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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

Grace G. Knie, Circuit Court Judge

Case No. 2022-CP-42-03465  
Appellant Case No. 2024-001739

Annie Gray aka Gary, Sadie Jackson,  
M. Diane Jackson, William Jackson Sr.,  
Eric Caldwell, Renee Rose,  
formerly and aka Renee Caldwell, and  
Bobby L. Rookard.....Appellants,

v.

Lorene Jackson a/k/a Lorine Jackson.....Respondent.

REPLY BRIEF OF APPELLANTS

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TABLE OF CONTENTS

Table of Authorities .....ii

Arguments

- 1. THE ONLY DISPUTED FACTS DEPENDENT UPON THE CREDIBILITY OF THE WITNESSES ARE THE PLACE AND MANNER OF THE EXECUTION OF THE SECOND DEED IN THE CASE.....1
  
- 2. RESPONDENT MADE NO PLEADING OF LACHES, RES JUDICATA, OR STATUTE OF LIMITATIONS .....2
  
- 3. THE RESPONDENT’S ARGUMENT THAT AN EXPRESS “TRUST MUST BE PROVED BY SOME WRITING SIGNED BY THE PARTY CREATING THE TRUST” IS SATISFIED IN THE RECORD BY THE UNDISPUTED PAROL TESTIMONY THAT THE FIRST DEED WITH THE LANGUAGE OF THE EXPRESS TRUST WAS PUT INTO THE RESPONDENT’S POSSESSION.....3

Conclusion .....4

TABLE OF AUTHORITIES

STATUTES

S.C. Code Ann. § 62-7-401 .....4

OTHER AUTHORITIES

Rule 8 SCRCP.....2

Rule 1004 SCRE.....4

## ARGUMENTS

### I. THE ONLY DISPUTED FACTS DEPENDENT UPON THE CREDIBILITY OF THE WITNESSES ARE THE PLACE AND MANNER OF THE EXECUTION OF THE SECOND DEED IN THE CASE.

Respondent's brief cites the following: "**However**, a court should be reluctant to reverse the factual findings of the trial judge who had an opportunity to hear the testimony and observe the parties. Crowder v. Crowder. 246 S.C. 299, 143 S.E. (2d) 580 (1965)" [sic] [bold in original] (Respondent's Initial Brief, p. 2). However, the only disputed facts in the record are the circumstances attendant to the execution of the second deed—namely, the place and witnesses. Respondent's brief asserts that "the Respondent and M. Diane Jackson went to the office of attorney James Cheek where the deed in this case was executed, witnessed and notarized by attorney Cheek and a law school graduate who clerked for attorney Cheek at the time on May 4, 1989." (T. p. 108, lines 4 – 10) (R. p. 000127, lines 4-10) (Respondent's Initial Brief, p. 4) To the contrary, Appellant's Brief (pp. 4-5) cites the facts as follows:

25. In regard to the deed with James Cheek's signature on it (Plaintiff's Exhibit 3; Deed dated 5/4/1989) (R. p. 000162), Sadie Jackson testified: "She said she signed a piece of paper where it had a mark on it. There was no other writing on that paper other than what she saw and put her name on it. Her name was the only thing there. Nobody's signature, and there was nothing at the top up there." And "She said when she was handed that paper, no signature was on it at all. And there was a mark on it where she was told to sign." (T. p. 37, lines 3-7 and lines 10-12) (R. p. 000056, lines 3-7, 10-12)
26. Diane Jackson testified: "When I signed that piece of paper, it was a check for me to sign, and I signed my name. All that rest of the stuff was not there." When asked if there were witnesses, Diane Jackson testified, "No." When asked if Attorney Cheek was present, Diane Jackson said, "No," and further stated: "She brought that paper in. She said somebody was waiting on her. Okay. It was a man out there. She said we're going up to the house to get Mom and Daddy's name on it, too. And that was it. We was already on the outs. We was already not speaking to each other." (T. p. 71, lines 11-25 and p. 72, line 1) (R. p. 000090, lines 11-25-p. 000091, line 1)

27. Diane Jackson states that the blank document was signed in her home. (T. p. 122, lines 20-21) (R. p. 000141, lines 20-21)
28. Diane Jackson has never visited the office of Attorney James Cheek. (T. p. 123, lines 4-5) (R. p. 000142, lines 4-5)

In any case, Appellant's Brief persuasively argues that the record shows that James Cheek's testimony is not credible because:

30. James Cheek does not have recollection of where the deed was signed. (T. p. 112, lines 6-10) (R. p. 000131, lines 6-10)
31. James Cheek does not have recollection of the events or circumstances surrounding the deed. (T. p. 115) (R. p. 000134)
32. James Cheek is unfamiliar with Diane Jackson and was unaware that she was the sister of Lorine Jackson. (T. p. 116, lines 1-12) (R. p. 000135, lines 1-12)
33. When asked to identify Diane Jackson in the courtroom, James Cheek instead identified Sadie Jackson. (T. p. 117, lines 9-14) (R. p. 000136, lines 9-14)
34. James Cheek was unable to recall where his offices have been located since the year 1985. (T. p. 119) (R. p. 000138)

(Appellant's Brief, pp. 5-6)

Therefore, the Court of Appeals should not be reluctant to find the facts as asserted in Appellant's Brief and reverse the Trial Court accordingly.

## II. RESPONDENT MADE NO PLEADING OF LACHES, RES JUDICATA, OR STATUTE OF LIMITATIONS

The Respondent's own statement of the case, at page 1 of the Respondent's Brief, states "The Respondent served a pro se answer in which she made a general denial" (Respondent's Initial Brief, p. 1). Respondent raised no affirmative defenses. Rule 8 SCRCF requires "**(c) Affirmative Defenses; Reply.** In pleading to a preceding pleading, a party shall set forth affirmatively the defenses: . . . laches . . . res judicata . . . statute of limitations." Therefore, the Court of Appeals should not now consider any of the Respondent's Brief's arguments related to the timeliness of the Appellant's commencement of the Instant Action or to the underlying res judicata implication arising from Respondent's argument that, "M. Diane Jackson

could show no ownership interest in the property or the Magistrate would not have proceeded with the eviction under state law” (Respondent’s Initial Brief, p. 5).

III. THE RESPONDENT’S ARGUMENT THAT AN EXPRESS “TRUST MUST BE PROVED BY SOME WRITING SIGNED BY THE PARTY CREATING THE TRUST” IS SATISFIED IN THE RECORD BY THE UNDISPUTED PAROL TESTIMONY THAT THE FIRST DEED WITH THE LANGUAGE OF THE EXPRESS TRUST WAS PUT INTO THE RESPONDENT’S POSSESSION

Page 6 of Respondent’s Initial Brief asserts “(2) To be valid, a trust of real property, created by transfer in trust or by declaration of trust, **must be proved by some writing signed by the party creating the trust...**” [bold in original]. In the Instant Action, parol testimony satisfied the signed writing creating the Trust, because it was undisputed that the first deed, which held the language of the express trust, was put into the Respondent’s possession as already outlined on pages 11 and 12 of Appellant’s Brief.

1. The terms of the express trust with respect to the property at issue in this case were outlined in niece Sonia Pulliam’s testimony, where she stated: “And she wanted it to stay in the family, to never be sold. And it is to become a family home, house for any members of the family that need a place to stay.” (T. p. 86, lines 2-9)
2. Sonia Pulliam testified to the terms of the express trust, which were outlined in the deed placed in Respondent Lorine Jackson’s possession, as follows:  
“A: My Grandmomma sat there and she had it specifically wrote – stated out what she wanted and what Aunt Lorine was supposed to do. When you want to say if we learned from it, that’s what my Grandmomma did. She changed specifically in how the deed and stuff is supposed to be done.  
Q: You said specifically written it out. Show me that writing.  
A: Ask your client. [Lorine Jackson]  
Q: You said it was specifically in writing.  
A: Yes, I was there when it was done.  
Q: You saw a document?  
A: I sure did.  
Q: Does a family member have that document?  
A: It was not filed.” (T. p. 89, lines 9-22) (R. p. 000108, lines 9-22)
3. Sonia Pulliam further testified:  
"Q: Who has a copy ....?  
A: Your client has it. She’s supposed to have it because whenever it was signed and

notarized, it was given to her to go take to the deed office to file.

...

Q: Do any of you have a copy of that?

A: Your client [Lorine Jackson] got rid of it.” (T. p. 91, lines 5-19) (R. p. 000110, lines 5-19)

An express trust is created when the property owner explicitly declares that the property is to be held in trust for the benefit of another party. See S.C. Code § 62-7-401, an express trust may be created by “(i) transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death...(2) To be valid, a trust of real property, created by transfer in trust or by declaration of trust, must be proved by some writing signed by the party creating the trust... (b) A trust that arises by act or operation of law does not require the existence of a writing.”

S.C. R. Evid. 1004 provides, "(t)his rule addresses the admissibility of other evidence of contents when the original writing is lost or destroyed. It states that other evidence of the contents of a writing, recording, or photograph is admissible if all originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith."

Therefore, the undisputed parol testimony proved there was a writing establishing the express trust.

#### CONCLUSION

For the reasons stated above, this Court should reverse the judgment of the Circuit Court and Order:

- 1) The legal title to 23, 25A, and 25B Blackstock Rd., Inman S.C. 29349, more particularly described in the Lis Pendens in this action is vested as follows: 1/7th to Annie Gary, 1/7th to Sadie Jackson, 1/7th to Marylyn Dianne Jackson, 1/7th to William Jackson, Sr., 1/14th to Eric Caldwell, 1/14th to Renee Rose, 1/7th to Bobby L. Rookard, and 1/7th to Lorine Jackson; and,
- 2) The Appellants are entitled to costs and any further relief the Court deems to be just and proper.

Respectfully submitted,

August 7, 2025

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