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SC Court of Appeals

IN THE COURT OF APPEALS

STATE OF SOUTH CAROLINA

APPELLATE CASE NUMBER 2024 – 001929

George Jenkins, Barry Heyward, Ulyssess Heyward, Florine Heyward Pickney, and Eric Ramsey claimants, of whom George Jenkins is the Appellant

George S. Jenkins, pro-se

Appellant

v

Florence Heyward Davis

Respondent,

Appeal from Charleston County

Hon. Jennifer McCoy, Circuit Court Judge

Appellate Case Number 2024 – 001929

APPELLATE'S REPLY BRIEF

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S.C. Code Ann. § 62-2-502 (Will execution requirements)
S.C. Code Ann. § 62-1-302 (Probate Court jurisdiction)
S.C. Code Ann. § 62-8-101 et seq. (South Carolina POA Act)

Cases

Belton v. Smith, 391 S.C. 286, 705 S.E.2d 473 (Ct. App. 2011)
In re Last Will & Testament of Whitaker, 387 S.C. 240, 692 S.E.2d 239 (Ct. App. 2010)
Ray v. Ray, 403 S.C. 527, 744 S.E.2d 604 (Ct. App. 2013)
Fanning v. Fanning, 298 S.C. 1, 377 S.E.2d 330 (1989)

Other Authorities

Restatement (Third) of Agency § 8.01–8.06 (Fiduciary obligations of agents)

ARGUMENT

I. A Power of Attorney Must Be Exercised Solely for the Benefit of the Principal.

South Carolina imposes strict fiduciary duties on any agent acting under a Power of Attorney (POA). These duties are rooted in both statute and longstanding common law. Respondent's brief asserts broad authority under the 2012 POA but ignores the fundamental rule that every action by an agent must be taken solely for the benefit of the Principal.

Under S.C. Code Ann. § 62-8-114, an agent must act loyally, avoid conflicts, and refrain from using the POA for personal benefit unless expressly authorized. These statutory duties merely codify existing common-law principles. Respondent's contention that the POA authorized her to transfer assets to herself is incorrect as a matter of law. Courts have consistently held that even the broadest POA does not authorize self-dealing unless the document explicitly states so and the agent proves fairness—something Respondent has failed to do.

Even before codification, South Carolina courts consistently held that any act by an attorney-in-fact that benefits the agent at the expense of the principal is presumptively invalid, and the agent bears the burden of proving fairness and voluntary intent.

Respondent's conduct—rewriting the decedent's testamentary documents to benefit herself—violates the most basic fiduciary obligations imposed by law. Whether or not the POA contained broad powers, those powers cannot be used to enrich the agent. The law does not permit a POA to be used as a weapon to alter inheritance for the agent's personal gain.

Respondent's argument that the POA "expressly authorized" her to change estate documents fails because:

No POA can authorize an agent to change a principal's will.

Will execution and revocation require personal capacity, statutory formalities, and cannot be delegated.

Even if a POA were broadly worded, it cannot override fiduciary duties.

Any transaction benefiting the agent is presumed invalid and subject to strict scrutiny.

Thus, Respondent's reliance on the POA is misplaced as a matter of black-letter law.

II. Respondent Used the POA to Benefit Herself, Violating Long-Standing Fiduciary Duties

Respondent's own admissions reveal she used the POA to revise estate documents and shift property interests to herself. Whether or not the POA was broad, fiduciary duties override any authority that appears to permit such conduct.

This Court has repeatedly held that transactions benefiting an agent are presumptively invalid, requiring proof of fairness, transparency, and the Principal's clear intent.

Respondent has provided none. Her actions constitute classic self-dealing and violate South Carolina fiduciary law.

Respondent's actions were not taken to preserve or protect the Decedent's interests, but instead to alter the Decedent's long-standing testamentary plan in Respondent's favor.

South Carolina courts uniformly hold that:

A POA may not be used to rewrite estate plans for the agent's advantage, and

Any self-dealing by an agent is void unless proven fair, voluntary, and consistent with the principal's wishes.

Respondent has produced no admissible evidence that the Decedent intended to change his estate plan to favor her. The Probate Court, after reviewing these same documents and

actions, expressly found that the wills were the product of Respondent's misuse of power and voided the documents accordingly.

III. The Probate Court Already Found Respondent's Conduct Invalidated the Wills

Respondent claims Appellant is "improperly raising probate issues," ignoring that the Probate Court already determined her actions invalidated the 2019 will. Those findings are relevant and binding.

The Circuit Court erred by ignoring the Probate Court's factual findings. Respondent may not selectively rely on probate rulings when convenient and disregard those that undermine her position.

IV. Respondent Misstates Jurisdiction and the Appellate Standard of Review

Respondent argues this Court lacks jurisdiction because Appellant is "retrying" probate matters. This is false. Appellant challenges the Circuit Court's Rule 56 summary judgment order. This Court has jurisdiction to review such orders, including the Circuit Court's disregard of relevant Probate Court findings.

V. Respondent's Claim That Appellant Presented No Admissible Evidence Is Incorrect

Respondent asserts Appellant offered "no medical evidence" and "no legal evidence." This argument misunderstands the basis of the appeal. Appellant's claim is grounded in Respondent's misuse of the POA, not the Principal's medical condition.

Moreover, the Probate Court's findings and Respondent's own admissions constitute competent evidence sufficient to defeat summary judgment.

VI. Respondent's Reliance on the 2012 POA Fails Because Self-Dealing Was Never Authorized

Respondent argues the POA authorized her to deed property to herself. There is no language in the POA that expressly authorizes self-dealing. Under both pre-2017 law and post-2017 statute, self-dealing requires explicit authorization, which is absent here.

VII. Respondent’s Argument Concerning the 2017 Statutory Amendments Is Misleading

Respondent claims the stricter fiduciary rules enacted in 2017 do not apply. Even if true, South Carolina law has always prohibited self-dealing absent explicit permission. The 2017 Act clarified—not created—these requirements.

VIII. Will Validity Is Not the Issue; Respondent’s POA Misconduct Is

Respondent argues Appellant’s claims are “will challenges.” They are not. The issue is whether Respondent misused the POA. The Probate Court already voided the 2019 will, so Respondent’s argument is moot.

IX. Respondent’s Attacks Concerning Medical Evidence Are Irrelevant and Improper

Respondent’s remarks about Appellant’s medical extension request are irrelevant and appear intended to disparage Appellant rather than address legal issues.

X. Respondent Cannot Claim the 2019 Will Was “Inoperative” While Using It to Justify Transfers

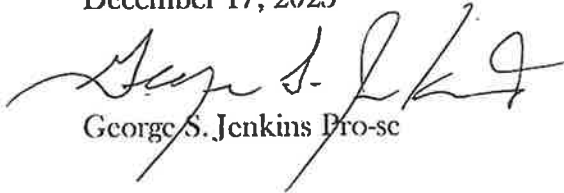
Respondent simultaneously argues the will is “inoperative” while relying on it to justify property transfers. She cannot benefit from her own misconduct. Transfers executed under a void document are themselves void.

CONCLUSION

For the foregoing reasons, appellant respectfully requests that this Court reverse the Circuit Court's grant of summary judgment and remand the matter for further proceedings consistent with South Carolina law.

Respectfully submitted,

December 17, 2025



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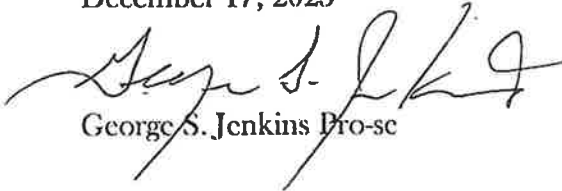
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CONCLUSION

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PROOF OF SERVICE

I certify that I have served the Appellant's Reply Brief upon the respondent Florence Heyward Davis by depositing a copy of it in the United States mail, postage prepaid, on December 19, 2025. Addressed to Florence Heyward Davis at 14 Ridge Square NW, Suite 300, care of DCUL Office 308 Washington DC 20016.

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