

**FORM 1
NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Curtis Coltrane, Special Referee

Case No. 2021-CP-27-504

RECEIVED

Dec 31 2024

SC Court of Appeals

Charles Woods,

Respondent,

v.

Kevin Smith, Trenton Smith, Cynara Love, Appellant.
Wayne Smith, and Valeria Tuten _____

NOTICE OF APPEAL

Kevin Smith, Trenton Smith, Cynara Love, Wayne Smith, and Valeria Tuten appeals the order of Special Referee Curtis Coltrane dated December 3, 2024. Appellants Kevin Smith, Trenton Smith, Cynara Love, and Wayne Smith received electronic notice of entry of this order on December 3, 2004.

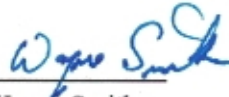
December 23, 2024


Kevin Smith
10590 Castlebar Glen Dr
Jacksonville, FL 32256
(813) 368-7589
Pro Se Defendant


Trenton Smith
2011 Firetower Rd
Pineland, SC 29934
(843) 726-5288
Pro Se Defendant



Cynara Love
211 Bulls End
Ridgeland, SC 29934
(843) 726-7400
Pro Se Defendant



Wayne Smith
1591 Firetower Rd
Pineland, SC 29934
(843) 726-8450
Pro Se Defendant



Valeria Tuten
166 Elbo Rd Early
Branch, SC 29934
(843) 726-3730
Pro Se Defendant

FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Curtis Coltrane, Special Referee

Case No. 2021-CP-27-504

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Wayne Smith, and Valeria Tuten

Appellant.

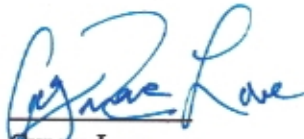
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Charles Woods by depositing a copy of it in the United States Mail, postage prepaid, on December 23, 2024, addressed to his attorney of record, Karl Twenge, Esq., 311 Carteret St, Beaufort South Carolina 29902.

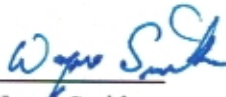
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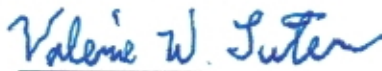

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Valeria Tuten
166 Elbo Rd Early
Branch, SC 29934
(843) 726-3730
Pro Se Defendant

STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER)
)
 CHARLES WOODS,)
)
 Plaintiff,)
)
 vs.)
)
 VALERIA WOODS TUTEN, KATHY R.)
 THOMAS, ROBERT THOMAS, JR.,)
 ROBERT THOMAS, III, KATELYN)
 THOMAS, ELLISON THOMAS,)
 BRYANT THOMAS, REBECCA)
 BABILON, PAM WOODS, WANDA W.)
 SMITH, WAYNE SMITH, KEVIN)
 SMITH, TRENT SMITH, CYNARA)
 SMITH LOVE, PEGGY POWERS, ANNA)
 COPE, ADELL BISHOP GRAY,)
 CANDELARIA ROSALIA MAYORGA,)
 WILLIAM DAVID MIXON, II,)
 CHARLES MILLER, BETTY MILLER)
 REVOCABLE TRUST, MARION RALPH)
 SMITH, BETTY SMITH, PAULINO)
 JUAREZ HERNANDEZ, FELIPA)
 FLORES CRUS, ALMA GOMEZ,)
 DIONICIO GOMEZ FLORES,)
 EDUARDO VALENCIA BENITEZ,)
 SAUL BENITEZ CASTAEDA, RAMON)
 BENITEZ CASTANEDA, JOHN DOE)
 AND MARY ROE.)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 CIVIL ACTION NO. 2021-CP-27-504

FINAL ORDER AND DECREE

RECEIVED
Dec 31 2024
SC Court of Appeals

This matter was referred to me by an Order of the Hon. Carmen T. Mullen filed on February 13, 2024. This is an action to clear the title to a parcel of land located in Jasper County, South Carolina. The case was initially heard on October 18, 2023. Following the hearing, the Plaintiff moved to reopen the testimony which motion was granted by an Order

filed on July 19, 2024. The continuation of the trial was held on November 8, 2024.¹ Based on the pleadings, the testimony, and the exhibits at trial, I hereby file this record of my Findings of Fact and Conclusions of Law and render this Decree.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The real property which is the subject of this action to quiet title is situated in Jasper County, South Carolina and is described as follows:

All that certain piece, parcel, or tract of land situate, lying and being in Jasper County, South Carolina, containing 40.786 acres more or less, and being bounded as follows: On the North by lands n/f of Patricia R. Mixon and n/f Charles Rudolph Woods on the East by lands n/f of Charles Rudolph Woods and Marion Ralph and Betty S. Smith; on the South and Southwest by lands n/f of James Riley Cope, Jr.; and on the West by lands n/f of M.F. Gray and Westvaco Corporation. It is also noted that this property is bisected by a county-maintained dirt road.

The property is shown and described as “40.786 Acres” on the February 9, 1991, Plat prepared by Roy L. Green, which was entered into evidence as Plaintiff’s Exhibit 2, and a copy of which is attached hereto as Exhibit “A.” (hereinafter the “Subject Property”).

2. The Defendants John Doe and Mary Roe are fictitious names used to represent and designate any living heirs or devisees of the named Defendants, and any other interested persons who are proper Defendants, if any, whose names were unknown to the Plaintiff who might have or claim some right, title, estate, interest in or lien upon the Subject Property.

3. All Defendants were served the Summons and Complaint in person or by substitute service as shown by the Affidavits of Service on file. All Defendants, with the exception of Wayne Smith, Kevin Smith, Trent Smith, and Cynara Smith Love individually and as the heirs of Wanda Smith (hereinafter “Smith/Love Defendants”) are in default by not serving or filing an Answer or other responsive pleading.

4. The Smith/Love Defendants as well as the heirs of Dorothy Roberts signed Quit-Claim Deeds to Plaintiff Charles Woods for the Subject Property.²

¹ The Defendant Kevin Smith filed a Rule 59, SCRPC motion in connection with the Order reopening the testimony, which motion was denied by an Order filed on October 8, 2024. The Defendant Kevin Smith also filed a Motion to Disqualify the undersigned from serving as Special Referee in this case, and that motion was denied by an Order filed on October 8, 2024.

² The Quit Claim deed of Wayne C. Smith, Kevin Wayne Smith, Trenton Elias Smith and Cynara Nicole Smith Love was Recorded in the Office of the Register of Deeds for Jasper County, South Carolina, on October 18, 2023, in Record Book 1136 at Page 346. The Quit Claim Deed of the Heirs of Dorothy

5. Plaintiff moved to Dismiss Smith/Love Defendants at the beginning of the trial in this matter based on the fact that these Defendants had executed Quit Claim deeds to the Plaintiff relating to the Subject property and no justiciable controversy or standing remained.

6. Plaintiff received title to the Subject Property from the Estate of his father Rudolph Woods. The evidence showed that the Heirs of Charles Woods were to receive the following percentages of the Charles Woods Estate: Dorothy Roberts, 16.6%, Valeria Tuten 16.6%, Wanda Smith, 16.6% and Rudolph Woods (the Plaintiff's Father) 49.9%.

7. Prior to the institution of this action the Smith/Love Defendants claimed interest in the Subject Property.

8. The Plaintiff knows of no other remedy at law or in equity in which the cloud on the title to the Subject Property can be removed other than by the present equitable action.

9. The following Defendants are made parties to this action since they own property bounding the Subject Property:

<u>Tax Map Parcel of Number</u>	<u>Name of Defendant</u>
TMS: 050-00-11-030	MARION RALPH SMITH/BETTY SMITH
TMS: 051-00-11-071	MARION RALPH SMITH/BETTY SMITH
TMS: 051-00-11-017	PEGGY D. POWERS/ANNA C. COPE
TMS: 051-00-11-004	ADELL BISHOP GRAY
TMS: 051-00-07-026	CANDELARIA ROSAIA MAYORGA
TMS: 051-00-07-007	WILLIAM DAVID MIXON, II
TMS: 051-00-07-008	WANDA W. SMITH
TMS: 051-00-11-001	CHARLES F. MILLER/BETTY A. MILLER REVOCABLE TRUST
TMS: 051-00-11-113	PAULINO JUAREZ HERNANDEZ AND CEASAR ARMANDO JUAREZ HERNANDEZ
TMS: 051-00-11-002	FELIPA FLORES CRUZ, ALMA GOMES AND

Roberts was recorded in the Office of the Register of Deeds for Jasper County, South Carolina, on January 24, 2023, in Record Book 1117 at Page 787.

DIONICIOGOMEZ FLORES

TMS: 051-00-11-003; EDUARDO VALENCIA BENITEZ, SAUL BENITEZ
 051-00-11-087 CASTANEDA AND RAMON BENITEZ CASTANEDA
 051-00-11-002

10. No individuals came forward as minors, including all persons who may be deceased, minors, in the Armed Forces of the United States of America, non compos mentis, or under any other disability of any kind or nature, with regard to this action.

11. This Court has jurisdiction over the Subject Property and the parties which are the subject of this action.

12. A Quiet Title action such as this is an action founded in equity.

13. An action to clear title to real property is an action in equity. *Van Every v. Chinquapin Hollow, Inc.*, 265 S.C. 474, 219 S.E.2d 909 (1975); *Bryan v. Freeman*, 253 S.C. 50, 168 S.E.2d 793 (1969).

14. In an action in equity tried by a judge alone, the appellate court may find facts in accordance with its view of the preponderance of the evidence. *Doe v. Clark*, 318 S.C. 274, 276, 457 S.E.2d 336, 337 (1995); *Townes Assocs., Ltd. v. City of Greenville*, 266 S.C. 81, 221 S.E.2d 773 (1976).

15. Courts have the inherent power to do all things reasonably necessary to ensure that just results are reached to the fullest extent possible. *Jones v. Leagan*, 384 S.C. 1, 19, 681 S.E.2d 6, 16 (Ct.App.2009).

16. The equitable power of the court is not bound by cast-iron rules but exists to do fairness and is flexible and adaptable to particular exigencies so that relief will be granted when, in view of all circumstances, to deny it would permit one party to suffer gross wrong at hands of other. *Hooper v. Ebenezer Sr. Services and Rehabilitation Center*, 687 S.E.2d 29 (S.C. 2009). 12 S.C. Jur. Equity § 8.

17. Charlie Woods was the owner of the Property. He died intestate. See Family Tree entered in evidence as Exhibit 1. Charlie Woods had four children Dorothy Roberts, Wanda Smith, Valeria Tuten, and Rudolph Woods. Rudolph Woods was the Plaintiff's father.

18. Pam Godwin, who was qualified as an Expert as a Title Abstractor in Jasper County, South Carolina, testified that the document entered into evidence as Exhibit 2, is a copy of an un-recorded Plat showing the Subject Property at issue in this matter that was found by her in what she described as the "backup files" in the Jasper County Assessor's office. The plat that is Exhibit 2 is attached to this Order as Exhibit "A."

19. Ms. Godwin further testified to the chain of title of all recorded property records associated with Charlie Woods including the Subject Property, as shown in Exhibit 3, which were all admitted into evidence.

20. Ms. Godwin testified that in 1991, Charlie Woods' heirs distributed his property amongst themselves. Charlie Woods' children were to receive: Rudolph Woods 49.9% or 131.53 acres, and Dorothy Roberts, Valeria Tuten and Wanda Smith were all to receive 16.6% each or 43.49 acres. As evidenced by Exhibits 4 and 5 which were admitted into evidence.

21. At the time of the distribution of the Charlie Woods Estate's property, Dorothy Roberts and Valeria Tuten received almost exactly what they were entitled to from the Estate.

22. At the time of the distribution of the Charlie Woods Estate's property, Wanda Smith received 20.407 acres less than was needed in order for her property to total 16.6% of the Charlie Woods' Estate's property.

23. Rudolph Woods, the Plaintiff's father, deeded Wanda Smith 20.895 acres separate from that which she received from the Estate. The deed from Rudolph Woods to Wanda Smith is recorded in Deed Book 102 at Page 189. This deed was entered into evidence as a part of Exhibit 3. The property described in this deed is adjacent to the property that Wanda Smith received from the Charlie Woods Estate.

24. The Rudolph Woods to Wanda Smith deed was signed on the same date as the deeds distributing the Estate property and was recorded along with the deeds of the Estate property in sequential book and page with Jasper County Register of Deed's office. This transfer resulted in Wanda Smith receiving the approximate 43.49 acres she was entitled to from the Charlie Woods' Estate.

25. Ms. Godwin testified that she discovered along with the title search she found a deed from Rudolph Wood's Estate to the Plaintiff for the Subject Property.

26. Ms. Godwin was, however, unable to find a deed to Rudolph Woods from the 1991 time period when Charlie Woods' property was distributed amongst his four children.

27. Of the four siblings, Wanda Smith, Valeria Tuten and Dorothy Roberts all received virtually the exact amount of acreage they were entitled to from the Charlie Woods Estate.

28. The Plaintiff's father Rudolph Woods was left with approximately 40 acres less than what was needed in order for his property to total the 131.53 acres or 49.9% of the Charlie Woods Estate. The Subject Property is approximately 40 acres.

29. Catherine Badgett acted as attorney for the distribution of the Charlie Woods Estates' property among the siblings Wanda Smith, Valeria Tuten, Dorothy Roberts and Rudolph Woods, in 1991 when the Charlie Woods Estate's property was distributed.

30. Ms. Badgett testified that the intent of the siblings in 1991 with regards to the Subject Property was for Rudolph Woods, the Plaintiff's father, to receive the Subject Property. As a part of the transaction, Rudolph Woods conveyed the approximately 20 acres of his own property to Wanda Smith in order for her to receive a contiguous 40 acres. Rudolph Woods was to receive a Deed from Wanda Smith for the Subject Property. Ms. Badgett further testified that the deed to convey the Subject Property to Rudolph Woods was prepared, and the intention was for Rudolph Woods to receive the Subject Property.

31. As noted above, the heirs of both Wanda Smith and Dorothy Roberts executed and delivered quit claim deeds for the Subject Property to the Plaintiff. As a result, the interest of both Dorothy Roberts and Wanda Smith in the Property was conveyed to the Plaintiff.

32. This Court is charged with determining from an equitable standpoint what is fair and just in the situation presented before it based upon the evidence presented.

33. I find that as a matter of both law and equity that title to the Subject Property is with the Plaintiff. When the Charlie Woods Estate property was divided, the only evidence is that Rudolph Woods should have received deeds from all of the heirs of Charles Woods for the Subject Property. Also, the heirs of both Dorothy Roberts and Wanda Smith conveyed their interest in the Subject Property to the Plaintiff.

34. I find that based upon the clear evidence provided in this matter that from an equitable standpoint, the intention of the heirs of Charlie Woods was that Rudolph Woods, the Plaintiff's father, was to receive title to the Subject Property. A deed was prepared to accomplish this, but the deed was not recorded. Ms. Badgett's testimony confirmed that the intention was for Rudolph Woods to receive title to the Subject Property as a part of the distribution of the Charlie Woods Estate's property. To the extent there was any doubt about the interest of Wanda Smith in the Subject Property, the heirs of Wanda Smith deeded the Subject Property to the Plaintiff.

35. Any interest in this property by the three other siblings of Rudolph Woods or their heirs, Wanda Smith, Dorothy Roberts, and Valeria Woods, is dissolved based upon the equitable remedy sought by the Plaintiff and their conveyances to Rudolph Woods or the Plaintiff.

36. All boundary owners to the property were joined as Defendants with notice to them of the description of the property by a plat.

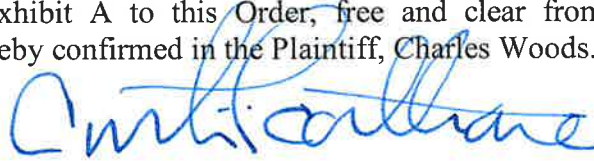
37. The description of the Property which is set forth in Paragraph 1 and on Exhibit A to this Order is correct.

38. I find that based upon the pleadings, testimony, and exhibits entered that Plaintiff, Charles Woods, has proved his case and that fee simple, marketable title to the Property should be quieted in his name.

CONCLUSION AND RULING

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED and DECREED as follows:

- A. The claims of the Defendants Wayne Smith, Kevin Smith, Trent Smith, and Cynara Smith Love are dismissed.
- B. Any right, title, claim or interest of any of the Defendants to this case, and any person or entity claiming any interest in the Subject Property under any of the Defendants is barred.
- C. Marketable, certain, fee simple title to the Subject Property described in Paragraph 1 and in Exhibit A to this Order, free and clear from all reasonable doubt, is hereby confirmed in the Plaintiff, Charles Woods.

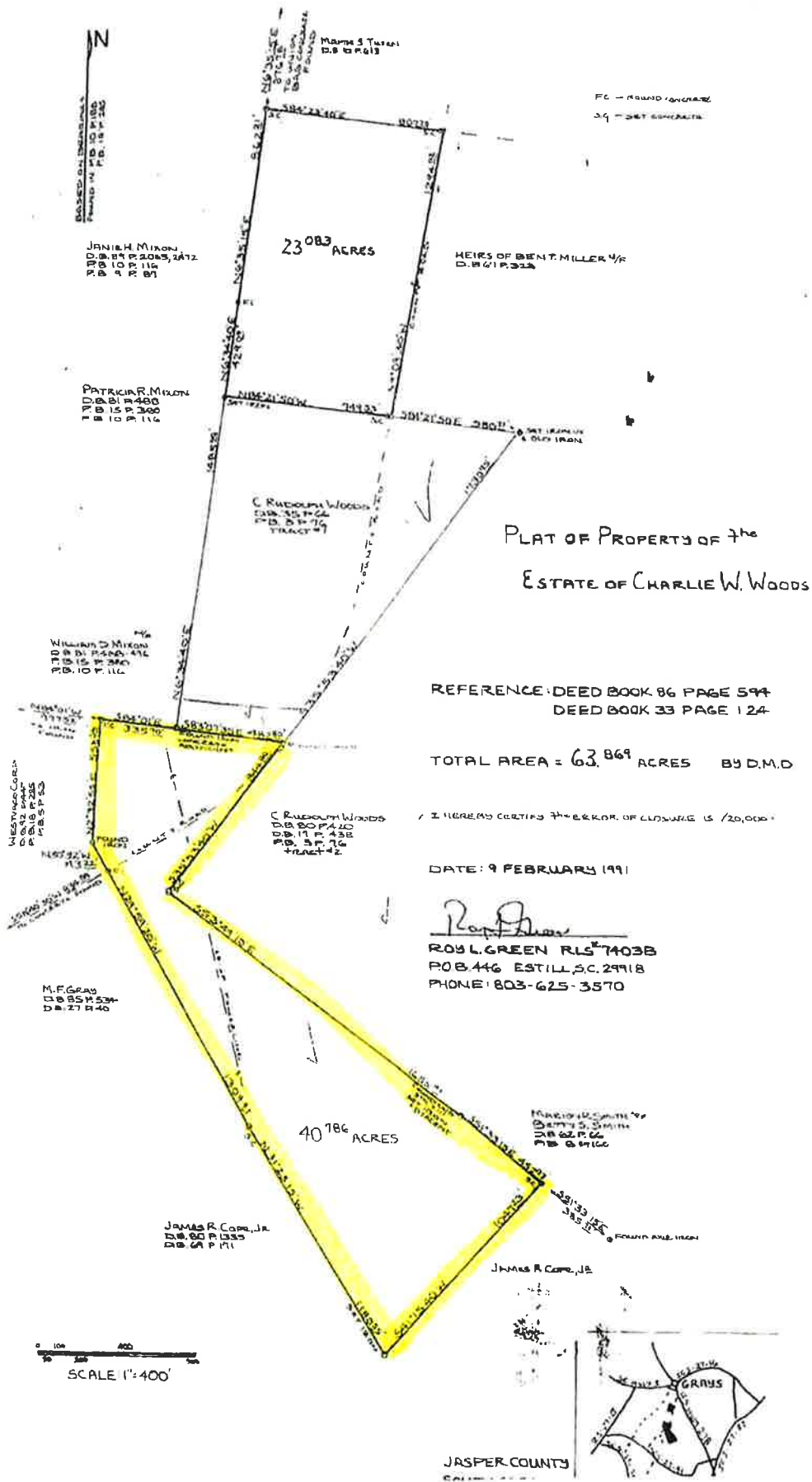


Curtis L. Coltrane
Special Referee for Jasper County,
South Carolina

Hilton Head, South Carolina

December 3, 2024.

EXHIBIT A TO ORDER
CASE 2021-CP-27-504



FORM 8
LETTER TO THE APPELLATE COURT CLERK
FILING THE NOTICE OF APPEAL

December 23, 2024

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED

Dec 31 2024

SC Court of Appeals

RE: Charles Woods, v. Kevin Smith, Trenton Smith, Cynara Love, Wayne Smith, Valeria Tuten, Appellants, Case No. 2021-CP-27-504

Dear Ms. Kitchings:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following:

- (1) Proof of service of the notice of appeal on the respondent.
- (2) A copy of the order which is to be challenged on appeal.
- (3) A filing fee of \$250.*

Sincerely,


Kevin Smith
10590 Castlebar Glen Dr
Jacksonville, FL 32256
(813) 368-7589
Pro Se Defendant

cc: Karl Twenge, Esq.
311 Carteret St
Beaufort, South Carolina 29902
(843) 476-4573
Attorney for Respondent