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Jan 14 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
In the Court of Common Pleas

R. Lawton McIntosh, Circuit Judge

Case No. 2023-CP-37-00794
Appellate Case No. 2024-001641

Dorothy Pierce,

Appellant,

v.

Samantha Leigh a/k/a Pierce,
and Cody Hiott,

Respondents.

RETURN TO APPELLANT'S MOTION TO REVERSE DISMISSAL AND REMAND
FOR FURTHER PROCEEDINGS

/s/ Richard Hunt McDuff
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*Attorney for Respondents Samantha Pierce
and Cody Hiott*

COME NOW the Respondents, Samantha Pierce and Cody Hiott, by and through their undersigned legal counsel and pursuant to Rule 240(e), SCRAP, hereby files their Return to the Appellant's Motion to Reverse and Remand for Further Proceedings. In opposition thereto, the Respondents would show unto the Court the following:

I. Background.

This appeal is inextricably intertwined with the Appellant's appeals in cases numbered 2021-001552, 2024-000455, and 2024-002189. The seminal appeal, 2021-001552, arises out of an August 18, 2021, judgment of the Oconee County Probate Court against the Appellant whereby it was declared that the purported Last Will and Testament of Doyle Elton Pierce was a forgery, and the Appellant was removed on the first occasion as Personal Representative. That appeal remains pending before this Court.

On October 11, 2023, a status conference was held before the Oconee County Probate Court Judge Danny Singleton to address the resignation of the Special Administrator, Adam Lee, Esquire, who was appointed by then Acting Probate Judge Ashley Rice prior to Judge Singleton's election to the bench. At the conclusion of the status conference, the adult children/heirs of Doyle Elton Pierce ("the Children")¹ and the Appellant engaged in discussions about settling all probate matters. An agreement was reached between the Children and the Appellant whereby all probate matters would be resolved, and the Appellant would dismiss her pending appeals. By

¹ "The Children" are Jared Adam Pierce, Donna Moore, and Gregory Allan Pierce.

agreement of all parties, the settlement agreement was placed on the record pursuant to Rule 43(k), SCRCF, with the understanding that the terms of the settlement agreement would be confirmed by an Order affirming the Private Family Agreement pursuant to *S.C. Code Ann.* § 62-3-912. The agreement was placed on the record and all parties acknowledged their assent to the terms and that it was a binding agreement pursuant to Rule 43(k), SCRCF.

On October 12, 2023, and in accordance with the terms of the settlement placed on the record on October 11, 2023, and pursuant to Rule 43(k), SCRCF, the Probate Court entered an Order Affirming Private Family Agreement which set forth all the terms of the settlement and division of estate assets. On October 12, 2023, by email to Judge Singleton, the Appellant began voicing objections to the October 12, 2023, Order Affirming Private Family Agreement. On October 13, 2023, the Appellant filed a Notice of Appeal of the Order Affirming Private Family Agreement with the Circuit Court. To address the Appellant's objections, Judge Singleton held a telephone conference on October 17, 2023. During the telephone conference, the Appellant stated that she was unable to meet the deadlines to which she had agreed in the agreement placed on the record on October 11, 2023. All parties agreed to the extension of certain deadlines sought by the Appellant and the Appellant agreed that she would dismiss her appeals. Pursuant to the revised agreement of the parties, the Probate Court entered and Amended Order Affirming Private Family Agreement containing the revised deadlines.

On October 19, 2023, pursuant to the provisions of the settlement agreement between the Appellant and the Children, Judge Singleton reappointed the Appellant as the Personal Representative of the Estate of Doyle Elton Pierce. The Certificate of Appointment stated, “Restrictions: None at this time of Appointment except those required by law and the Personal Representative must abide by the Amended Order Affirming Private Family Agreement dated October 17, 2023.”

On October 24, 2023, the Appellant filed an Amended Notice of Appeal with the Circuit Court as to the October 17, 2023, Amended Order Affirming Private Family Agreement. On that same day, the Appellant sent an email to Judge Singleton wherein she stated:

“[o]ur last conversation was the best I have ever had in a long time. I didn’t want to think about going against the agreement. Above all, it was that moment in your office that I didn’t want to betray. It still kills me to think that I’m going against it. It’s your trust that matters to me. Not an order. Nothing else matters as long as you trust me. The parties left me no choice. . . . Hear me out first, as a father. Not as a judge.”

(See email attached here to as **Exhibit “A.”**)

On November 1, 2023, Judge Singleton conducted an emergency hearing to determine whether the Appellant should be removed as Personal Representative for violating the Amended Order Affirming Private Family Agreement. On November 1, 2023, Judge Singleton terminated the Appellant’s appointment as Personal Representative for failing to abide by the Amended Order Affirming Private Family Agreement entered pursuant to the settlement agreement placed on the record on October 11, 2023, pursuant to Rule 43(k), SCRCF.

On November 2, 2023, Judge Singleton held the Appellant in contempt of court due to her conduct during the November 1, 2023, emergency hearing. (Order of Civil Contempt dated November 2, 2023.) On that same date, the Appellant filed her Second Amended Notice of Appeal to the Circuit Court wherein she challenged the Order of Civil Contempt. (Second Amended Notice of Appeal dated November 2, 2023.)

On March 14, 2024, Judge R. Lawton McIntosh heard the appeal of the October 17, 2023, Amended Order Affirming Private Family Agreement. On March 19, 2024, Judge McIntosh issued a Form 4 Order affirming the Probate Court's October 17, 2023, Amended Order Confirming Private Family Agreement, or, in the alternative finding that the Circuit Court was divested of appellate jurisdiction because of the Appellant's failure to comply with the strict requirements of *S.C. Code Ann.* § 62-1-308. The Circuit Court's Form 4 Order directed counsel for the Respondents to "file a formal order." The Appellant filed her Notice of Intent to Appeal the March 19, 2024, Order on that same day.

On April 2, 2024, the Judge McIntosh entered the formal Order affirming the Probate Court's October 17, 2023, Amended Order Affirming Private Family Agreement and further finding that the court was divested of appellate jurisdiction because the Appellant failed to abide by the procedural requirements set forth in *S.C. Code Ann.* § 62-1-308. The Appellant has appealed the April 2, 2024, ruling affirming the Probate Court's 912 Order and removing the Appellant, yet again, as the Personal Representative. It remains pending before this Court.

II. This Instant Case and Appeal.

On June 20, 2024, the Appellant, *pro se*, filed the instant action in the Oconee County Court of Common Pleas against the Respondents. The Respondent, Samantha Pierce, is the granddaughter of the Decedent, Doyle Elton Pierce. In this lawsuit, the Appellant alleges that there was an agreement between the Respondents and the Decedent for the payment of monthly rental for the occupation of a mobile home located on estate real property. The Plaintiff further alleged, that as the Personal Representative, she was authorized to sue the Respondents for alleged past due rents.²

In response to the Complaint, the Respondents filed and served a Motion to Dismiss which was heard by Judge R. Lawton McIntosh on September 12, 2024. After the hearing on the matter, Judge McIntosh issued a Form 4 Order dismissing the case ruling that the Appellant had no standing because she was properly removed, yet again, as the Personal Representative. This appeal followed.

III. The Appellant's Misplaced Argument.

The Appellant asserts that the order dismissing the instant case should be reversed based upon an October 25, 2024, Order of this Court in Case No. 2024-000455. While this Court ruled that the automatic stay provisions of Rue 241(a), SCRAP, operated to stay the Circuit Court's order affirming the Probate Court's removal of the Appellant as Personal Representative, this Court further held that the matter was to be remanded to the Circuit Court to determine whether the Appellant should be

² The Respondents deny that there are any rents owed and will leave the Statute of Frauds and Dean Man's Statute issues for another time, if required.

“enjoined from wasting the estate or taking any action as PR beyond what is necessary to preserve the estate.” A hearing on the remand is scheduled for January 30, 2025, before Judge McIntosh.

Despite the Appellant’s claim that she has been unequivocally declared to be the Personal Representative by virtue of the automatic stay provisions resulting from of her many and endless appeals, it is up to the Circuit Court to define the contours of the Appellant’s power and authority pending the appeal. It is up to Judge McIntosh to determine whether the Appellant may pursue a claim for rents against the Respondents., and, consequently, this Motion should be summarily denied.

IV. CONCLUSION

For the reasons set forth above, the Respondents respectfully request that this Court deny the Appellants Motion to Reverse and Remand for the reasons set forth above.

Respectfully submitted this 14th day of January 2025.

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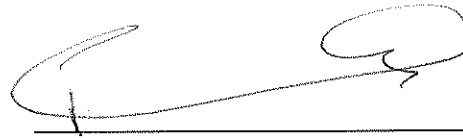
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PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Respondent's Return to Motion to Amend Notice of Appeal has been sent this 14th day of January 2025 via Regular U.S. Mail, Postage Prepaid, and electronic mail, to: **DOROTHY PIERCE, APPELLANT *pro se***, 750 Mourning Dove Lane, Seneca South Carolina 29678, and **DONNA CAROL MOORE, RESPONDENT *PRO SE***, 149 Flat Rock Church Road, Liberty, South Carolina 29657.



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