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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

William McMaster, Circuit Court Judge

Appellate Case No. 2025-001474

Lower Case No. 2024- CP-130-1093

CRAIG HANNA,

Petitioner/Appellant,

v.

BRADLEY J. HANNA and
WILKIE DEVELOPMENT, LLC,

Respondent/Appellees.

Reply Brief of Appellant

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ARGUMENT

I. CRAIG'S PLEADING AND THE RECORD ESTABLISH STANDING TO BRING THIS SUIT DUE TO HIS PRIOR ROLE AS GUARDIAN AND PERSONAL INTEREST.

A. Respondents' "no personal stake" theory ignores Craig's alleged role and interests during his guardianship and the complaint's remedial posture.

The South Carolina Supreme Court has held that "standing may be acquired: (1) through the rubric of "constitutional standing"; (2) under the "public importance" exception; or (3) by statute. *Freemantle v. Preston*, 398 S.C. 186, 192, 728 S.E.2d 40, 43 (2012) (citing *ATC South, Inc. v. Charleston Cnty.*, 380 S.C. 191, 195, 669 S.E.2d 337, 339 (2008)).

Constitutional standing is established when a Plaintiff shows that he "ha[s] suffered an "injury in fact," i.e., an invasion of a legally protected interest that is concrete and particularized, and actual or imminent; (2) there must be a causal connection between the injury and the conduct complained of; and (3) it must be likely that the injury will be redressed by a favorable decision." *Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control*, 430 S.C. 200, 210, 845 S.E.2d 481, 486 (2020) (citing *Lujan v. Defs. of Wildlife*, 504 U.S. 560-61, 112 S.Ct. 2130 (1992)).

Statutory standing exists "when a statute confers a right to sue on a party and, determining whether a statute confers standing is an exercise in statutory interpretation." *Pres. Soc'y of Charleston*, 430 S.C. 200, 210, 845 S.E.2d 481, 486 (2020) (quoting *Youngblood v. S.C. Dep't of Soc. Servs.*, 402 S.C. 311, 317, 741 S.E.2d 515, 518 (2013)). "Traditional concepts of constitutional standing are inapplicable when standing is conferred by statute." *Freemantle v. Preston*, 398 S.C. 186, 194, 728 S.E.2d 40, 44 (2012).

i. South Carolina Probate Code is the basis for Craig's Statutory Standing.

Under South Carolina Probate Code, guardians have legal authority to sue conservators for failing to abide by probate courts orders due to them qualifying as "interested persons". S.C. Code Ann. § 62-1-201(23). Under S.C. Code § 62-1-201(23) an "[i]nterested 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 which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons.

The meaning as it relates to particular individuals may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding." *Id.* Additionally, South Carolina Rules of Civil Procedure establishes that guardians may sue in their own name when authorized by law, stating that "[a]n executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action is brought." Rule 17(a), SCRPC.

Respondents argue Craig's interest is a mere expectancy as an heir apparent failing to acknowledge his interest as guardian at the time of sale. (Brief of Respondent Bradley p. 20; Respondent Wilkie p. 21) The Probate Code's definition on its face provides wide interpretation of what qualifies as an "interested person". S.C. Code Ann. § 62-1-201(23). The Probate Code specifically includes children and others whose rights may be affected in proceedings involving a ward or protected person. *See* S.C. Code Ann. § 62-1-201(23). Craig's allegations present both personal and fiduciary fit into that framework and, at minimum, confer standing at the pleading stage to seek declaratory relief enforcing compliance with the probate Order and to preserve assets

pending fiduciary appointment. Craig specifically invoked his status and role surrounding the guardianship/conservatorship and identified the probate restrictions that were allegedly breached in the challenged sale while he served as a Guardian. (Complaint p. 6; Tr. p.)

Additionally, applying the Probate Code strictly with Respondent's claim that Craig is an heir apparent and not an heir; Craig's interest as an heir apparent also meets the statutory definition of an interested person. Craig is a child of Georgia, which is specifically identified in the Statute, and his interest as an heir apparent qualifies him as "any others having a property right". S.C. Code Ann. § 62-1-201(23). Respondent's contend Craig sued solely in his individual capacity and therefore cannot rely on guardianship interests. (Brief of Respondent Wilkie p. 24) Under South Carolina Rules of Civil Procedure guardians are allowed to sue in their own name. Rule 17(a), SCRPC. The complaint and hearing record show Craig's guardianship status at the time of the sale and the need for a successor fiduciary. (R. pp.) Facts that support standing to seek interim declaratory relief and, alternatively, a stay to allow the proper fiduciary to step in.

Respondents also contend that because Craig is no longer serving as guardian of Georgia's estate; he no longer has standing. Craig served as Guardian at the time of February 2022, transfer and both brothers were later removed with no successor appointed as of May 7, 2025, hearing. (R. p.) South Carolina Probate Code; expressly states that "[t]ermination of the appointment does not affect the guardian's liability for prior acts nor his obligation to account for any funds or assets of the ward." S.C. Code Ann. § 62-5-306(c). This provision identifies guardians' ongoing legal responsibilities even after their appointment ends. Craig's ongoing obligations as a guardian run concurrently with his standing to bring this action because his actions can still be accounted for. Lastly, Respondents contend that Georgia is not presently a ward, and S.C. Code § 62-1-201(23) does not apply. This argument also fails for the same reasons stated above as at the time of the sale,

she was a ward and the action is based on conveyance when she was a ward. Therefore, Respondents' claims that Craig does not have statutory standing fails because he qualifies as an interested person in his personal and fiduciary capacity.

ii. Craig alleged a concrete injury that demonstrates constitutional standing.

Constitutional standing is demonstrated when a plaintiff proves they have experienced an "injury in fact," meaning an invasion of a legally protected interest that is specific, concrete, and either actual or imminent. Additionally, there must be a direct link between the injury and the conduct in question, and it must be probable that a favorable court decision will address the injury. *See Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control*, 430 S.C. 200, 210, 845 S.E.2d 481, 486 (2020) (*citing Lujan v. Defs. of Wildlife*, 504 U.S. 560-61, 112 S.Ct. 2130 (1992)).

Respondents argue that Craig does not meet the requirements for constitutional standing because he does not have a legally protected interest that is either actual or imminent. (Brief of Respondent Bradley pp. 16-17) While serving as conservator, Bradley conveyed Georgia's real property by deed to Wilkie Development without prior probate approval required by the conservatorship appointment order. (R. p_) These facts establish a present, concrete controversy suitable for declaratory and equitable relief and satisfy pleading-stage injury traceable to the challenged conveyance: the violation of a controlling court Order governing a protected person's property and the need for judicial supervision of the proceeds pending fiduciary appointment. Craig filed this action to address the violation of the Probate Court's order and to protect Ms. Hanna's estate from unauthorized transfers and disposition of assets.

The breach-of-fiduciary-duty and constructive fraud claims likewise track the conservator's duties of compliance and accountability regarding a protected person's property and the proceeds from any disposition. Those duties and the undisputed absence of prior approval and contemporaneous court oversight of the sale's proceeds state claims redressable through the relief sought in this case. Craig alleged that Bradley's conveyance was without court authorization, which it clearly was, violated the probate order and impaired Ms. Hanna's property interests. (R. p_) Respondents acknowledged the proceeds were placed into an account in Ms. Hanna's name following a sale conducted without prior court approval. (Tr. pp_) Respondents' reliance on "prospective harm" cases is misplaced at the pleading stage. The operative harm is the completed unauthorized conveyance of a protected person's property in contravention of a standing court order, not a hypothetical future diminution.

Even accepting Respondent's assertion on the proceeds, the core controversy remains: validity of an unapproved conservatorship conveyance and the need for court supervision and possible unwinding or alternative equitable relief—injuries clearly redressable by the Circuit Court.

II. RESPONDENTS' PRESERVATION POINTS FAIL; THE CORE THEORIES WERE RAISED AND RULED UPON, AND THE RULE 12 POSTURE FORECLOSES FACT-DEPENDENT FORFEITURE ARGUMENTS.

South Carolina's preservation doctrine requires that issues be "raised to and ruled upon by the trial court" to preserve them for appellate review. *Staubes v. City of Folly Beach*, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000). In *Johnson v. Roberts*, this Court held that "we should follow our longstanding precedent and resolve the issue on preservation grounds when it *clearly* is unpreserved." *Johnson v. Roberts*, 422 S.C. 406, 411, 812 S.E.2d 207, 210 (Ct. App. 2018), aff'd,

427 S.C. 258, 830 S.E.2d 910 (2019) (*quoting Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 330, 730 S.E.2d 282, 285 (2012)).

The orders dismissed the complaint solely on standing, rejecting Craig's reliance on his guardianship tenure and legal interests, and denied reconsideration. Craig's request for a stay and representative alignment was squarely before the court and intertwined with standing. (R. pp. __) Those issues were argued and implicitly resolved by the court's dismissal without even a hearing on the stay motion, (R. pp. __) all of which is sufficient for appellate review. Similarly, Craig's statement of issues on appeal is broad enough to encompass what he presented to this Court. *See Johnson v. Roberts*, 422 S.C. 406, 411, 812 S.E.2d 207, 210 (Ct. App. 2018), aff'd, 427 S.C. 258, 830 S.E.2d 910 (2019) (holding that Appellant's statement on issues on appeal was broad enough to preserve her Arguments before the Court.)

Respondent also asserts that merits questions about the deed's validity were not ruled on. That underscores Appellant's point: standing and alignment are threshold issues, and the circuit court cut off the case before addressing merits. The error lies, at least partially, in disposing of the case without tailoring relief to ensure the proper representative could present claims.

III. THE CIRCUIT COURT ERRED BY DISMISSING WITHOUT ADDRESSING THE PENDING MOTION TO STAY TO ALLOW APPOINTMENT OF A SUCCESSOR FIDUCIARY.

Before dismissal, Craig moved to stay proceedings pending appointment of a guardian or conservator, and both parties acknowledged no successor had been appointed. (R. p. __) The request was case-management relief designed to facilitate proper representation of Ms. Hanna's interests and to avoid whipsawing the estate between dismissal for want of standing and the undisputed absence of a fiduciary authorized to sue. Respondents argued a stay was unnecessary and suggested

that any future guardian, if appointed, could file a new action, underscoring that the trial court declined to grant interim relief before dismissal. (Tr. pp. __; R. pp. __)

That approach prejudices the protected person's estate and burdens judicial economy by forcing serial filings. A brief stay to permit appointment of a fiduciary would have ensured representation continuity, asset protection, and efficient adjudication on a complete record. Courts are required to ensure that parties have a meaningful opportunity to be heard before issuing orders that impact property or fiduciary rights, as established in *LaSalle Bank Nat'l Ass'n v. Davidson*, 386 S.C. 276, 688 S.E.2d 121 (2009), and *McIntyre v. Securities Comm'r of S.C.*, 425 S.C. 439, 823 S.E.2d 193 (Ct. App. 2018).

Given Respondents' acknowledgment that the claims belong to Georgia's representative, the circuit court should have granted a short stay or allowed substitution rather than terminate the action. A stay would have preserved the status quo and efficiently aligned the real party in interest.

IV. THE EQUITIES AND JUDICIAL ECONOMY FAVOR REVERSAL AND REMAND FOR SUBSTITUTION OR A BRIEF STAY.

Respondents opposed a stay on the ground the case might "hang in limbo," yet simultaneously conceded a future guardian could bring the same action anew. That position invites duplicative litigation and unnecessary costs. A limited remand to permit substitution of the proper fiduciary, or a short stay to facilitate appointment, promotes efficiency and preserves claims closely tied to an unapproved conservatorship transaction already pleaded and briefed.

CONCLUSION

Craig plausibly alleged standing by identifying a completed, unauthorized conveyance of a protected person's real property in violation of a probate order and the ongoing need for fiduciary oversight of the proceeds, all traceable to Respondents' conduct and redressable through

declaratory and equitable relief. At minimum, the circuit court should have stayed the matter to allow appointment of a successor fiduciary rather than dismiss outright.

Craig respectfully requests that the Court: a) Reverse the orders granting the motion to dismiss and judgment on the pleadings; and b) Remand with instructions either to proceed on the merits or, alternatively, to enter a temporary stay pending appointment of a successor guardian or conservator and allow substitution of the proper fiduciary.

This the 23rd day of January 2026.

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CERTIFICATE OF SERVICE

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