

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Charles B. Simmons, Master-In-Equity

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Common Pleas No. 2023-CP-23-05263

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**RECEIVED**

**Feb 26 2026**

**SC Court of Appeals**

NASSCO, Inc., Respondent,

v.

Byunghwan Chay a/k/a Bjorn Chay and Michelle Mihyang Chay, Defendants,

Of whom Byunghwan Chay is the Appellant.

Appellate Case No. 2024-001489

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PETITION FOR REHEARING

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On February 11, 2026, this Court affirmed the Master-In-Equity’s ruling that Mr. Chay’s transfer of his half-interest ownership of a home to his ex-wife violated Section 27-23-10 of the South Carolina Code—the Statute of Elizabeth. *NASSCO, Inc. v. Chay*, Op. No. 2026-UP-057 (S.C. Ct. App. filed Feb. 11, 2026). Pursuant to Rule 221 (a), SCACR, Petitioner respectfully requests this Court rehear the matter considering the significant points overlooked and/or misapprehended by this Court discussed below.

**A. This Court’s holding is inconsistent the purpose of the Statute of Elizabeth and basic principles of property rights.**

This Court held that Mr. Chay lacked standing to appeal, finding that he “does not qualify as an ‘aggrieved party.’” *Chay* at 2. Specifically, this Court concluded that “[a]t the time NASSCO

commenced the present litigation, [Mr. Chay] had relinquished his interest in the residence, and the family court had entered a final order divorcing [Mr. Chay] and [Ms. Chay]; therefore, [Mr. Chay] was not aggrieved by the master-in-equity's order because it did not affect his rights or interest." *Id.*

Respectfully, the purpose of the Statute of Elizabeth is to undo relinquishments of interests in property to protect a creditor's access to the property to satisfy a debt. *See* S.C. Code § 27-23-10 (“[e]very . . . conveyance of lands . . . for any intent or purpose to delay, hinder, or defraud creditors . . . must be deemed and taken . . . to be clearly and utterly void”). It is therefore unsurprising that Mr. Chay had relinquished his interest in the residence prior to NASSCO bringing the current litigation. That relinquishment was *the subject of the litigation*. NASSCO brought the current litigation for the sole purpose of undoing Mr. Chay's relinquishment in the residence. This is true of all cases brought pursuant to the Statute of Elizabeth that seek to void an earlier transfer of property. NASSCO was successful in this endeavor resulting in the voiding of Mr. Chay's relinquishment of his interest in the property. Accordingly, Mr. Chay is an aggrieved party. *See* S.C. Code Ann. § 18-1-30 (“Any party aggrieved may appeal”); *Cisson v. McWhorter*, 255 S.C. 174, 178, 177 S.E.2d 603, 605 (1970) (“an aggrieved party is one who is injured in a legal sense; one who has suffered an injury to person or property”).

The voiding of a conveyance pursuant to the Statute of Elizabeth is an injury to the person who sought to convey the property in the manner they wished to convey it. One of the “bundle of rights” that a property owner possesses is the right to transfer the property to another of his choosing. *See Macaulay v. Wachovia Bank of S.C., N.A.*, 351 S.C. 287, 295, 569 S.E.2d 371, 376 (Ct. App. 2002) (“an important element of the ownership of property is the right of the owner to convey it on any terms within her intention”) (internal alteration omitted) (quoting *Avant v.*

*Johnson*, 231 S.C. 119, 133, 97 S.E.2d 396, 403 (1957); *Rogers-Kent, Inc. v. Gen. Elec. Co.*, 231 S.C. 636, 644, 99 S.E.2d 665, 668 (1957) (“Property in a thing consists not merely in its ownership and possession, but in the unrestricted right of use, enjoyment, *and disposal*. Anything which destroys one or more of these elements of property to that extent destroys the property itself”) (emphasis added) (quoting *Gasque v. Conway*, 194 S.C. 15, 21, 8 S.E.2d 871, 873 (1940)).

If this Court were correct that a party who relinquished his rights in a property lacks standing to appeal a lower court’s order which voided this relinquishment on the basis that the party had relinquished his right to the property, a debtor/grantor of property could never have standing to appeal a lower court’s ruling voiding a conveyance on the basis that it violated the Statute of Elizabeth. The attempted transfer of an ownership interest in property is a prerequisite to a Statute of Elizabeth claim. A court’s order which voids the transfer exposes the asset to seizure by the creditor and deprives the debtor/grantor of his legal right to dispose of the property as he wishes. Thus the debtor/grantor is aggrieved when a lower court voids his attempted conveyance.

**B. This Court’s holding is inconsistent with prior case law allowing debtor/grantors to appeal lower court rulings that have voided attempted transfers of property under the Statute of Elizabeth.**

In addition to this Court’s decision being inconsistent with the purpose of the Statute of Elizabeth and basic principles of property rights, it is also inconsistent with South Carolina case law. Consider this Court’s decision in *First Citizens Bank & Tr. Co. v. Park at Durbin Creek*, 419 S.C. 333, 797 S.E.2d 409 (Ct. App. 2017). In *Park at Durbin Creek*, a debtor/grantor transferred, i.e., relinquished, his ownership interests in real estate to an LLC. *Id.* at 337, 797 S.E.2d at 411. The debtor also transferred his ownership interests in the LLC to his ex-wife and daughters. *Id.* at 338, 797 S.E.2d at 412. When the creditor (First Citizens) sought to collect their debt, it discovered

the transfers and asked the circuit court to set aside the transfers on the grounds that they violated the Statute of Elizabeth. *Id.*

The circuit court in *Park at Durbin Creek* set aside the transfers and the debtor/grantor appealed to this Court. *Id.* at 338-39, 797 S.E.2d at 412. While this Court affirmed the circuit court's order setting aside the transfers on the merits, this Court did not hold—as it does in Mr. Chay's case—that the debtor/grantor lacked appellate standing because he had relinquished his rights in the property. *Id.* at 343, 797 S.E.2d at 414. This makes sense because the relinquishment of the interest in the property was voided by the lower court. Accordingly, the interest in the property relinquished was reinstated by the lower court's order.

Consider also this Court's decision in *Judy v. Judy*, 403 S.C. 203, 742 S.E.2d 672 (Ct. App. 2013). In *Judy*, the debtor/grantor transferred his interests in various pieces of real and personal property to his sons, thereby relinquishing his own property interests in them. *Id.* at 206-07, 742 S.E.2d at 674. The creditors sued to set aside the conveyances as having violated the Statute of Elizabeth and the lower court voided the conveyances. *Id.* at 207, 742 S.E.2d at 674. Interestingly, in *Judy*, the debtor/grantor argued on appeal that the creditors did not have standing because they were subsequent creditors and were not protected by the Statute of Elizabeth. This Court disagreed, finding that subsequent creditors are protected by the Statute of Elizabeth and do have standing to seek to void a conveyance in an effort to collect a debt. *Id.* at 209-10, 742 S.E.2d at 676. Nowhere in this Court's opinion in *Judy* is there even a hint that the debtor/grantor lacked appellate standing because he relinquished his rights in the property.

This Court does not cite to any case in its opinion that has found a debtor/grantor lacked appellate standing when a lower court has voided a transfer that he attempted on the basis that he relinquished his interest in the property. Undersigned is unaware of any case in South Carolina that

has reached this tenuous conclusion. The closest thing this Court pointed to was its decision in *Powell v. Green*, 281 S.C. 358, 315 S.E.2d 183 (Ct. App. 1984), a case that was not about the Statute of Elizabeth (defrauding of creditors) but was instead about section 27-23-20 (defrauding of purchasers). Even if *Powell* had dealt with the Statute of Elizabeth, this Court in *Powell* only held that a wife who transferred her interest in the marital home to her sons during divorce proceedings was not an indispensable party to a subsequent lawsuit brought by the sons to partition the property held by the ex-husband. *Id.* at 359, 315 S.E.2d at 183-84. The holding in *Powell* in no way suggests that a debtor/grantor whose attempted transfer of property is voided by a lower court lacks *appellate standing* to appeal the voiding of his attempted transfer.

**C. Mr. Chay is aggrieved by the lower court’s decision because it voided his attempt to transfer his half-interest ownership in a home to his ex-wife.**

Here, Mr. Chay sought to transfer his ownership interest in property to his ex-wife. Transferring property you own in a manner you see fit is a legal right. The Master-In-Equity’s ruling voided this transfer. *See Alderman v. Alderman*, 178 S.C. 9, 44, 181 S.E. 897, 911 (1935) (“One of the main incidents of property is its transferability. The power of disposing of stock, like the power of disposing of any other property, is a common right, and necessarily attaches to ownership”). It is difficult to see how the Master-In-Equity’s ruling does not bear directly upon Mr. Chay’s legal right to transfer his interest in the property. The Master-In-Equity’s ruling reinstated Mr. Chay’s half-interest in the marital home—an interest Mr. Chay attempted to relinquish to a specific person for a specific reason. To the extent that he relinquished his interest in the property, the order under appeal has undone that relinquishment. This Court’s conclusion that he lacks appellate standing because he relinquished his interest in the property is belied by the lower court’s ruling itself which found that Mr. Chay’s relinquishment was void.

Accordingly, Mr. Chay is an aggrieved party and respectfully requests that this Court grant this petition for rehearing, reverse its decision that he lacks appellate standing, and rule on the merits of his arguments made in his final brief of appellant.

Respectfully submitted,

s/Adam Ruffin

Adam Sinclair Ruffin

SC Bar No. 101350

1320 Main Street, Suite 300

Columbia, SC 29201

(803) 470-5629

adam@ruffinappeals.com

Attorney for Byungwhan Chay

This 26th day of February 2026.

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PROOF OF SERVICE

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Pursuant to Rule 262(c)(3), SCACR, undersigned counsel hereby certifies that a true copy of the petition for rehearing in the above-referenced case has been served upon Aaron Angell and Jonathan Waller at the primary e-mail address listed in the Attorney Information System (AIS) on February 26, 2026.

s/Adam Ruffin  
Adam Sinclair Ruffin  
SC Bar No. 101350  
1320 Main Street, Suite 300  
Columbia, SC 29201  
(803) 470-5629  
adam@ruffinappeals.com

Attorney for Byunghwan Chay

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