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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY

Court of Common Pleas
The Honorable Heath P. Taylor, Circuit Court Judge

Probate Court
Carolyn Woodruff, Probate Judge

Probate Case Number 2021ES4601533
Common Pleas Case Number 2022CP4603359
Appellate No. 2024-000912

In re: Estate of Larry Joe Hasian

Pamela C. Hasian, Appellant,

v.

Kellie Queen; Kamilla Warren; Brandy Gibson, Respondents.

FINAL BRIEF OF RESPONDENTS

John P. Gettys, Jr. SC Bar No. 8673
Daniel J. Ballou, SC Bar. No. 5935
Morton & Gettys, LLC
P.O. Box 707
Rock Hill, SC 29731
803.366.3388

Attorneys for Respondents

Other Counsel of Record:

Malissa P. Church

Malissa Church Law, LLC

Attorney for Appellant

517 Oakland Avenue, First Floor

Rock Hill, SC 29730

Malissa@malissachurchlaw.com

803-327-4600

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STATEMENT OF ISSUES ON APPEAL

- I. The Trial Court did not err in awarding attorney’s fees to Respondents.**
- II. The Trial Court did not err in finding Appellant committed conversion.**

STATEMENT OF THE CASE

Pamela Hasian (“Appellant”) filed a Petition for Formal Testacy and Appointment as Personal Representative of the Estate of Larry J. Hasian (“Decedent”) on October 8, 2021. (Appellant’s Petition for Formal Testacy and Appointment filed October 8, 2021; R. at 231). Simultaneously, Appellant filed a handwritten will (Handwritten Will filed by Appellant October 8, 2021 (“Will”); R. at 1158) alleged to have been signed by Decedent on May 9, 2021, and witnessed by Cynthia Spera (“Spera”) and Henry “Hank” Bell (“Bell”) *Id.* Respondents, Decedent’s daughters, timely filed a response to Appellant’s Petition, alleging their own Petition for Formal Testacy and Appointment along with claims for Intentional Interference with Inheritance, Conversion, Civil Conspiracy, Attorney’s Fees pursuant to S.C. Code Ann. § 62-1-111, and violation of the South Carolina Frivolous Civil Proceedings Sanctions Act (Respondents’ Response to Appellant’s to Formal Testacy and Appointment filed November 15, 2021; R. at 217) (Respondents’ Petition for Formal Testacy and Appointment; R. at 217) Appellant responded to Respondents’ claims, denying all wrongdoing (Appellant’s Response to Respondents’ Petition for Formal Testacy and Appointment filed December 21, 2021; R. at 211).

Appellant claimed she and Decedent, her husband, decided to draft Decedent’s Will after a discussion regarding Covid-related deaths. After performing a search on Google for examples of wills, Appellant claims she wrote out the Will herself and passed it to Decedent. (Respondents’ Trial Ex. 8: Deposition Transcript of Pamela C. Hasian 119:12-14 and 138:7-13; R. at 867 and 886) Appellant testified that she could not recall whether she witnessed Decedent signing the Will. (Hasian Depo. Transcript 138:8-10; R. at 886)

Two witnesses, Cynthia Spera and Hank Bell, purportedly witnessed the signature of the Will on May 9, 2021. Spera testified at her deposition that she signed the Will as a witness while visiting Decedent and Appellant's home to do the books for Decedent's business, Larry J's Automotive ("Larry J's"). (Respondents' Trial Ex. 7: Deposition Transcript of Cynthia Spera 40:17-25; 41:1-8; R. at 693-694) Spera testified she signed the Will as a witness on May 9, 2021, but could not offer an explanation as to why she would be doing Larry J's books on Mother's Day Sunday, rather than on a weekday. (Spera Depo. Transcript 45:3-12; R. at 698) Significantly, Appellant testified Spera was *not* present and did not witness the Will on May 9, 2021, the day it was written by Hasian and allegedly signed by Decedent. (Hasian Depo. Transcript 133:14-25; 134: 1-3; R. at 881-882) Spera herself testified that she did not witness Decedent sign the Will. (Spera Depo. Transcript 43:3-4; R. at 696) Further, Spera did not witness Appellant sign the Will in Decedent's presence at Decedent's direction. Rather, the Will was already written and signed when she arrived at Decedent and Appellant's home. (Spera Depo. Transcript 41:16-18; R. at 694)

Likewise, Bell did not witness Decedent sign the Will nor did he witness Appellant sign in Decedent's presence at Decedent's direction. Bell testified that he did not actually sign the Will as a witness on May 9, 2021. In fact, Bell testified he did not sign the Will as a witness until September 2021, *after* Decedent died, and backdated his signature at Appellant's request. (Trial Transcript 68:22 – 70:11; R. at 306-307) Appellant testified that she specifically asked each witness to back date their signatures to May 9, 2021. (Hasian Depo Transcript 134:12-17 and 135: 8-9; R. at 882 and 883)

Based on the above facts and other testimony provided to the Court, the Trial Court granted Respondents' partial summary judgment as to the Will and specifically held its ruling on attorney's fees in abeyance pending a full hearing on the merits. After a two-day merits hearing, the Trial

Court found Appellant had converted funds from the Decedent's estate to her own use and ordered Appellant to pay \$7,147.32 in damages. (Final Order of Judge Woodruff, filed August 10, 2022 ("Order"), R. at 15). Additionally, the Trial Court awarded Respondents attorney's fees and costs in the amount of \$56,516,80, as authorized by S.C. Code Ann. § 62-1-111. *Id.* Appellant made a motion to alter or amend judgment, which the Trial Court denied. (Appellant's Motion to Alter or Amend Judgment, filed August 26, 2022; R. at 64)

STANDARD OF REVIEW

In a probate appeal, the circuit court, court of appeals, or supreme court shall hear and determine the appeal according to the rules of law. S.C. Code Ann. § 62-1-308(i). If the action appealed is one at law, the circuit court should uphold the findings of the probate court if there is any evidence to support them. *In re Estate of Weeks*, 329 S.C. 251, 260, 495 S.E.2d 454, 459 (Ct. App. 1997). If the action appealed is equitable, the appellate court may make findings in accordance with its own view of the preponderance of the evidence. *Id.*

As to attorney's fees awarded by the Court, the amount of an attorney's fees award is within the sound discretion of the trial judge and will not be reversed on appeal absent an abuse of discretion. *Townes Associates Ltd., v. Greenville*, 226 S.C. 81, 221 S.E. 2d 773 (1976); *Charleston Lumber Co., Inc. v. Miller Housing Corp.*, 318 S.C. 471, 458 S.E.2d 431, 439 (Ct. App. 1994) (citing *Hyload, Inc. v. Pre-Engineered Products*, 308 S.C. 277, 417 S.E.2d 622 (Ct. App. 1992)). An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. *Clark v. Cantrell*, 339 S.C. 369, 389, 529 S.E.2d 528 (2000) (citing *Fontaine v. Peitz*, 291 S.C. 536,354 S.E.2d 565 (1987)); *Brawley v. Richland Cnty.*, 2024 S.C. App. Lexis 79, 7 (Ct. App. 2024).

ARGUMENT

I. The Trial Court did not err in awarding attorney’s fees to Respondents.

a. Statutory basis for award of attorney’s fees.

Appellant’s argument that the Trial Court was not authorized to award attorneys’ fees does not withstand scrutiny. The Trial Court ordered Appellant to pay Respondents’ attorney fees and costs in the amount of \$56,516.80 pursuant to S.C. Code Ann § 62-1-111, which authorizes the Probate Court to award attorney’s fees as justice and equity require. Appellant argues at length regarding the weight the Trial Court should place on various aspects of Respondents’ trial presentation. The trial judge is in the best position to determine the justice and equity of awarding attorney’s fees after presiding over this matter from start to finish, including the final hearing on the merits.

Here, Judge Woodruff awarded Respondents their attorney’s fees because she found Appellant committed a fraud on the Court by knowingly submitting the invalid Will to the Court to improve her own situation. (Order at para. 41, R. 23) She also found Appellant’s rationale that the invalid Will was “all [she] had” was not sufficient justification for her actions. *Id.* Further, Judge Woodruff ruled the Appellant’s willful violation of the law put the Respondents to the considerable expense of the underlying litigation. *Id.* Respondents attempted to avoid litigation altogether and sent Appellant’s counsel a letter outlining the findings of Dean Investigations – Respondents’ handwriting expert – asking Appellant to withdraw the Will and associated Petition. (Pierce Letter to Church dated November 8, 2021; R. at 1156). Appellant refused, forcing this litigation. Based on the above, the Court found that justice and equity authorized it to award Respondents their attorney’s fees under S.C. Code Ann. § 62-1-111. (Order at para. 42, R. 23) See, *Baron Data Systems, Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1988).

b. *Glasscock factors*

Appellant argues the Trial Court erred in awarding Respondents' attorneys' fees because there is insufficient evidence supporting two of the *Glasscock* factors considered by the Trial Court: (1) the time necessarily devoted to the case and (2) the beneficial results obtained. *See Glasscock v. Glasscock*, 304 S.C. 158, 160, 403 S.E.2d 313, 315 (1991).

i. Time necessarily devoted to the case

Appellant focuses narrowly and exclusively on the pre-suit correspondence between counsel, although this was not considered in the Trial Court's Order on this *Glasscock* factor. However, this factor does not weigh in favor of disallowing attorney's fees, let alone outweigh the factors actually considered by the Trial Court. The pre-suit demand for Appellant to withdraw the Will and associated Petition was supported by the findings of handwriting expert. (Pierce Letter to Church dated November 8, 2021; R. at 1156) The handwriting expert, Theresa Dean, was qualified and deemed credible by the Trial Court. (Trial Transcript, Day 2 189:8-9; R. at 398)

As noted in Appellant's Motion to Alter or Amend, this case was exceptionally difficult and time consuming to prepare, involving more than 216 hours of attorney and staff time. Respondents' counsel was required to hire and prepare an expert handwriting witness for trial, take out-of-state depositions of key witnesses, work with multiple forensic analysts to examine Appellant's cell phone, issue subpoenas, read through hundreds of pages of bank and phone records as well as other documents, and prosecute multiple discovery motions on top of a Motion for Partial Summary Judgment. This was made all the more difficult because Appellant refused to proactively participate in discovery, being held in contempt at one point for refusing to comply with the Court's discovery order. The Trial Court agreed, as evidenced by its Order Denying

Appellant's Motion to Alter or Amend. (Order of Judge Woodruff on Appellant's Motion to Alter or Amend, filed October 26, 2022, R. at 9)

Additionally, the Court found Appellant's argument unpersuasive that fees should be limited to those incurred prior to Respondents attaining partial summary judgment. The Trial Court found the issues presented in Respondents' Petition were not fully resolved until trial. Specifically, the Court did not and could not determine whether Appellant knowingly and fraudulently submitted an invalid will before a hearing on the merits. The Trial Court held the issue of attorney's fees in abeyance until it had an opportunity to assess Appellant's credibility at trial and ascertain whether Appellant knew the Will was improperly executed and had not been signed by Decedent.

ii. Beneficial results

The beneficial results of Respondents' counsel efforts is clear. Appellant would have been excluded from any portion of the Decedent's estate had the Will not been invalidated. Appellant has also been ordered to pay to the Estate all the funds she converted to her own use by writing herself checks from Larry J's Automotive, an estate asset. Appellant has not been and will not be allowed to serve as the personal representative of Decedent's estate – especially beneficial given the Trial Court's finding of Appellant's fraudulent intent as to the Will. Further, Respondents were able to establish Appellant perpetrated a fraud on the Respondents by knowingly submitting an invalid, unsigned, will for probate, establishing Respondents' entitlement to their attorney's fees.

II. The Trial Court did not err in finding Appellant committed conversion.

Appellant's argument as to conversion is predicated upon two evidentiary rulings made by the Trial Court. (Order at paras. 31-34, R. at 21-22). Appellant made no proffer at trial to establish the scope of the information she claims would have resulted had the Trial Court ruled in her favor. Therefore, these arguments are not preserved for appellate review and cannot be used as bases for

Appellant’s general argument as to the Trial Court’s ruling on conversion. *Pye v. Estate of Fox*, 369 S.C. 555, 564, 633 S.E.2d 505, 510 (2006) (noting that “it is well settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved.”)

Appellant next argues Trial Court erred in finding she was not entitled to the funds in an account over which she presented no evidence of authority or ownership. Appellant introduced no argument, allegation, or evidence that she owned the account from which the checks were written or that she had authorization to write herself checks from the account after Decedent was incapacitated or after Decedent died. Notably, Appellant failed to introduce documentation reflecting her authorization to sign on the account in question. All of the evidence and testimony introduced to the Trial Court established, at best, Decedent orally authorized Appellant to write checks while Decedent was alive.¹

Appellant argues, in sum, that she is entitled to Larry J’s Automotive’s funds, which became the property of Decedent’s estate the moment he died, because she wrote checks for the business during Decedent’s lifetime and the checks Appellant wrote to herself were alleged to be for backpay. By this logic, any individual who wrote checks for a business would be entitled to write themselves checks without limitation if they claimed the checks were for backpay. Because Appellant failed to introduce any evidence at trial of her authorization to sign on the account after Decedent died, there are not sufficient grounds to overturn the Trial Court’s ruling.

[Signature page to follow]

¹ Respondents do not concede Appellant was authorized to take such action.

CONCLUSION

Based on the above, Respondents' ask this Court to affirm the Trial Court's rulings on the issues of attorney's fees and conversion.

Respectfully submitted,

March 17, 2025

s/ John P. Gettys, Jr.
John P. Gettys, Jr. SC Bar No. 8673
Daniel J. Ballou, SC Bar. No. 5935
Morton & Gettys, LLC
P.O. Box 707
Rock Hill, SC 29731
803.366.3388

Attorneys for Respondents

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PROOF OF SERVICE

The undersigned certifies that he has served this Respondents’ Final Brief by mailing a copy via United States Mail, postage prepaid, on March 17, 2025, addressed to its attorneys of record to the below addresses:

Malissa P. Church
Malissa Church Law, LLC
Attorney for Appellant
517 Oakland Avenue, First Floor
Rock Hill, SC 29730

March 17, 2025

s/ John P. Gettys, Jr.

John P. Gettys, Jr. SC Bar No. 8673

Daniel J. Ballou, SC Bar. No. 5935

Morton & Gettys, LLC

P.O. Box 707

Rock Hill, SC 29731

803.366.3388

Attorneys for Respondents