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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Probate Court

David L. Michel, Associate Judge of Probate
Dale Van Slambrook, Circuit Judge
Mark Hayes, Circuit Judge

Probate Case No.: 2019-ES-10-00394
Common Pleas Case No.: 2024-CP-10-00598
Common Pleas Case No.: 2024-CP-10-01509
Appellate Case No.: 2025-000194

In re: Veronique W. Pickett

Bayard Scott Pickett, Jr.,
...…….Appellant,

v.

Laura V. Jones, as Trustee of the Laura V. Jones Trust as Established by the Will of Veronique H.W. Pickett Dated March 31, 1999, and as Trustee of the Kathleen E. Anderson Trust as Established under the Will of Veronique H.W. Pickett Dated March 31, 1999,……Respondent,

AND

Kathleen Anderson aka Kathleen Elizabeth Anderson, in her individual Capacity,…….Respondent.

BRIEF OF APPELLANT

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STATEMENT OF CASE

The Estate of Veronique W. Pickett was opened in 2019, and Appellant Bayard Scott Pickett, Jr. (hereinafter "Mr. Pickett") was appointed as Personal Representative. (R. p. 33). After administrative delays and multiple extensions, the Probate Court administratively closed the Estate in 2022. (R. p. 34). In May 2023, Mr. Pickett applied for Subsequent Administration, while Respondent Laura V. Jones filed a competing petition to appoint a Special Administrator. (R. p. 35). Following a September 27, 2023, hearing, the Probate Court appointed C. Mac Gibson as Special Administrator without finding Mr. Pickett unfit or unable to serve. (R. pp. 110-114). Appellant moved for reconsideration, which the Probate Court denied on January 24, 2024. (R.

p. 242). On February 2, 2024, Appellant appealed to the Circuit Court and was assigned a case number 2024-CP-10-00598. (R. p. 250). On February 27, 2024, Respondent Jones filed a motion to lift the applicable stay. (R. p. 275). While the appeal in 2024-CP-10-00598 was pending, on March 12, 2024, the Probate Court entered an order lifting the automatic stay. (R. p. 300). Appellant filed an appeal to the Circuit Court and was assigned case number 2024-CP-10-01509. (R. p. 305). On April 2, 2024, Respondent Jones filed a Motion to Dismiss the appeal on the basis that the order lifting the automatic stay was interlocutory. (R. p. 305). On September 16, 2024, the Circuit Court heard the appeal in 2024-CP-10-00598 and remanded for findings regarding Pickett's fitness to serve as Personal Representative. (R. p. 338). On September 23, 2024, Petitioner filed a Memorandum in Opposition to the Motion to Dismiss the appeal (R. p. 341). On October 21, 2024, Judge Van Slambrook granted Respondent's motion to dismiss the appeal. (R. p. 345). Petitioner filed a Motion to Reconsider on October 31, 2024. (R. p. 352). On January 10, 2025, Judge Van Slambrook denied the motion to reconsider. (R. p. 360). On Respondent's Motion to Reconsider, Judge J. Mark Hayes entered a January 27, 2025, order granting reconsideration and affirming the Probate Court's appointment of a Special Administrator. (R. p. 367). On February 4, 2025, Petitioner timely filed the appeal of the Order in 2024-CP-10-01509. (R. p. 373).

STATEMENT OF FACTS

Appellant Pickett, the Decedent's son, was nominated in the Will to serve as Personal Representative. (R. p.001). During his appointment, Mr. Pickett filed inventories, accountings, and closing documents to advance administration of the Estate, and he acted in good faith for the beneficiaries. At the September 27, 2023, hearing, the Probate Court expressly stated that "nothing has shown that you've done anything improper," yet nevertheless appointed C. Mac

Gibson as Special Administrator. (R. pp. 110-114). No evidence of mismanagement, malfeasance, or incapacity was presented or contained in the record. Mr. Pickett timely sought reconsideration and appealed. Throughout the proceedings, Respondent never demonstrated that Mr. Pickett was unfit, committed malfeasance or that a Special Administrator was necessary to preserve the Estate.

STANDARD OF REVIEW

The rules governing appeals at law and in equity are well settled. "The standard of review applicable to cases originating in the Probate Court depends upon whether the underlying cause of action is at law or in equity." *In re Estate of Hyman*, 362 S.C. 20, 25, 606 S.E.2d 205, 207 (Ct. App. 2004). The underlying nature of the matter before the Probate Court was the appointment of a special fiduciary to manage the estate assets, which is akin to the removal of a personal representative; thus, the action is in equity. *See Fisher v. Huckabee*, 2016-UP-528 (S.C. App. Dec 21, 2016); *see Dean v. Kilgore*, 313 S.C. 257, 259, 437 S.E.2d 154, 155 (Ct. App. 1993) (holding an action to remove a personal representative appointed pursuant to the terms of a will is equitable in nature). If probate proceedings are equitable in nature, then the circuit court on appeal may make factual findings according to its own view of the preponderance of the evidence. *Ex parte Small*, 69 S.C. 43, 48 S.E. 40 (1904); *Eagles v. South Carolina National Bank*, 301 S.C. 402, 392 S.E.2d 187 (Ct. App. 1990).

Whether a court has subject matter jurisdiction is a question of law that is reviewed *de novo*. *Deborah Dereede Living Tr. dated Dec. 18, 2013 v. Karp*, 427 S.C. 336, 346, 831 S.E.2d 435, 441 (Ct. App. 2019); *Dove v. Gold Kist, Inc.*, 314 S.C. 235, 237-38, 442 S.E.2d 598, 600 (1994); *Capital City Ins. Co. v. BP Staff, Inc.*, 382 S.C. 92, 99, 674 S.E.2d 524, 528 (Ct. App. 2009); *Proctor v. Steedley*, 398 S.C. 561, 573, 730 S.E.2d 357, 363 (Ct. App. 2012), (stating an

appellate court employing the de novo standard of review "is free to decide questions of law with no particular deference to the trial court"); see *Transp. Ins. Co. v. S.C. Second Injury Fund*, 389 S.C. 422, 427, 699 S.E.2d 687, 689 (2010), (holding questions of statutory interpretation are questions of law which are subject to de novo review).

ARGUMENT

I. THE PROBATE COURT ERRED BY ISSUING A SUBSEQUENT ORDER ON MARCH 12, 2024, WHILE THE MATTER WAS PENDING ON APPEAL AS OF FEBRUARY 2, 2024, IN VIOLATION OF RULES 205 AND 241(a) OF THE SCACR.

Under South Carolina Appellate Court Rule (SCACR) 205, "Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal and all matters arising in the appeal." In tandem, SCACR Rule 241(a) mandates: "The service of the notice of appeal...acts to automatically stay matters decided in the order, judgment, or decree appealed from and the relief ordered therein." In *Conner*, the South Carolina Supreme Court held that "Once an appeal is perfected, the trial court is divested of jurisdiction over the subject matter of the appeal and retains authority only over matters not affected by the appeal." *Conner v. City of Forest Acres*, 348 S.C. 454, 560 S.E.2d 606 (2002).

The filed appeal of the Probate Court's order dated February 2, 2024, appointing C. Mac Gibson as special administrator should have stayed all matters before the Probate Court concerning the appointment of a special administrator. Once the Notice of Appeal was filed and perfected, on February 2, 2024, the Probate Court was divested of jurisdiction over the appealed matters. Thus, the Probate Court's subsequent March 12, 2024, order lifting the automatic stay was issued in clear

violation of SCACR 205 and 241(a). This was not merely a procedural misstep but a jurisdictional defect that renders the March 12, 2024, order void ab initio. *Id*. at 606.

Accordingly, the September 27, 2023, order appointing a C. Mac Gibson as Special Administrator and any relief flowing from it should have been automatically stayed. The Probate Court's act of entering a subsequent order on March 12, 2024, that effectively reaffirmed or extended the same relief while the appeal was pending, was impermissible. The Probate Court's order lifting the stay was an attempt to moot the appeal which challenged C. Mac Gibson's appointment. The language of the order was a clear attempt to defeat the effect of the automatic stay by calling the order temporary. (R. p. 300). Moreover, the South Carolina Supreme Court in *Arnal v. Frasier*, 371 S.C. 512 (2007), reaffirmed that post-appeal orders inconsistent with a stay are void, not merely erroneous. As such, the March 12, 2024 Order was void and must be vacated.

II. THE PROBATE COURT LOST JURISDICTION TO APPOINT A SPECIAL ADMINISTRATOR ONCE APPELLANT REQUESTED REMOVAL PURSUANT TO S.C. CODE ANN. § 62-1-302(d).

The South Carolina Probate Court has exclusive jurisdiction over estate matters; however, this jurisdiction is subject to timely requests for removal to the Circuit Court as stated in S.C. Code Ann. § 62-1-302. Specifically, S.C. Code Ann. § 62-1-302(6)(d) mandates removal, if timely requested, and orders that the proceeding or action "must be removed to the circuit court. . ." S.C. Code Ann. § 62-1-302(d)(1) allows a formal proceeding concerning the appointment of general personal representatives to be removed to circuit court if requested within ten (10) days after all responsive pleadings are due. S.C. Code Ann. 62-1-302(f) states that:

> "notwithstanding the exclusive jurisdiction of the probate court . . . if an action described in subsection (d) is removed to the circuit court by motion of a party, or by the probate court on its own motion, the probate court may, in its discretion, remove any other related matter or matters which are before the probate court to the circuit court if the probate

> court finds that the removal of such related matter or matters would be in the best interest of the estate or in the interest of judicial economy. For any matter removed by the probate court to the circuit court pursuant to this subsection, the circuit court shall proceed upon the matter de novo."

Accordingly, it was an error for the Probate Court to fail to remove this proceeding to the Circuit Court.

Here, a right of removal exists because there was a "formal proceeding" before the Probate Court. Further, S.C. Code Ann. § 62-1-201(44) states "special administrator" means a personal representative as described by §§ 62-3-614 through 62-3-618. This case surrounds the issue of whether to appoint a special administrator or the successor personal representative to administer the Estate. Paragraph 30 of the timely filed answer of Pickett requested to remove the matter to Circuit Court. Pursuant to S.C. Code Ann. § 62-1-302(f), the request for removal needs to be made by motion. Paragraphs 23 through 26 of the filed answer contain said motion. Paragraph 23 reiterated the allegations in the preceding paragraphs of the answer, including the 12(b)(6) motion contained in paragraph 15. These paragraphs, read in conjunction, met the minimum requirements, pursuant to the Probate Code and pleading requirements to provide notice of the request for removal within the 12(b)(6) motion. S.C. Code Ann. 62-1-102(a) states that "this Code shall be liberally construed and applied to promote its underlying purposes and policies." Further, our Courts have held that Rule 12(b)(6) of the South Carolina Rules "retains the Code Pleading standard . . . rather than the more lenient notice pleading standard found in the federal rules." *Harry M. Lightsey, Jr. & James F. Flanagan*, South Carolina Civil Procedure 93, 2nd ed. (1996); *see also Justice v. The Pantry*, 335 S.C. 572, 518 S.E.2d 40 (1999) (citing South Carolina Civil Procedure). However, "technical, restrictive or outmoded requirements of Code Pleading are not necessarily required." *Lightsey, Jr. & Flanagan* at 93-94. Furthermore, Rule 8(f), SCRCP, states

that all pleadings are to be construed to do substantial justice to all parties. To ensure substantial justice to the parties, the pleadings must be liberally construed. *Russell v. City of Columbia*, 305 S.C. 86, 406 S.E.2d 338 (1991).

Here, given that the request for removal was timely made, coupled with the substantial justice to the parties' standard, the Probate Court should have removed this matter to the Circuit Court. It was clear that the Court had reviewed the filed answer and the demands contained therein. (R. p. 379) The Court noted that "there was a request for a jury trial. Let the record reflect that you can have a jury trial on numerous issues. One of them is not for the appointment of a special administrator or a personal representative, but I believe there was other stuff alleged in that answer that you can have a jury trial on . . ." The Court finally noted at the end of the hearing that it was aware of the filing and thanked all parties for the "detailed filings." Judge Michel stated, "And let the record reflect the filings. The Court appreciates the detailed filings. There have been very detailed filings in this case. It's been very helpful for the Court the way the lawyers have pled their -- both of their parties' positions."

Our Supreme Court has held that the failure to remove a matter is reversible error and an abuse of discretion. The South Carolina Supreme Court in *Cotty v. Yartzeff*, 309 S.C. 259, 262, 422 S.E.2d 100, 102 (1992) has held that provided the motion for removal is timely, removal to the circuit court is not a matter of discretion for the Probate Court; rather, it must occur if the causes of action requested for removal relate to certain subject matters, among them formal proceedings for the probate of wills and the appointment of personal representatives. Moreover, the Probate Court cannot hear the matter once removal has been requested.

In conclusion, it is clear from the record, that the Probate Court erred in taking any action, at the initial hearing in this matter, other than removal to the Circuit Court. As such, the

Probate Orders of September 27, 2023, and January 16, 2024, must be vacated, and any such rulings as a matter of law should have been transferred to the Circuit Court for a de novo hearing.

III. THE PROBATE COURT ERRED BY APPOINTING A SPECIAL ADMINISTRATOR WITHOUT FINDING THAT THE NAMED PERSONAL REPRESENTATIVE, BAYARD SCOTT PICKETT, JR., WOULD NOT OR COULD NOT ACT UNDER S.C. CODE ANN. §§ 62-3-614 AND 62-3-615, AND BY FURTHER FINDING THAT HE WAS UNFIT TO SERVE UNDER § 62-3-618.

Special administrators are used only in times of need, when an estate must be preserved and protected before a personal representative can be appointed. The Probate Court committed an error of law by not applying S.C. Code Ann. §§ 62-3-614 and 62-3-615, and by making erroneous findings that the named personal representative in the will, Bayard Scott Pickett, Jr., would not or could not act. The court further erred by finding that Mr. Pickett was unfit to serve under S.C. Code Ann. § 62-3-618, contrary to both the evidence and South Carolina precedent.

The distinction between the informal and formal appointment of a special administrator is dispositive. S.C. Code Ann. § 62-3-614 explains the role of a special administrator in an informal proceeding versus a formal proceeding. In informal cases, "a special administrator may be appointed…(a) to protect the estate of a decedent prior to the appointment of a general personal representative…or (c) to take appropriate actions involving estate assets." In contrast, § 62-3-614(2) requires, in formal proceedings, a "finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration, including its administration in circumstances where a general personal representative cannot or should not act."

Importantly, § 62-3-615(a) provides: "If a special administrator is to be appointed pending the probate of a will which is the subject of a pending application or petition for probate, the person named executor in the will shall be appointed if available and qualified." The role of a special administrator typically ends when a personal representative is appointed. *See* S.C. Code Ann. § 62-3-618.

Here, the required findings under § 62-3-614(2) were not made. The Appellant applied to serve as successor personal representative before any special administrator was appointed. (R. p. 33) The undisputed facts established that Mr. Pickett filed his Petition for Appointment, signed the Qualification and Appointment Statement, and was able and willing to serve. The written Order contains no finding that Mr. Pickett was unfit. Nothing in the appealed Order or transcript reflects the court's statement: "I want you to know sir, I don't think that the testimony here today has shown – and it may change – but nothing has shown that you've done anything improper." The court further stated, "I don't think there was anything done improperly. It just wasn't done." (R. p. 328)

Mr. Pickett had, however, signed and electronically filed the Inventory and Appraisement via EZ filing the day before the hearing (R. p. 380), and had filed a Proposal for Distribution prior to any final decision. (R. p. 381) Thus, all documents requested by the court were on record before the appointment of the special administrator.

The mere lack of timely filings is not sufficient grounds for finding malfeasance or unfitness, not does it justify bypassing the testator's chosen personal representative[1]. The uncontroverted hearing testimony confirmed that Mr. Pickett was ready to conclude the Estate

[1] S.C. Code Ann. § 62-3-1001(b) states "If the personal representative does not timely perform his duties pursuant to subsection (a), and all interested persons have not waived the requirement pursuant to subsection (e), an interested person may petition for an order compelling the personal representative to perform his duties pursuant to subsection (a). After notice and hearing in accordance with Section 62-1-401, the court may issue an order requiring the personal representative to perform his duties pursuant to subsection (a)."

following the settlement of the Duke Highfield litigation and the preparation of the final amended return. The record shows no evidence that the estate required preservation through a special administrator. Once Laura Jones filed the petition for special administrator and served Mr. Pickett, he was automatically enjoined from further action without court approval under § 62-3-414(2), which stays informal proceedings. The statute requires that "the previously appointed personal representative…shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise." Because the law already restrained Mr. Pickett from disbursing funds, and there was no evidence that the Estate risked loss, the appointment of a special administrator was unnecessary.

The Probate Court appeared to reason that because there was no active personal representative at the time of the September 22, 2023, hearing, it did not need to find that Mr. Pickett was unwilling or unable to serve. This was a clear error of law. Before the special administrator was appointed, a Motion to Appoint Bayard Scott Pickett, Jr. as Successor Personal Representative had been filed. (R. p. 35). In its Motion to Reconsider Order, the Probate Court stated it did not rule on that motion. (R. p. 248) But the practical effect of appointing a special administrator while refusing to hear Mr. Pickett's motion was to find – implicitly – that he was unfit or unable to serve. The South Carolina Supreme Court in *Church* cautioned that removal of a personal representative is disfavored and should occur only when necessary to protect the estate. *Church v. McGee*, 391 S.C. 334, 705 S.E.2d 481 (Ct. App. 2011).

The Probate Court's failure to rule on Mr. Pickett's motion to serve as successor personal representative was a further error of law. The absence of a current personal representative cannot justify a special administrator when the named personal representative

stands ready, qualified, and able to serve. S.C. Code Ann. § 62-3-615 mandates that "the person named executor in the will shall be appointed if available and qualified." The court's failure to follow that command contravened the Probate Code and deprived Mr. Pickett of his statutory priority.

In addition, S.C. Code Ann. § 62-3-203(f) provides that the person named in the will "has priority to serve." South Carolina courts have repeatedly recognized that "there is a strong deference shown to the personal representative chosen by the testator." *Church*, S.E.2d at 481. A testator's choice is presumed fit absent clear evidence to the contrary. See *Johnson v. Thornton*, 264 S.C. 252 (S.C. 1975) ("In determining this question, we are guided by the rule that in construing the provisions of a will, the intention of the testator is the primary inquiry of the court."); *Limehouse v. Limehouse*, 256 S.C. 255 (S.C. 1971) ("The court's aim in construing a Will is to discover and effectuate the expressed intention of the testator.") *Wilson v. Dallas*, 403 S.C. 411, 453 (S.C. 2013).

Here, Mrs. Veronique H.W. Pickett expressly named her son, Bayard Scott Pickett, Jr., as personal representative in her will. (R. p. 1). The Probate Court found no wrongdoing – indeed, it stated he had done "nothing improper" – yet still appointed another person. The court's order effectively declared Mr. Pickett unfit to serve without factual or legal support. Moreover, the will provided that if her son could not serve, he was to appoint a suitable successor. By disregarding this provision, the Probate Court failed to honor the testator's intent, the "cardinal rule" in will construction.

The record contains no evidence that the Estate was at risk. Testimony showed that the funds were held in insured, segregated accounts protected by the FDIC. The Probate Court's

finding of unfitness and its appointment of a special administrator therefore lacked both factual and statutory basis.

Furthermore, a Family Settlement Agreement dated February 21, 2019, independently confirmed that Mr. Pickett was to serve as personal representative. The family – including Kathleen Anderson, Laura Jones, and Bayard Scott Pickett, Jr. – jointly agreed to this arrangement, which was adopted by the Court. (R. p. 32). Under S.C. Code Ann. § 62-3-1102, once such an agreement is approved, "all further disposition of the estate is in accordance with the terms of the agreement." That binding settlement forecloses any later challenge to Mr. Pickett's suitability absent fraud or malfeasance, neither of which was alleged or proved.

Finally, South Carolina precedent is clear that personal representatives cannot be removed solely because of interpersonal conflicts, in *Blackmon v. Weaver*, 366 S.C. 245, 621 S.E.2d 42 (Ct. App. 2005) the Court of Appeals reversed the removal of a representative based on hostility towards beneficiaries, holding that "the mere existence of conflict between a personal representative and a beneficiary is an inadequate reason for removal…without a showing of fault." (*Id*. at 242) The same principle applies here: one niece's dissatisfaction with timing of disbursements is not legal grounds to disqualify Mr. Pickett.

In sum, the September 27, 2023, Order of the Probate Court should be vacated. The record shows that Mr. Pickett was willing, able, and fit to serve; that no legal basis existed to appoint a special administrator; and that the court's findings contravened S.C. Code Ann. §§ 62-3-614, 62-3-615, and 62-3-618, as well as the intent of the testator and the settled law of this state. This Court should reverse and affirm Bayard Scott Pickett, Jr., as the lawful personal representative of the Estate of Veronique H.W. Pickett.

IV. THE CIRCUIT COURT ERRED IN ITS JANUARY 27, 2025, ORDER BY GRANTING RESPONDENT'S MOTION FOR RECONSIDERATION AND AFFIRMING THE PROBATE COURT'S APPOINTMENT OF A SPECIAL ADMINISTRATOR WHERE IT (A) FAILED TO CONDUCT A DE NOVO REVIEW AS REQUIRED; (B) HELD THAT NO DETERMINATION OF FITNESS WAS REQUIRED AND (C) IMPROPERLY APPLIED § 62-3-309 TO A FORMAL PROCEEDING.

The Circuit Court's January 27, 2025 Order (Hon. J. Mark Hayes) granting Respondent's Motion for Reconsideration and affirming the Probate Court's appointment of a Special Administrator constitutes reversible error. The Order conflicts with the statutory requirements governing both removal to the Circuit Court and the appointment of special fiduciaries, and it rests upon an incorrect application of § 62-3-309 to a formal proceeding.

A. The Circuit Court Failed to Conduct a De Novo Review as Required by § 62-1-302(f).

Under S.C. Code Ann. § 62-1-302(d) and (f), once a probate proceeding is removed to the Circuit Court, the matter *"shall proceed upon the matter de novo."* South Carolina law is clear that the Circuit Court must independently determine both facts and law, not merely review the Probate Court's reasoning. *Ex parte McLeod*, 272 S.C. 373 (1979).

Here, the Circuit Court did not conduct an evidentiary hearing, take testimony, or make its own findings of fact; instead, it summarily "affirmed" the Probate Court's prior order based solely on the existing record. That limited review fell short of the mandatory *de novo* standard. Because the Circuit Court sat as an appellate body when it was required by statute to act as a court of first instance, its Order must be vacated. *See Matter of Howard*, 315 S.C. 356, 434 S.E.2d 254 (1993).

B. The Circuit Court Erred in Holding That no Determination of Fitness was Required Under §§ 62-3-614 and 62-3-615.

S.C. Code Ann. §§ 62-3-614 and 62-3-615 strictly limit the appointment of a special

administrator to circumstances in which *"a general personal representative cannot or should not act."* The Probate Court's own record—including its statement that *"nothing has shown that you've done anything improper"*—affirmatively established that Mr. Pickett was able and willing to act. Nonetheless, the Circuit Court held that the Probate Court was "not required" to make any findings as to Mr. Pickett's fitness. That conclusion contradicts the statutory text and the controlling precedents of *Church v. McGee*, 391 S.C. 334, 705 S.E.2d 481 (Ct. App. 2011), and *Smith v. Heyward*, 115 S.C. 145, 105 S.E. 275 (1920), both of which recognize a presumption that the testator's nominated personal representative is fit to serve absent proof of unsuitability. By affirming the appointment of a substitute fiduciary without any determination of unfitness, the Circuit Court nullified the testator's intent and the statutory protections afforded to the named representative.

C. The Circuit Court Improperly Applied S.C. Code Ann. § 62-3-309 to a Formal Proceeding.

The Circuit Court's reliance on S.C. Code Ann. § 62-3-309—allowing declination of an informal application "for any reason"—was misplaced. The proceeding below was formal: the Petition for Appointment of Special Administrator was verified, a hearing was held, and opposing pleadings were filed. Once the matter proceeded formally, S.C. Code Ann. §§ 62-3-614 and 62-3-615 exclusively controlled. S.C. Code Ann. § 62-3-309 applies only to the registrar's *ex parte* determination of an informal appointment; it cannot justify the Probate Court's or Circuit Court's refusal to appoint the named representative after notice and hearing. The Circuit Court's use of S.C. Code Ann. § 62-3-309 to affirm a formal removal thus constitutes an error of law and warrants reversal.

In conclusion, because the January 27, 2025, Order affirmed the Probate Court without *de novo* review and in disregard of statutory prerequisites for appointing a special administrator, it

should be vacated. This Court should remand the matter with instructions to (1) reinstate Appellant's petition for appointment as personal representative, (2) conduct a proper *de novo* hearing on his fitness to serve under §§ 62-3-203 and 615, and (3) vacate all orders entered inconsistent with that statutory process.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that the Orders of September 27, 2023, March 12, 2024, and January 27, 2025, must be vacated, and that the matter be remanded to the Probate Court or Circuit Court for de novo proceedings consistent with S.C. Code Ann. §§ 62-1-302(d) and 62-3-203(e)(2), and the Appellate Court Rules 205 and 241.

Respectfully submitted,

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM CHARLESTON COUNTY
CIRCUIT COURT

The Honorable Judge Dale E. Van Slambrook

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Respondents.

AND

Kathleen Anderson aka Kathleen Elizabeth Anderson, in her individual Capacity, Party in Interest/Counterclaimant.

CERTIFICATION BY COUNSEL

I, the undersigned counsel, hereby certify that Appellant's Brief, Appellant's Reply Brief, and Record on Appeal are in compliance with Rule 211(b) of the South Carolina Appellate Court Rules.

Respectfully submitted this 19th day of February 2026.

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