

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

S.C.C.A. Case No. 2013 - 000371

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers, Appellants,

v.

Shelly K. All, Cezar E. McKnight, Ms. Willie O.W. McFadden-Myers; & Latonya Hobson;
Respondents.

INITIAL REPLY

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Citations:

1. Carolina Truck Stop No. 20 Opinion No. 25213 Filed November 20, 2000pg. 5 *Tab #001*
2. Citizens' Bank v. Heyward 135 S.C. 190, 133 S.E. 709 (1925) and
Bank for Savings and Trusts v. Towe 231 S.C. 268, 98 S.E.2d 539 (1957)pg. 6
3. 7A C.J.S. Attorney & Client § 181, at 284(1980);
cf. Graham v. Town of Loris, 272 S.C.442, 248 S.E.2d 594 (1978).....pg. 6 *Tab #0019*
5. 7A C.J.S. Attorney & Client § 181, at 285 (1980) pg. 6 *Tab 0014*
6. 27A Am.Jur.2d Equity § 148, at 626 (1996) pg. 6 *Tab # 008*
7. 27A Am.Jur.2d Equity § 189, at 666±67 (1996)pg 6

Law of the Case:

(as to a conflict about the October 26, 2011 Order vice Motion to Reconsider & J. Roger Young's Court)

8. Transcript of hearing Judge Stephanie P. McDonald, Date April 24, 2012 pg. 3 & 4 *Tab # ; Tab # 002 ; Tab # 0011 ; 003*
9. Order: Judge Stephanie P. McDonald, Form Order dated May 2, 2012pg. 3 & 4
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Statutes:

10. South Carolina Code 16-13-10. Forgerypg. 4 & 5
11. South Carolina Code 16-5-30. Duty and liability of officerspg. 4

S.C. Rules of Attorney-Client Conduct (as to Respondent(s) Shelly K. All Law Firm)

12. R.407 [1]pg. 3
13. R.407 [9]pg. 3

South Carolina Code 16-13-10. Forgery

(A) It is unlawful for a person to:

(1) falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or wilfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing;

(2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing;

(3) falsely make, forge, counterfeit, alter, change, deface, or erase; or cause or procure to be falsely made, forged, counterfeited, altered, changed, defaced, or erased any record or plat of land; or

(4) willingly act or assist in any of the premises, with an intention to defraud any person.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is five thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than five thousand dollars.

If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both

7. The Appellants attorneys Shelly K. All (and Dennis Christensen) Law Firm were never released by any Court Order at Probate as is required in Carolina Truck Stop #20. These attorneys were hired to pursue the matters of the forgery in the Charleston County Common Pleas -- Circuit Courts' forum. The forgery Expert Affidavit was given to the Appellants October 16, 2008 by the Oberman & Oberman Law Firm. TAB #008

a. The Respondents somehow commenced IT at Probate with a Petition by the other three (3) Respondents; where the forgery was not heard in open court proceedings. True the Probate has concurrent authority of the Court of Common Pleas in Charleston County;

however, the forgery and its expert affidavit were hidden from any open court trial opportunity.

- b. In fact, the Respondent's (Shelly All Law Firm) were instrumental in changing these forgers presence by their being promoted into Guardians and Conservators for the Appellants father.
- c. Later, in December 2008, the South Carolina Medical University in conjunction with the United States Department of Veteran Affairs both not only made the determination that the Appellant's father was not mentally incapacitated -- nor did IT require the Father to be a Ward of the State or VA. Too, these new medical determinations released the Appellant's fathers VA Disability Income into his own name and controls. The State has no control over these Federal matters. The Appellant's father returned to his home and lived out his life with his children, grand and great-grand children.
- d. The Probate Court ex-Guardian was silent twenty months after December 2008.
- e. Now the three missing Respondents have appeared as Rule to Show Cause Petitioners in what appears to be as an extra-judicial alternative to appearance as Respondents.

8. AS to the 3-Year Statute of Limitations and Appellant's Attorneys Misconduct; Other Appellant Argument arises without their Motion(s) to Reconsider were never to be heard:

- a. These Appellant's Attorneys, Respondent Shelly K. All Law Firm, with Dennis Christensen, argument here that the acts and omissions of the Appellants attorneys are attributable to them. **But this is not a hard and fast rule.** Rather, it is one that is "*to be applied rationally, with a fair recognition that justice to the litigates is always polestar.*" Citizens' Bank v. Heyward and Bank for Savings and Trusts v. Towe.
 - i. 7A C.J.S. *Attorney & Client* § 181, at 284(1980); cf. *Graham v. Town of Loris*, 272 S.C.442, 248 S.E.2d 594 (1978) (*holding the general rule that an attorney's neglect is attributable to the client does not apply if there has been a wilful and unilateral abandonment of client by counsel*);
 - ii. 27A Am.Jur.2d *Equity* § 148, at 626(1996) ("*Fairness will bar application of laches where the result would be unjust; laches does not operate harshly, as may a statute of limitation. Statutes of limitation, further, may work great practical injustice the doctrine of laches, never.*").
 - iii. "[T]he general rule that a client is bound by the acts and omissions of his attorney may not apply where the conduct of counsel is outrageously in violation of his implicit duty to devote reasonable efforts in representing his client." 7A C.J.S. *Attorney & Client* § 181, at 285 (1980).

iv. See 27A Am.Jur.2d Equity § 189, at 666±67 (1996) ("For laches to apply in cases where real property is in dispute, there generally must be prejudice arising from some change in the condition or relation of the property or parties such that it would be unfair to allow maintenance of the claim."). Provident Life & Accident Ins. Co. v. Driver, 317 S.C. 471, 479, 451 S.E.2d 924, 929 (Ct.App. 1994).

September 2, 2013 BY:

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