THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE LAURENS COUNTY
Court of Common Pleas

The Honorable Donald B. Hocker

Appellate Case No. 2024-002104

Wayne J. Rogers, ….....….….....……..Appellant,

v.

Tomika Craig and Arthur Rogers, ...Respondents.

FINAL BRIEF OF APPELLANT

THE DODD LAW FIRM, LLC

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October 13, 2025

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STATEMENT OF ISSUES ON APPEAL

This case presents two critical issues on appeal:

1. Did the trial court commit reversible error in finding that the deed subject to this action was valid on its face despite the overwhelming evidence that the Appellant Wayne J. Rogers lacked the capacity to comprehend the nature of his act?
2. Did the trial court err in finding that Plaintiff and Appellant Wayne J. Rogers has not met its burden to set aside the Deed based on fraud or forgery despite the overwhelming evidence indicating that either Arthur Rogers forged the signature or that the Appellant Wayne J. Rogers lacked the capacity to comprehend the nature of his act?

STATEMENT OF THE CASE

This appeal arises from an action brought by Appellant Wayne J. Rogers ("Appellant" or "Wayne") to set aside a deed conveying real property located at 449 Westcliff Drive, Laurens County, South Carolina to Respondents Tomika Craig and Arthur Rogers. The Summons and Complaint was filed on March 18, 2022 seeking a declaratory judgment from the court voiding the deed due to it being false, fraudulent, and forged. (Compl. passim (March 18, 2022); R. p.8.) Respondents file an answer and counterclaims on April 4, 2022 asserting defenses and two counterclaims, one for breach of warranty and the other for frivolous proceedings. (Ans. Passim (April 4, 2022); R. p.13.) The case was tried without a jury before the Honorable Donald B. Hocker on October 15, 2024. (Nov. 13, 2024 Order p.1; R. p.4.).

During the trial, Appellant, his wife Janice Rogers, and his stepson Jonathan Williams testified in support of Appellant's claim that he never knowingly signed the deed in question, admitted into evidence as Plaintiff's Exhibit 1. Appellant responded to questions under oath and stated multiple times that he did not remember the date in question that the deed was signed,

January 22, 2022, and also that he did not sign the deed. (October 15, 2024 Trial Hr'g Tr. passim; R. p.19.). Appellant testified that Respondents Tomika Craig and Arthur Rogers had tried in the past to convince him to give them the property subject to this action, 449 Westcliff Drive, Laurens County, South Carolina, but that he had no reason to give them the property. (October 15, 2024 Trial Hr'g Tr. 42:10-15; R. p.60.). Appellant further testified he never signed the deed. (October 15, 2024 Trial Hr'g Tr. 44:15-16; R. p.62.). Appellant also testified that his son Arthur had previously forged checks with his signature. (October 15, 2024 Trial Hr'g Tr. 45:21-25; R. p.63.). Arthur Rogers confirmed that he had indeed forged checks with his father's signature in the past.(October 15, 2024 Trial Hr'g Tr. 91:7-9; R. p.109.) indicating his ability to willingly forge his father's signature on documents.

Appellant's wife Janice Rogers testified that she lived with Appellant and her adult son Jonathan Williams and that one of the two of them must be at home with Appellant at all times, and that they had been his primary caregivers since approximately 2018 when Appellant retired from working due to his health. Janice Rogers also testified that she kept a diary (Plaintiff's Exhibit 2) where she wrote down each date and all the times during a day that she gave her husband medication. She testified that on January 22, 2022, the date the deed was supposed to have been signed, that she was home all day with her husband and produced the page showing that on January 22, 2022, she gave medicine to the Appellant and took his blood pressure many times throughout the day. Janice additionally testified that no one came to the home at Hunters Court that day. (October 15, 2024 Trial Hr'g Tr. passim; R. p.41-100.). Both Janice Rogers and Jonathan Williams testified to being home all day at their home at Hunters Court in Laurens on January 22, 2022 and that they remember the day because it was the day after their cousin's funeral and that no one else came to the home that day. (October 15, 2024 Trial Hr'g Tr. passim; R. p.35-100.).

Respondents presented testimony from attorney Gary L. Williams among other witnesses, who drafted the deed and claimed to have supervised its execution. (October 15, 2024 Trial Hr'g Tr. passim; R. p.137-158.). Tomika Craig also testified that Appellant met with her and Arthur Rogers after the deed was recorded at a Whiteford's Restaurant in Laurens. (October 17, 2024 Trial Hr'g Tr. 10:16; R. p.168.). Interestingly, Appellant testified to Arthur driving him to Whiteford's Restaurant after he learned about the deed being recorded, however Appellant states that he was working at Enoree at the time, a clear contradiction from clear earlier testimony that he had retired due to his physical and mental health issues by at least 2018. Tomika Craig testified that she had gotten her father to transfer the mobile home title to her name and knew that she had to get the title to the property subject to this action as well. (October 17, 2024 Trial Hr'g Tr. 32:7-12; R. p.190.). The court made a ruling from the bench denying the Appellant relief sought, finding the deed valid and denying the Respondents relief on the counterclaims, and stating the court would file a written order in the case.

On November 13, 2024, Judge Hocker issued a Final Order denying relief to Appellant and finding the deed valid. (Nov. 13, 2024 Order p.3:8; R. p.6.). This appeal followed and the notice of appeal was timely filed with the court on December 12, 2024.

STANDARD OF REVIEW

An action to set aside a deed or "rescind a contract lies in equity. *Gibbs v. G.K.H., Inc*., 311 S.C. 103, 105, 427 S.E.2d 701, 702 (Ct. App. 1993). When reviewing an equitable action, this Court may determine the facts in accordance with its own view of the preponderance of the evidence. *Thornton v. Thornton*, 328 S.C. 96, 111, 492 S.E.2d 86, 94 (1997); *Townes Associates,*

Ltd. v. City of Greenville, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976). *Dixon v. Dixon*, 362 S.C. 388, 395, 608 S.E.2d 849, 852 (2005). **In an equitable action, tried by the judge alone, without a reference, the appellate court has jurisdiction to find facts in accordance with its own view of the preponderance of the evidence**. *Townes Assoc., Ltd. v. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976); *Greer v. Spartanburg Technical Coll*., 338 S.C. 76, 79, 524 S.E.2d 856, 858 (Ct. App. 1999). *Verdery v. Daniels (In re Thames),* 344 S.C. 564, 571, 544 S.E.2d 854, 857 (Ct. App. 2001)

ARGUMENT

1. **Did the trial court commit reversible error in finding that the deed subject to this action was valid on its face despite the overwhelming evidence that the Appellant Wayne J. Rogers lacked the capacity to comprehend the nature of his act?**

Appellant testified that he "wasn't keeping dates" (October 15, 2024 Trial Hr'g Tr. 49:25; R. p.67.) at the time of the purported deed in 2022 and so did not recall specific times and dates nor the signing of the deed. Later, Appellant testified that he met with Respondents after work at Enoree at a time when he had been retired from work for many years. Janice Rogers testified to having to take care of her husband's daily needs since at least 2018 and that she and or her son Jonathan Williams were always around him as his caretakers, and that she logged his medications every day for his ongoing Parkinsons and Alzheimer's diagnoses and both testified that this type of care was necessary for Appellant in 2022 at the time of the purported deed.

Tomika Craig testified that she had gotten her father to transfer the mobile home title to her name and knew that she had to get the title to the property subject to this action as well. (October 17, 2024 Tiral Hr'g Tr. 32:7-12; R. p.190.). Appellant testified that Respondents Tomika Craig and Arthur Rogers had tried in the past to convince him to give them the property subject to

this action, 449 Westcliff Drive, Laurens County, South Carolina, but that he had no reason to give them the property. (October 15, 2024 Trial Hr'g Tr. 42:10-15; R. p.60.). Appellant further testified he never signed the deed. (October 15, 2024 Trial Hr'g Tr. 44:15-16; R. p.62.). Appellant also testified that his son Arthur had previously forged checks with his signature. (October 15, 2024 Trial Hr'g Tr. 45:21-25; R. p.63.). Arthur Rogers confirmed that he had indeed forged checks with his father's signature in the past.(October 15, 2024 Trial Hr'g Tr. 91:7-9; R. p.109.) indicating his ability to willingly forge his father's signature on documents.

Courts have upheld that where a deed is valid and regular on its face, it is presumed to be valid in all respects. *Avant v. Johnson*, 231 S.C. 119, 97 S.E. (2d) 396 (1957). *Davis v. Monteith*, 289 S.C. 176, 182, 345 S.E.2d 724, 727 (1986). However, the overwhelming evidence indicates that Appellant lacked capacity to enter into a contract, or to effectively transfer a deed, and as such any purported signature would be invalid, and thus any deed void. In order to warrant the cancellation of a legal transaction on the basis of the grantor's mental incapacity, it must appear that the grantor was so incompetent as to fail to comprehend the nature of his act. *Ballenger v. City of Inman*, 336 S.C. 126, 128, 518 S.E.2d 824, 826 (Ct. App. 1999). In this case, the evidence is clear and the court should find this fact in viewing this matter with its own view of the preponderance of the evidence. Further, even if the court upon reviewing the evidence, finds that Appellant signed the deed, the deed should fail due to undue influence upon him. The Supreme Court of South Carolina "has several times approved the principle that imposition or undue influence upon the grantor will be inferred from proof of great mental weakness, not amounting to incapacity to execute a valid deed, accompanied by gross inadequacy of consideration." *Brooks v. Kay*, 339 S.C. 479, 482, 530 S.E.2d 120, 122 (2000). In this case the Appellant lacked capacity

and was clearly influenced by his adult children in such a way as to make it unjust and inequitable to uphold this deed. The court should reverse the decision of the trial court.

2. **Did the trial court err in finding that Plaintiff and Appellant Wayne J. Rogers has not met its burden to set aside the Deed based on fraud or forgery despite the overwhelming evidence indicating that either Arthur Rogers forged the signature or that the Appellant Wayne J. Rogers lacked the capacity to comprehend the nature of his act?**

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without his knowledge. *McKinnon v. Summers,* 224 S.C.331, 79 S.E.2d 146 (1953). The overwhelming evidence is that the deed was signed without the knowledge of the Appellant.

Under the circumstances, the court should find the deed void and should overturn the trial court's decision.

CONCLUSION

For the foregoing reasons, Appellant Wayne J. Rogers respectfully requests that this Court reverse the decision of the Circuit Court. The evidence establishes that the deed dated January 22, 2022 was not a product of Appellant's knowing and voluntary act but rather was executed at a time when Appellant lacked sufficient mental capacity and under circumstances indicative of undue influence by the beneficiaries of the transfer. Equity demands that the deed be set aside. Appellant asks the court to reverse the lower court's ruling.

Respectfully submitted,

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CERTIFICATION OF COUNSEL

I, the undersigned attorney of the law office of The Dodd Law Firm, LLC, attorney for the Appellant, do hereby certify that the Final Brief of the Appellant complies with Rule 211 SCACR.

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PROOF OF SERVICE

I, the undersigned attorney of the law office of The Dodd Law Firm, LLC, attorney for the Appellant, do hereby certify that I have served all parties to this appeal with a copy of the pleading(s) specified below by emailing a copy of the same to the email addresses for each of the below-listed counsel pursuant to the email addresses currently listed in the AIS database:

Pleading(s): Final Brief of the Appellant

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