

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

SC Court of Appeals

William McMaster, Circuit Court Judge

Case No. 2025- CP-13-1093

CRAIG HANNA

Petitioner/Appellant,

v.

Bradley J. Hanna and
Wilkie Development, LLC,

Respondents/Appellees.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

- I. DID THE LOWER COURT ERR BY DISMISSING THE CASE FOR LACK OF STANDING?
- II. DID THE LOWER COURT ERR BY DISMISSING THE CASE BEFORE RULING ON THE MOTION TO STAY UNTIL A NEW GUARDIAN IS APPOINTED?

STATEMENT OF THE CASE

This matter stems from a dispute between brothers who were appointed as Guardian and Conservator of their mother, Georgia Jo Hanna who was adjudicated as an incapacitated person. (R. p. __). In December 2018, Probate Judge J. Munford Scott, Jr. of Florence County issued an Order outlining the specific duties of each brother in their respective fiduciary roles. (R. p. __). A key part of that Order addressed the management and disposition of Ms. Hanna's property, explicitly stating that no sale or transfer of real estate could occur without prior court approval. (R. p. __). Despite this clear court directive, around February 2022, a large piece of property in which Ms. Hanna held an ownership interest was transferred without judicial approval in direct contravention of the Probate Court's Order. (Tr. p. __, 16; R. p. __).

During the May 7, 2025, hearing before the Honorable William McMaster, counsel confirmed that Craig Hanna was still serving as Guardian at the time of the sale, and that Bradley J. Hanna, then serving as Conservator, conveyed the property without obtaining court authorization. (Tr. p. __). At that same hearing, both parties also acknowledged that no successor guardian or conservator had been appointed following the brothers' removal in December 2022. (Tr. p. __). The transcript further shows that the sale proceeds allegedly were deposited into a brokerage account rather than a court-supervised or approved fiduciary account, further evidencing the lack of judicial oversight. (Tr. p. __).

Appellant Craig Hanna filed this action to (1) ensure proper procedures were followed to address the violation of the Probate Court's Order, and (2) protect his mother's estate from unauthorized transfers and dissipation of assets. (R. p. __). The Circuit Court, however, dismissed the case on the ground that Craig Hanna lacked standing and declined to rule on his pending motion to stay under S.C. Code Ann. § 62-5-306, leading to this appeal. (Tr. p. __).

STANDARD OF REVIEW

South Carolina appellate courts apply the same standard as the trial court when reviewing a Rule 12(b)(6) dismissal. Rule 12(b) motions should be refused if "facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case." *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995). "The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." *Plyler v. Burns*, 373 S.C. 637,645 (2007) (quoting *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987)).

STATEMENT OF FACTS

Craig Hanna was appointed the Guardian of Ms. Georgia Jo Hanna ("Ms. Hanna") on December 27, 2018, and has since been removed as Guardian. (Tr. p. __). At the time of the transaction at issue, Craig Hanna was still serving as Guardian. (R. p. __; Tr. p. __). Bradley J. Hanna was appointed Conservator on December 27, 2018, and has likewise been removed as Conservator. (R. p. __). At the time of the February 2022 transfer of the property subject to this action, Bradley J. Hanna was the duly acting Conservator and failed to follow the Order entered by Judge J. Munford Scott, Jr. of Florence County, which expressly prohibited any sale or conveyance without prior court approval. (R. p. __; Tr. p. __). Despite that restriction, Wilkie

Development, LLC purchased Ms. Hanna’s property without necessary judicial oversight. (R. p. ___).

ARGUMENT

I. **THE LOWER COURT ERRED IN DISMISSING THE ACTION AS CRAIG HANNA HAS STANDING IN THIS LITIGATION.**

Motions based on a “lack of standing challenges the court’s subject matter jurisdiction.” *S.C. Pub. Int. Found. v. Wilson*, 437 S.C. 334, 340, 878 S.E.2d 891, 894 (2022). A plaintiff has standing when he alleges a concrete, particularized injury that is traceable to the defendants’ conduct and likely to be redressed by a favorable decision. Craig Hanna has both statutory and equitable standing to pursue relief. His complaint seeks to enforce an existing Probate Court Order governing Ms. Hanna’s estate and to protect her property interests that were impaired by an unauthorized sale while he was operating as her Guardian.

A. **The Property Sold in this Case was Transferred in Violation of a prior Court Order While Craig Hanna was the Guardian.**

As a threshold matter, the property sold in this case was transferred in direct violation of the Order. The Order states: “Further, the Conservator may not change the character of the estate without court approval and shall expend assets of the Protected Person other than normal and routine living expenses of the Protected Person, only pursuant to court order.” (R. p. ___) Unfortunately, a large piece of property was conveyed, not only extinguishing the Protected Person’s interest in the property, but also reducing the size of the estate of Ms. Hanna.

Not only does the Order set out how property is to be disposed, but it also falls under S.C. Code § 62-5-423:

§ 62-5-423. Distributive duties and powers of conservator.

(A) A conservator may expend or distribute sums from the estate without further court authorization for the health, education, maintenance, and

support of the protected person and his dependents in accordance with the following principles:

- (1) The expenditures must be consistent with *a prior court-approved financial plan*.
- (2) The conservator shall consider recommendations relating to the appropriate standard of health, education, maintenance, and support for the protected person made by a parent or guardian. The conservator may not be surcharged for sums paid to persons or organizations furnishing health, education, maintenance, or support to the protected person pursuant to the recommendations of a parent or guardian unless the conservator has actual knowledge that the parent or guardian is deriving personal financial benefit from these payments, including relief from any personal duty of support, or unless the recommendations are clearly not in the best interests of the protected person. . . .
- (5) If the conservator determines that it is reasonably necessary to supply funds to the protected person, the conservator may provide these funds to the protected person through reasonable financial methods, including, but not limited to, checks, currency, debit card, or allowance. *All funds so provided must be reported on the accountings as required by the court.*

S.C. Code § 62-5-423 *emphasis added*.

S.C. Code § 62-2-606 also preserves estate devises when disposed of by a

Conservator:

If specifically devised property is sold or mortgaged by a conservator or by an agent acting within the authority of a durable power of attorney for an incapacitated principal, or a condemnation award or insurance proceeds or recovery for injury to the property is paid to a conservator or to an agent acting within the authority of a durable power of attorney for an incapacitated principal, *the specific devisee has the right to a general pecuniary devise equal to the net sale price*, the amount of the unpaid loan, the condemnation award, the insurance proceeds, or the recovery.

S.C. Code § 62-2-606 *emphasis added*.

Thus, pursuant to both the Order and statutory law, Bradley Hanna had a duty to (1) get court approval and (2) account for the funds of any sale of property. As such, the portion of the sale attributable to Ms. Hanna should be declared void and Ms. Hanna's

interest in the property should be restored for further determination as to the administration of her estate.

B. Craig Hanna has Standing on all Claims Submitted to the Lower Court.

1. Standing Also Exists for the Declaratory Judgment/Quiet Title Claim.

South Carolina law provides broad standing for interested persons to bring claims related to guardianship and conservatorship proceedings. Under S.C. Code Ann. § 62-1-201(23), an “interested person” includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person that may be affected by the proceeding. This definition is expressly expansive and may vary “from time to time,” with its application determined “according to the particular purposes of, and matter involved in, any proceeding.” *Id.*

Here, Craig Hanna easily qualifies as an “interested person” under this provision, as he is both an heir and a court-appointed guardian of Ms. Hanna at the time of the sale—a fiduciary status expressly recognized under South Carolina’s Probate Code. See S.C. Code Ann. § 62-1-201 (defining guardians as fiduciaries). Accordingly, Craig possesses both a statutory and equitable interest sufficient to confer standing to challenge the unlawful transfer of estate property. This is especially true considering the current absence of a court appointed Guardian.

Craig Hanna’s standing falls squarely within the definitions set out by code. He served as Guardian, bore fiduciary duties, and remains a beneficiary and heir upon Ms. Hanna’s death whose interests are directly impacted by the unauthorized sale. In *Weeks v. Drawdy*, 495 S.E.2d 454, 266 (S.C. Ct. App. 1997), the Court recognized that persons with a direct and legitimate interest in an estate may maintain an action to protect its assets.

Here, Craig Hanna’s interest is both personal and fiduciary in nature: he seeks to remedy the unauthorized depletion of his mother’s estate for a transaction that occurred during his tenure as Guardian, but also to preserve its plan and restore compliance with the Probate Court’s directives. His standing arises not from a speculative expectancy, but from a current, legally cognizable interest created by the Order. The lower court’s contrary view that Craig’s claim “may flow in the future” (Tr. p. ___) misconstrues both statutory text and precedent. Nothing in § 62-1-201 restricts standing to present titleholders; rather, the statute extends to those whose “rights may be affected.”

2. **Standing Exists for the Claims of Breach of Fiduciary Duty.**

Because the actions giving rise to this litigation occurred while Bradley Hanna was serving as Conservator, he owed fiduciary duties of loyalty, prudence, and strict compliance with court supervision to Ms. Hanna (the protected person) and her heirs. See *Witherspoon v. Stogner*, 182 S.C. 413, 189 S.E. 758, 759 (1937) (“That a fiduciary relationship exists between each heir or beneficiary of an estate and the administratrix thereof is fundamental.”); see also *Turpin v. Lowther*, 404 S.C. 581 (Ct. App. 2013). These duties are also codified in S.C. Code §§ 62-5-409, 413–416, 419, 421, 423, and 425. Bradley Hanna’s conveyance of estate property without court authorization violated those provisions and constitutes both a breach of fiduciary duty and constructive fraud.

II. **THE LOWER COURT ALSO ERRED IN DISMISSING THE ACTION PRIOR TO CONDUCTING A HEARING ON THE MOTION TO STAY TO APPOINT A GUARDIAN FOR MS. HANNA.**

At the time of the lower court’s dismissal, both Craig and Bradley Hanna had been removed from their fiduciary roles, and no successor guardian had been appointed. (Tr. p. ___) Craig Hanna had a pending motion to stay the proceedings until such appointment occurred. (R. p. ___)

Because no successor had yet been appointed under this process, the Circuit Court was obligated to address Craig Hanna's motion to stay before dismissal, as the outcome of the stay motion directly affects Ms. Hanna's estate and Craig Hanna's distributive award upon her death. By dismissing without ruling on the stay, the court abused its discretion and prematurely deprived the estate of judicial oversight and statutory protection. Essentially, the dismissal operated to foreclose any avenue of protection for Ms. Hanna as she lives without a Guardian and Conservator. Such a vacuum cannot be allowed under the law as the Probate Court's supervisory jurisdiction remains active until a new fiduciary is appointed and approved. The record further demonstrates that defense counsel acknowledged this procedural posture, noting Craig's motion to stay "so that maybe they can talk somebody into appointing a conservator" (Tr. p. ___), confirming that the issue was ripe for judicial resolution.

The Circuit Court's failure to act on that motion while simultaneously dismissing the complaint contravenes both statutory guardianship procedure and constitutional due process. As established in *LaSalle Bank Nat'l Ass'n v. Davidson*, 386 S.C. 276 (2009), and *McIntyre v. Securities Comm'r of S.C.*, 425 S.C. 439 (2018), courts must ensure parties receive a meaningful opportunity to be heard before issuing orders that affect property or fiduciary rights. Dismissing the action without first resolving the stay motion created a structural defect in the proceedings, depriving Ms. Hanna's estate of representation and continuity of fiduciary oversight.

At the time of the property transfer, Craig Hanna was the duly appointed guardian of Ms. Hanna. Since Craig Hanna and Bradley Hanna's removal, Ms. Hanna has remained without a Guardian and Conservator. If Craig Hanna truly lacked standing, which Appellant clearly disputes, the appropriate remedy was not dismissal, but instead a temporary stay of proceedings pending appointment of a successor guardian or conservator. This approach would have maintained the

court's supervisory authority under § 62-5-306, safeguarded Ms. Hanna's assets, and preserved the estate's ability to pursue or defend claims through a properly appointed fiduciary.

By failing to do so, the Circuit Court denied fundamental procedural fairness and undermined the statutory protections designed to ensure continuity in guardianship administration. Accordingly, the order of dismissal should be vacated or at a minimum, the matter should be remanded with instructions to stay proceedings pending appointment of a successor guardian or conservator.

CONCLUSION

Craig Hanna seeks to protect his mother and ensure that her estate remains intact. For the foregoing reasons the Court should reverse and remand the lower court's dismissals.

This the 31st day of October, 2025.

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