

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY  
Court of Common Pleas

William C. McMaster, III, Circuit Court Judge

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Appellate Case No. 2025-001474

Lower Court Case No.: 2024-CP-13-01093

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Craig Hanna, ..... Appellant,

v.

Bradley J. Hanna and  
Wilkie Development, LLC, ..... Respondents.

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**INITIAL BRIEF OF  
RESPONDENT WILKIE DEVELOPMENT, LLC**

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**TABLE OF CONTENTS**

Table of Authorities..... ii

Counterstatement of the Issue on Appeal..... iii

Statement of the Case..... 1

Statement of Facts..... 2

Standard of Review..... 3

Argument ..... 3

    I.    *The circuit court correctly found Craig Hanna does not have standing* ..... 4

        a.  *Appellant lacks constitutional standing*..... 4

        b.  *Appellant does not have statutory standing, and this issue was not preserved for appeal*..... 7

    II.   *The circuit court properly granted judgment on the pleadings despite Appellant's request for a stay*..... 9

Conclusion ..... 10

**TABLE OF AUTHORITIES**

**CASES**

*Anchor Points v. Shoals Sewer Co.*, 308 S.C. 422, 418 S.E.2d 546 (1992) ..... 5

*Beaufort Realty Co. v. Beaufort Cnty.*, 346 S.C. 298, 551 S.E.2d 588 (Ct. App. 2001) ..... 5, 6

*Carnival Corp. v. Historic Ansonborough Neighborhood Ass’n.*, 407 S.C. 67, 753 S.E.2d 846, (2014) ..... 5

*Charleston Cnty. Sch. Dist. v. Charleston Cnty. Election Comm’n*, 336 S.C. 174, 519 S.E.2d 567 (1999). ..... 5

*Cowburn v. Leventis*, 366 S.C. 20, 619 S.E.2d 437 (Ct. App. 2005) ..... 4

*Crescent Homes SC, LLC v. CJN, LLC*, 445 S.C. 164, 912 S.E.2d 389 (Ct. App. 2024) ..... 4

*Lujan v. Defs. of Wildlife*, 504 U.S. 555, 112 S. Ct. 2130 (1992) ..... 5, 6

*Rosenthal v. Unarco Indus., Inc.*, 278 S.C. 420, 297 S.E.2d 638 (1982)..... 3

*S.C. Dep’t of Soc. Servs. v. Smith*, 423 S.C. 60, 814 S.E.2d 148 (2018)..... 4

*Sea Pines Ass’n for the Prot. of Wildlife, Inc. v. S.C. Dep’t of Nat. Res.*, 345 S.C. 594, 550 S.E.2d 287 (2001) ..... 5, 6

*Staubes v. City of Folly Beach*, 339 S.C. 406, 529 S.E.2d 543 (2000) ..... 8

*Thompson v. Swicegood*, 430 S.C. 648, 845 S.E.2d 920 (Ct. App. 2020) ..... 9

*Weeks v. Drawdy (In re Estate of Weeks)*, 329 S.C. 251, 495 S.E.2d 454 (Ct. App. 1997) .... 8

*Ziegler v. Dorchester Cnty.*, 426 S.C. 615, 828 S.E.2d 218 (2019) ..... 3

**STATE STATUTES**

S.C. Code Ann. § 62-1-101 ..... 8

S.C. Code Ann. § 62-1-201 ..... 7, 8

S.C. Code Ann. § 62-1-302 ..... 8

S.C. Code Ann. § 62-5-101 ..... 2, 7, 8

S.C. Code Ann. § 62-5-309 ..... 7

S.C. Code Ann. § 62-5-413 ..... 7

## COUNTERSTATEMENT OF THE ISSUE ON APPEAL

- I. Did the trial court correctly find that Appellant lacks standing to challenge the real property conveyance from Brad Hanna, as conservator to Georgia J. Hanna, to Wilkie Development by way of declaratory judgment and fraudulent transfer claims?

## INTRODUCTION

This appeal arises out of Appellant Craig Hanna's attempt to contest a conveyance of real property to grantee Respondent Wilkie Development, LLC ("Wilkie Development") by way of declaratory judgment and fraudulent transfer claims. Like the circuit court, this Court should reject Appellant's efforts.

## STATEMENT OF THE CASE

By deed dated February 3, 2022, and recorded on February 7, 2022, Respondent Brad Hanna as conservator for Georgia J. Hanna, and other named grantors, conveyed certain real property to Wilkie Development. (Exhibit 2 to Compl.). Appellant challenges this conveyance solely by Brad Hanna, as conservator for Georgia J. Hanna. *See generally* (Compl.). The circuit court granted judgment on the pleadings for Wilkie Development, (Order), and granted Brad Hanna's motion to dismiss, (Order).

Specifically, Appellant alleges that Brad Hanna's conveyance violated the terms of an Order issued by the Florence County Probate Court. *See generally* (Compl.). On this basis, Appellant asserted claims against Brad Hanna for breach of fiduciary duty and constructive fraud and against both Brad Hanna and Wilkie Development for fraudulent transfer and declaratory judgment to quiet title to the property. (Compl. at ¶¶ 16–28).

On March 25, 2025, Brad Hanna moved to dismiss. (B. Hanna's Mot. To Dismiss); (B. Hanna's Memo. in Supp.). On April 23, 2025, Wilkie Development moved for judgment on the pleadings. (Wilkie Mot. for J. on the Pleadings). On May 1, 2025, Appellant filed a brief in opposition to Respondents' motions, (Pl.'s Br. in Opp.), and a Motion to Stay Proceedings Pending Appointment of Guardian/Conservator, (Pl.'s Mot. to Stay).

The circuit court held a hearing on May 7, 2025, and after considering the briefing, uncontested record, and arguments of counsel, the circuit court granted both Brad Hanna's Motion to Dismiss, (Form 4 Order, filed May 19, 2025), and Wilkie Development's Motion for Judgment on the Pleadings, (Form 4 Order, filed May 19, 2025). On May 28, 2025, Appellant filed a Motion to Reconsider. (Pl.'s Mot. to Recons.). On May 29, 2025, Brad Hanna filed a Memorandum in Opposition to Appellant's Motion to Reconsider and/or Stay. (B. Hanna's Memo. In Opp.). On May 30, 2025, Wilkie Development filed a response in opposition to Appellant's Motion to Reconsider. (Wilkie's Memo. in Opp.). The circuit court then issued separate written orders granting Brad Hanna's Motion to Dismiss, (Order, filed May 29, 2025), and Wilkie Development's Motion for Judgment on the Pleadings, (Order, filed May 29, 2025). After reconsidering the briefing, arguments, and record, the circuit court denied Appellant's Motion to Reconsider. (Form 4 Order, filed June 18, 2025). This appeal follows.

#### STATEMENT OF THE FACTS

Craig Hanna and Brad Hanna are brothers, and their mother is Georgia Hanna. (Compl. at ¶ 4). Pursuant to an Order entered *In the Matter of: Georgia Jo Hanna* filed in Florence County Probate Court on December 27, 2018, the Probate Court found Georgia Hanna to be a Protected Person pursuant to section 62-5-101 of the South Carolina Code, appointed Craig Hanna as Guardian, and appointed Brad Hanna as Conservator (the "Probate Order"). (Compl. at ¶ 6; Exhibit 1 to Compl.). The Probate Order provides 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 a court order. (Exhibit 1 to Compl.).

Thereafter, by deed dated February 3, 2022, and recorded with the Register of Deeds for Chesterfield County, South Carolina, on February 7, 2022, in Book 544 at Page 455, Brad Hanna as conservator for Georgia J. Hanna and four other grantors conveyed certain property described therein (the “Property”) to Wilkie Development. (Exhibit 2 to Compl.). Appellant contends that this property transfer was a fraudulent conveyance that “is a breach of fiduciary duty to Ms. Hanna and also to his brother’s interest in Georgia Hanna’s estate that would flow to him,” (Compl. at ¶ 19), and that a judgment reversing the transaction is required to put the parties in the status quo, (Compl. at ¶ 25).

This matter comes before the Court on the circuit court’s order granting judgment on the pleadings for Wilkie Development. (Order).

#### STANDARD

In reviewing the grant of judgment on the pleadings, an appellate court applies the same legal standards as the trial court and reviews questions of law *de novo*. See *Ziegler v. Dorchester Cnty.*, 426 S.C. 615, 619, 828 S.E.2d 218, 220 (2019).

A motion for judgment on the pleadings is proper where pleadings entitle a party to judgment without proof, by disclosure of all facts, where the pleadings present no issue of fact or present merely an immaterial issue. *Rosenthal v. Unarco Indus., Inc.*, 278 S.C. 420, 422-23, 297 S.E.2d 638, 640 (1982) (citing *Wooten v. Standard Life and Casualty Insurance Company*, 239 S.C. 243, 122 S.E. (2d) 637 (1961)). Judgment on the pleadings is also proper where the pleadings are fatally deficient in substance or fail to state a good cause of action. *Id.*

#### ARGUMENT

On appeal, Appellant does not meaningfully dispute the circuit court’s finding that he lacks standing to bring the claims asserted against Wilkie Development. Instead, Appellant misplaces

focus on the merits and on allegations that Brad Hanna sold the property in violation of the Probate Order and ignores the fact that the circuit court properly did not rule on this issue in response to Wilkie Development's motion for judgment on the pleadings. (Order). Because the circuit court did not rule on this issue, it is not preserved for appellate review. *Cowburn v. Leventis*, 366 S.C. 20, 41, 619 S.E.2d 437, 449 (Ct. App. 2005).

Alternatively, even if it was preserved, the circuit court correctly granted Wilkie Development's motion for judgment on the pleadings notwithstanding that issue, because the question of standing is a threshold issue. Standing is a fundamental prerequisite to instituting an action and refers to a party's right to make a legal claim. *S.C. Dep't of Soc. Servs. v. Smith*, 423 S.C. 60, 88, 814 S.E.2d 148, 162 (2018) (citing *Michael P. v. Greenville Cnty. Dep't of Soc. Servs.*, 385 S.C. 407, 415, 684 S.E.2d 211, 215 (Ct. App. 2009)). Whether litigation presents an active case or controversy is a threshold issue for a court. *Crescent Homes SC, LLC v. CJN, LLC*, 445 S.C. 164, 182, 912 S.E.2d 389, 398 (Ct. App. 2024) (quoting *Holden v. Cribb*, 349 S.C. 132, 137, 561 S.E.2d 634, 637 (Ct. App. 2002)).

While Appellant focuses his argument on the alleged invalidity of the Property conveyance and his alternative request for a stay, the issue before the Court is solely whether Appellant has standing to challenge the conveyance of the Property. Because case law leaves no question as to the required elements of standing, the Court should affirm the circuit court's Order.

***I. The circuit court correctly found Craig Hanna does not have standing.***

***a. Appellant lacks constitutional standing.***

For a plaintiff to have standing to bring an action, three elements must be satisfied: (1) plaintiff must have suffered an injury-in-fact, which is a concrete, particularized, and actual or imminent invasion of a legally protected interest; (2), a causal connection must exist between the

injury and the challenged conduct; and (3) it must be likely that a favorable decision will redress the injury. *Carnival Corp. v. Historic Ansonborough Neighborhood Ass’n.*, 407 S.C. 67, 75, 753 S.E.2d 846, 850 (2014) (quoting *Sea Pines Ass’n for the Prot. of Wildlife v. S.C. Dep’t of Natural Res.*, 345 S.C. 594, 600–01, 550 S.E.2d 287, 291–92 (2001)). Prospective or the potential for future harm falls short of the standard for a “concrete and particularized and . . . actual or imminent” harm as required for a party to have standing. *Beaufort Realty Co. v. Beaufort Cnty.*, 346 S.C. 298, 303, 551 S.E.2d 588, 590 (Ct. App. 2001) (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 112 S. Ct. 2130 (1992)).

“To have standing, one must have a personal stake in the subject matter of the lawsuit, i.e., one must be a real party in interest.” *Charleston Cnty. Sch. Dist. v. Charleston Cnty. Election Comm’n*, 336 S.C. 174, 181, 519 S.E.2d 567, 571 (1999). “A real party in interest is one who has a real, material, or substantial interest in the subject matter of the action, as opposed to one who has only a nominal or technical interest in the action.” *Anchor Points v. Shoals Sewer Co.*, 308 S.C. 422, 428, 418 S.E.2d 546, 549 (1992) (citing 67A C.J.S. *Parties* § 18 (1978)).

In his Complaint, Appellant failed to set forth facts to evidence any real interest he has in the Property or to show that he has suffered an injury-in-fact because of its conveyance. Instead, Appellant references only an interest “in the portion of Ms. Hanna’s estate that would flow to him,” (Compl. at ¶ 19), without setting forth any allegations that show how this alleged future interest in “Ms. Hanna’s estate” could establish a concrete and particularized harm suffered because of the property conveyance. Even if the allegations of the Complaint had represented some indication of Appellant’s future interest in the Property itself, which it does not, the mere expectancy of future interest fails to satisfy the requirements set forth in *Lujan* that injury be “actual or imminent” and not merely a “conjectural or hypothetical” one. See *Sea Pines Ass’n for the Prot. of Wildlife, Inc.*

*v. S.C. Dep't of Nat. Res.*, 345 S.C. 594, 602, 550 S.E.2d 287, 292 (2001); *see also Beaufort Realty*, 346 S.C. at 303, 551 S.E.2d at 590 (finding one must suffer an actual injury in fact, not a prospective concern of future harm, in order to satisfy the *Lujan* test).

In his brief, Appellant argues that his possible future interest as an heir is not speculative but a “current, legally cognizable interested created by the [Probate] Order,” (Appellant’s Br. at 9), but Appellant does not and cannot show how that order confers any such interest to Appellant. It does not. Further, while Appellant argues that he is a beneficiary or heir of Georgia J. Hanna’s estate upon her death (Pl.’s Br. in Opp. p. 3), (Tr. at 13:10–11, 14:1–15, 14:24–25), (Appellant’s Br. at 8), no allegation in the pleadings or evidence in the record supports this contention. Nor are there any allegations in the Complaint or otherwise to suggest Georgia J. Hanna is deceased.

Appellant acknowledges that he filed this action for the purpose of protecting Georgia J. Hanna’s alleged interest in the Property. Appellant contends he “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.” (Appellant’s Br. at 5). And at the hearing below, Appellant contended, “the overarching goal of this lawsuit is to make sure that Ms. Jo is protected.” (Tr. at 14:18–20). Yet somehow Appellant alleges his interest is both personal and fiduciary in nature because “he seeks to remedy the unauthorized depletion of his mother’s estate for a transaction that occurred during his tenure as Guardian.” (Appellant’s Br. at 7). In making these arguments, Appellant conflates his alleged personal interests with those of Georgia J. Hanna’s. While Appellant appears to rely on his former role as Guardian for Georgia J. Hanna to establish standing, Appellant ignores the fact that he brought this suit in his individual

capacity, not in a representative capacity as a guardian.<sup>1</sup> *See generally* (Compl.). Even if Appellant had alleged he was Guardian at the time of the conveyance, this fact alone cannot form the basis of his own personal interest in the Property. Guardians are appointed by the probate court to make decisions regarding the ward’s health, education, maintenance, and support and are charged with commencing protective proceedings in probate court if property of the guardian’s ward is in need of protection. *See* S.C. Code Ann. § 62-5-101; S.C. Code Ann. § 62-5-309; S.C. Code Ann. § 62-5-413. Here though, Appellant did not bring this suit as a guardian and cannot cite any authority supporting his alleged individual interest, as a former guardian, in property held by the former ward.

Because Appellant failed to plead any real personal interest in the Property or individual injury because of the conveyance of the Property, Appellant cannot establish standing to bring the claims asserted against Wilkie Development. Therefore, the circuit court correctly ruled that the Complaint is fatally deficient in substance and fails to state a cause of action under which Appellant is entitled to relief even if the allegations in the Complaint are taken as true.

***b. Appellant does not have statutory standing, and this issue was not preserved for appeal.***

Appellant, for the first time, cites section 62-1-201(23) of the South Carolina Code to support his argument that he has statutory standing to bring an action related to guardianship and conservatorship proceedings. (Appellant’s Br. at 8). That statute defines “interested party” to include “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 which may be affected by the proceeding.” S.C. Code Ann. § 62-1-201(23). Whatever that statute

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<sup>1</sup> Of note, Appellant acknowledged outside the pleadings that in December 2022, the Probate Court removed Appellant as Guardian, prior to the filing of the underlying Complaint. (Br. in Opp. at 1), (Tr. at 16:9–25, 17:1–3), (Appellant’s Br. at 4).

may say about an interested party in a probate proceeding, it does not help Appellant here. Appellant never raised section 62-1-201(23) to the circuit court to confer statutory standing on him, and thus the circuit court never ruled on this argument. As a result, this issue is not preserved for appellate review. *See Staubes v. City of Folly Beach*, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000) (“It is well-settled that an issue . . . must have been raised to and ruled upon by the trial court to be preserved for appellate review.”).

Alternatively, even if this issue is preserved, Appellant fares no better on the merits. His Complaint is not brought as an “interested person” under section 62-1-201(23) in connection with Georgia J. Hanna’s assets and the protection thereof, and Appellant does not even seek relief under section 62-1-101, *et seq.*

Regardless, even if Appellant had alleged his status as an “interested person” under section 62-1-201(23) in connection with assets held by a “protected person,”<sup>2</sup> which he did not, Appellant’s claims would still fail due to a lack of standing because the probate court, not the circuit court, has “exclusive jurisdiction over all subject matter related to . . . determination of property in which a . . . protected person has an interest.” *See* S.C. Code Ann. § 62-1-302(a)(1).

In arguing his alleged “interested person” status, Appellant broadly contends that, in *Weeks v. Drawdy (In re Estate of Weeks)*, 329 S.C. 251, 266, 495 S.E.2d 454, 462 (Ct. App. 1997), “the Court of Appeals recognized persons with a direct and legitimate interest in an estate may maintain an action to protect its assets.” However, *In re Estate of Weeks* is not instructive because it involved a matter initiated in probate court by a son to set aside a will of his mother, which left him one dollar and the remainder to mother’s daughter’s. *Id.* Here, Appellant did not initiate this action in

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<sup>2</sup> “Protected person” means an individual for whom a conservator has been appointed or other protective order has been issued. S.C. Code Ann. § 62-5-101.

probate court and failed to allege any direct or legitimate interest in an estate of Georgia J. Hanna, whether by will or otherwise.

*II. The circuit court properly granted judgment on the pleadings despite Appellant's request for a stay.*

In opposing the dispositive motions, in his Brief in Opposition, at the hearing, and in his Motion to Reconsider, Appellant argued that if it is found that Appellant does not have standing, the proper result would be to stay these proceedings until Georgia J. Hanna's guardian has been appointed and joined. (Br. in Opp. at 4); (Tr. at 15:7–13); (Mot. to Recons.). In his Motion to Reconsider, Appellant also asked the circuit court to reserve its “rulings until the Motion to Stay had been heard.” In his opposition to Appellant's Motion to Reconsider and/or Stay, Brad Hanna argued as follows:

As to the Motion to Stay, Defendant Hanna respectfully submits that there is no reason to stay this litigation until some future date at which time someone may file a Petition to be appointed Guardian/Conservator for Ms. Hanna. The more appropriate way to resolve that matter would be IF AND WHEN someone decides to Petition the appropriate Court to become Guardian or Conservator, that person can file this same action at that time. To stay this matter effectively would mean that this case would remain on the Court's roster for an undetermined amount of time, in the future, in the event, that someone files a Petition in the Probate Court at some time in the future.

Respectfully, Defendant Hanna submits that judicial economy demands that this Court deny the Plaintiff's Motion to Stay.

(B. Hanna's Opp. to Mot. to Stay).

“The granting of a motion for a stay of proceedings rests entirely within the discretion of the trial [court].” *Thompson v. Swicegood*, 430 S.C. 648, 659, 845 S.E.2d 920, 925 (Ct. App. 2020) (quoting *City of Spartanburg v. Belk's Dep't Store of Clinton*, 199 S.C. 458, 20 S.E.2d 157, 167 (1942)).

Here, because Appellant made an alternative request for a stay in his opposition brief, at the hearing, and in his Motion to Reconsider, and because the circuit court indicated in the relevant Form 4 Orders that it had considered the arguments and filings in the case, it can be reasonably inferred that the circuit court considered Appellant's stay request and properly granted judgment on the pleadings despite it.

Appellant bases his stay request on assumptions that someone will petition the probate court to appoint a guardian for Georgia J. Hanna, that the probate court will agree a guardian is necessary and appoint one, and that the appointed guardian will then seek to bring a lawsuit that Appellant claims he can bring now. The circuit court did not abuse its discretion by finding on the Complaint before it that Appellant lacked standing despite him raising the possibility of such speculative and future events.

Lack of standing is a threshold issue, and granting a stay would significantly prejudice Wilkie Development's present use and enjoyment of the Property due to the nature of the action and its cloud on title (Lis Pendens). Because Appellant failed to establish standing and any factual or legal basis to support a stay, the circuit court properly granted Wilkie Development's motion for judgment on the pleadings notwithstanding Appellant's alternative request for a stay.

#### **CONCLUSION**

For these reasons, the Court should affirm the circuit court's order granting judgment on the pleadings for Respondent Wilkie Development.

Respectfully submitted,

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