court of Appeals unequivocally held that Appellant retains her status as the Personal Representative of the estate and, as such, has standing to pursue claims necessary to preserve the estate's assets, including the recovery of rent arrears. Additionally, the Court remanded a portion of the matter to the Circuit Court to determine the extent of Appellant's powers beyond those required for preservation of the estate. The collection of rent falls squarely within the duties necessary to preserve the estate's financial health and integrity. **[A copy of the October 25, 2024, order is attached herein.]**
12. The appellate court's ruling in **2024-000455** directly impacts that case, as it affirms Appellant's standing as the Personal Representative to preserve the estate. Since this issue was the primary basis for the Circuit Court's dismissal, the appellate ruling also has a direct bearing on the present case, requiring reconsideration and remand.

13. By the time of this filing, the arrears have increased to \$18,500, causing significant financial strain on the estate and further jeopardizing its financial stability.

## **II. ARGUMENT**

### **A. THE OCTOBER 25, 2024, RULING RESOLVES THE ISSUE OF STANDING**

14. The **October 25, 2024, Court of Appeals order** unequivocally affirmed that the automatic stay under **Rule 241(a)** of the South Carolina Appellate Court Rules applies to stay the Circuit Court's order affirming the Probate Court's removal of Appellant as Personal Representative (PR). This automatic stay preserves Appellant's legal authority to act as PR pending the resolution of her appeal.
15. The Court of Appeals further held that Appellant retains her status as the Personal Representative of the estate and, as such, has standing to pursue claims necessary to preserve the estate's assets, including the recovery of rent arrears. Additionally, the Court remanded a portion of the matter to the Circuit Court to determine the extent of Appellant's powers beyond those required for preservation of the estate.
16. The collection of unpaid rent falls squarely within the duties necessary to preserve the estate's financial health and integrity. This ruling affirms Appellant's authority to act as PR for estate preservation purposes. Therefore, reversing the Circuit Court's dismissal and remanding the case will allow these claims to proceed on their merits, consistent with the appellate court's ruling and South Carolina law.

### **B. PORTIONS OF OCTOBER 25, 2024, COURT OF APPEALS ORDER REMANDED TO CIRCUIT COURT DO NOT AFFECT APPELLANT'S STANDING AS PERSONAL REPRESENTATIVE**

17. While the Court of Appeals remanded a portion of the case to the Circuit Court to evaluate whether Appellant should be enjoined from wasting the estate or taking actions beyond preserving it, this remand does not affect Appellant's standing to act as PR for purposes of preserving and protecting the estate.

18. The Court of Appeals explicitly recognized Appellant's continued authority to perform actions necessary to preserve the estate, including pursuing claims such as recovering unpaid rent.
19. The remanded issue is limited to assessing whether Appellant should be restricted from actions beyond those necessary to preserve the estate. It does not diminish or impair her standing to act as PR for estate preservation purposes, as affirmed by the automatic stay under **Rule 241(a)**. Consequently, the Circuit Court's dismissal of Appellant's claims on the basis of lack of standing is legally incorrect and directly contradicted by the Court of Appeals' order.

**C. THE SEPTEMBER 23, 2024, CIRCUIT COURT ORDER FAILED TO ADDRESS THE MERITS OF THE CASE**

20. The Circuit Court's order focused solely on the procedural issue of standing and did not address the substantive merits of the claims. Appellant's lawsuit seeks to recover **unpaid rent totaling \$17,760**, which is owed by Respondents Samantha Leigh and Cody Hiott for their prolonged, rent-free occupation of estate property. This unpaid rent directly harms the estate by depleting its resources and undermining its financial stability.
21. By dismissing the case without adjudicating the merits, the Circuit Court denied the estate its right to recover critical funds necessary to fulfill its financial obligations and preserve its assets for the rightful heirs. This procedural oversight leaves the estate unable to address its financial losses or protect the interests of its beneficiaries.
22. Remanding the case is necessary to ensure that these claims are properly addressed and the estate's rights are preserved.

**III. CONCLUSION**

23. The **October 25, 2024, Court of Appeals order** clearly resolves the issue of Appellant's standing, affirming her authority as Personal Representative to preserve and protect the estate's assets, including recovering unpaid rent. The Circuit Court's dismissal failed to account for this binding ruling and ignored the substantive merits of the case.

24. Appellant respectfully requests that this Court reverse the Circuit Court's dismissal and remand the case for further proceedings on the merits.

25. For the foregoing reasons, Appellant respectfully requests that this Honorable Court:

- I. Reverse the Circuit Court's September 23, 2024, order dismissing this case;
- II. Remand the case to the Circuit Court for further proceedings on the merits of the claims; and
- III. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this January 3, 2025

s/Dorothy Pierce

**DOROTHY PIERCE**

750 Mourning Dove Lane

Seneca, South Carolina 29678

(864) 324-3247

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF OCONEE )  
  
Dorothy Pierce, )  
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Plaintiff, )  
 )  
vs. )  
 )  
Samantha Leigh a/k/a Pierce, and Cody )  
Hiott, )  
 )  
Defendants. )  
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IN THE COURT OF COMMON PLEAS  
TENTH JUDICIAL CIRCUIT

Case No.: 2024-CP-37-00460

**ORDER ON THE DEFENDANTS'  
MOTION TO DISMISS**

THIS MATTER came before the Court on September 12, 2024, on the Defendants' Motion to Dismiss pursuant to Rule 12(b)(6), SCRCP, and Motion to Declare the Plaintiff a Vexatious Litigant. At the time of the hearing, the Plaintiff appeared *pro se*. The Defendants were represented by Richard Hunt McDuff, Esquire. Having reviewed the record on appeal, the filings of the parties, and having heard the argument of the Plaintiff and counsel for the Defendants, the Court hereby finds as follows:

1. The Plaintiff seeks to allege causes of action against the Defendants related to their occupancy of a mobile home owned by the Estate of Doyle Elton Pierce.
2. The Plaintiff is not the Personal Representative of the Estate of Doyle Elton Pierce, having been removed as personal representative by the November 2, 2023, Order of the Oconee County Probate Court pursuant to South Carolina Code section 62-3-611.
3. The Plaintiff does not have the lawful authority or standing to maintain the claims alleged in the Complaint as such claims, if viable, may only be brought by the duly appointed

Personal Representative. As a result, the Plaintiff's claims fail to state a cause and action and the Motion to Dismiss is hereby **GRANTED**.

4. The issue of vexatious litigant will be handled in a separate order.

IT IS SO ORDERED!

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024

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R. LAWTON McINTOSH,  
PRESIDING CIRCUIT COURT JUDGE



Oconee Common Pleas

**Case Caption:** Dorothy Pierce VS Samantha Leigh , defendant, et al

**Case Number:** 2024CP3700460

**Type:** Order/Dismissal

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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# The South Carolina Court of Appeals

Dorothy Pierce, Appellant,

v.

Donna Carol Moore, Gregory Allan Pierce, and Jared Adam Pierce, Respondents.

Appellate Case No. 2024-000455

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## ORDER

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Appellant's motion for leave to file an amended notice of appeal is granted. However, Appellant failed to attach a copy of the April 2, 2024 order to her proposed amended notice of appeal. Within ten days, Appellant shall file a second amended notice of appeal that includes a copy of the order. *See* Rule 203(d)(1)(b)(ii), SCACR (the notice of appeal shall be accompanied by "[a] copy of the order(s) and judgment(s) to be challenged on appeal if they have been reduced to writing").

Next, we find the automatic stay mandated by Rule 241(a) of the South Carolina Appellate Court Rules applies in this case to stay the circuit court's order affirming the probate court's removal of Appellant as personal representative (PR). However, due to Respondents' concerns regarding Appellant's two prior removals as PR and her ability to properly carry out the functions and duties of PR, we remand to the circuit court to determine whether Appellant should be enjoined from wasting the estate or taking any action as PR beyond what is necessary to preserve the estate.

  
\_\_\_\_\_  
FOR THE COURT

Columbia, South Carolina

cc:

**FILED**  
**Oct 25 2024**

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Dorothy Pierce  
Richard Hunt McDuff, Esquire  
Donna Carol Moore  
The Honorable R. Lawton McIntosh  
The Honorable Danny Singleton

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Samantha Leigh a/k/a Pierce, and Cody Hiott-----Respondents.

**CERTIFICATE OF SERVICE**

I hereby certify that on January 3, 2025, a true and correct copy of the foregoing Motion to Reverse Dismissal and Remand For Further Proceedings was served upon Respondent's Counsel of Record.

Richard Hunt McDuff, Esq.

Merrell & McDuff (MJM Law, LLC)

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s/Dorothy Pierce

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