RECEIVED
Mar 17 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Circuit Court

Judge J. Mark Hayes, III
Judge Dale E. Van Slambrook

Probate Court No.: 2019-ES-10-00394
Circuit Court Appellate No.: 2024-CP-10-00598
Circuit Court Appellate 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..... Respondents,

AND

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

RESPONDENT'S FINAL BRIEF

Elizabeth J. Palmer (SC Bar #73680)
Saxton & Stump, LLC
151 Meeting St., Suite 400
Charleston, SC 29401
(843) 414-5080

Attorneys for Respondent 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

March 17, 2026

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

STATEMENT OF THE ISSUES ON APPEAL

I. Did the circuit court, sitting in its appellate capacity, err in affirming the probate court's September 27, 2023, Order for Appointment of Special Administrator?

II. Did the circuit court, sitting in its appellate capacity, err in dismissing Appellant's appeal of the probate court's March 12, 2024, Order Lifting Any Applicable Stay?

STATEMENT OF THE CASE

This consolidated appeal arises out of the Estate of Veronique W. Pickett (C/A No. 2019-ES-10-00394), pending in the Charleston County Probate Court. The Decedent, Veronique W. Pickett, died on December 18, 2018. Decedent was survived by her son, Appellant Bayard Scott Pickett, Jr., and her two granddaughters, Respondent Laura V. Jones and Kathleen E. Anderson. On March 1, 2019, Appellant filed an Application for Informal Testacy and Appointment of Personal Representative in the Charleston County Probate Court.

On March 11, 2019, Appellant was appointed as Personal Representative of the Estate and the Decedent's Will, dated March 31, 1999, was admitted to probate. Pursuant to the Will, the devisees of the Estate are as follows with their respected shares as indicated:

> 50%: Bayard Scott Pickett, Jr., Trust as established under the Will of Veronique H.W. Pickett dated March 31, 1999
>
> 25%: Laura V. Jones Trust as established under the Will of Veronique H.W. Pickett dated March 31, 1999
>
> 25%: Kathleen E. Anderson Trust as established under the Will of Veronique H.W. Pickett dated March 31, 1999

(R. p. 5)

Due to Appellant's failure to file required documents after multiple demands by the probate court dating back to June 21, 2019, the probate court, pursuant to Rule 4, ultimately closed the Estate and discharged Appellant as Personal Representative by Order dated January 19, 2022. (R. p. 34)

On May 19, 2023, Appellant filed an Application for Subsequent Administration in the probate court, seeking to reopen the Estate and to be reappointed as Personal Representative. (R. pp. 35-44). On May 31, 2023, Respondent filed an Objection to the Appointment of Appellant as Personal Representative. (R. pp. 54-106)

Special Administrator Appointment and Appeal to Circuit Court
(C/A 2024-CP-10-00598)

On June 27, 2023, Respondent Jones filed a Verified Petition for Appointment of Special Administrator in the probate court. (R. pp. 395-459) Following a properly noticed hearing at which all interested parties were present and/or represented by counsel, the probate court, by Order entered September 27, 2023, granted the Petition and appointed C. Mac Gibson, Esquire, as Special Administrator with all the powers of a general personal representative. (R. pp. 110-114) In the Order, the probate court found that Mr. Gibson's appointment "is necessary to preserve the estate and to secure its proper administration" and ordered that "all parties shall fully cooperate with Special Administrator". (R. p. 113, ¶ 14) On October 9, 2023, Appellant filed a Motion for Reconsideration, which was denied by Order entered February 2, 2024. (R. pp. 115-119; p. 387-394) By Notice of Intent to Appeal filed February 2, 2024, Appellant appealed the Order for Appointment of Special Administrator, as well as the subsequent Order Denying Motion for Reconsideration, to the Charleston County Circuit Court, where the appeal was assigned C/A No. 2024-CP-10-00598. (R. pp. 460-480) On appeal, Appellant argued, in part, that the probate court erred by not making specific findings as to why it was not reappointing Appellant to serve as personal representative before appointing a special administrator. (R. pp. 520-527) In its September 16, 2024, Order, the circuit court indicated that it was not inclined to find error in the probate court's appointment of a special administrator but that it was remanding the matter "for clarification as to whether the reasons stated for needing a Special Administrator are the same reasons for not appointing the former Personal Representative." (R. pp. 338-340)

On the same day that order was entered, Respondent filed a Motion for Reconsideration, arguing that proceedings to appoint or remove a personal representative and those to appoint a special administrator are entirely distinct, and that the probate court was not required to make

specific findings as to why it was not reappointing Appellant to serve as personal representative before appointing a special administrator. (R. pp. 529-535) By Order signed on January 24, 2025, and filed on January 27, 2025, the circuit court granted the Motion for Reconsideration and affirmed the probate court's appointment of a special administrator. (R. pp. 367-372) Appellant's appeal of the circuit court's order, affirming the probate court's appointment of a special administrator is presently before this Court. (R. pp. 373-375)

Appointment of *Temporary* Special Administrator, Lifting of Stay, and Appeals of both to Circuit Court

Following Appellant's appeal of the probate court's Order for Appointment of Special Administrator, Respondent filed an Emergency Application for Appointment of Temporary Special Administrator in the probate court on February 5, 2024, asking that a special administrator be appointed on a temporary basis "to take appropriate actions to protect Estate assets during the pendency of [Appellant's appeal of the 9/27/23 Order for Appointment of Special Administrator]". (R. pp. 251-259) By Order entered February 8, 2024, the probate court granted Respondent's Emergency Application and appointed a temporary special administrator. (R. pp. 267-274) Appellant appealed the Order for Appointment of Temporary Special Administrator to the circuit court on February 20, 2024, where it was assigned C/A No. 2024-CP-10-00921, but neglected to file the Notice of Intent to Appeal in the probate court until February 21, 2024. (R. pp. 480-489) Respondent filed a Motion to Dismiss Appeal, and an Amended Motion to Dismiss, on the basis that it was untimely. (R. pp. 490-492; 493-496)

On February 27, 2024, Respondent filed a Motion to Lift Any Applicable Stay in the probate court, asking that the court lift any stay that resulted from Appellant's appeal of the Order for Appointment of Temporary Special Administrator. (R. pp. 275-299) On March 12, 2024, the probate court entered an Order Lifting Any Applicable Stay. (R. pp. 300-305) Appellant appealed

this order to the circuit court, where it was assigned C/A No. 2024-CP-10-01509. (R. pp. 306-312) Respondent filed a Motion to Dismiss Appeal on April 2, 2024, arguing that an order lifting a stay is not immediately appealable. (R. pp. 313-314) The circuit court agreed, and by order entered on October 21, 2024, dismissed the appeal. (R. pp. 345-351) Appellant filed a Motion for Reconsideration on October 31, 2024, which was denied by the circuit court by order entered on January 10, 2025. (R. pp. 352-355; pp. 360-366) Appellant's appeal of these circuit court orders, dismissing his appeal of the probate court's order lifting any applicable stay, is currently before this Court. (R. pp. 373-375)

Notably, by Order entered on April 24, 2024 in C/A No. 2024-CP-10-00921, the circuit court dismissed Appellant's appeal of the probate court's order appointing a temporary special administrator, finding that it was not timely filed with the probate court and also that the probate court's appointment of a temporary special administrator was not a final order and not otherwise immediately appealable. (R. pp. 315

-318). Appellant appealed the dismissal to this Court, and that appeal is currently pending in Appellate Case No. 2024-001074.

Thus, the three orders at issue in this consolidated appeal are as follows:

From C/A 2024-CP-10-00598:

1/27/25 Order Granting Motion to Reconsider (affirming the probate court's appointment of a special administrator)

From C/A 2024-CP-10-01509:

10/21/24 Order Dismissing Appeal (of probate court's Order Lifting Any Applicable Stay)

1/10/25 Order Denying Motion for Reconsideration

STANDARD OF REVIEW

The standard of review applicable to cases originating in the probate court is controlled by whether the underlying cause of action is at law or in equity. Matter of Est. of Paradeses, 426 S.C. 388, 391, 826 S.E.2d 871, 873 (Ct. App. 2019). The appointment of a special administrator is equitable in nature. See Blackmon v. Weaver, 366 S.C. 245, 248, 621 S.E.2d 42, 43 (Ct. App. 2005) (holding that an action to remove a personal representative is equitable in nature). "In an equitable action tried without a jury, the appellate court can correct errors of law and may find facts in accordance with its own view of the preponderance of the evidence." Church v. McGee, 391 S.C. 334, 342, 705 S.E.2d 481, 485 (Ct. App. 2011) (quoting Blackmon, 366 S.C. at 249, 621 S.E.2d at 44).

Ordinarily, an appellate court reviews cases in equity by finding facts in accordance with its own view of the preponderance of the evidence. Even so, an appellate court should still afford a degree of deference to the trial court because it was in the best position to judge the witnesses' credibility. Lewis v. Lewis, 392 S.C. 381, 391, 709 S.E.2d 650, 655 (2011).

ARGUMENT

I. The probate court's September 27, 2023, Order for Appointment of Special Administrator was not erroneous, nor was the circuit court's affirmation of that order.

A. Appellant's argument that the probate court erred in failing to remove the Petition for Appointment of Special Administrator to circuit court is not properly before this Court.

Appellant argues that the probate court "lost jurisdiction to appoint a special administrator once Appellant requested removal." This argument has not been preserved as it was neither raised to, nor ruled upon by, the probate court or the circuit court in the orders presently on appeal before this Court. "Issue preservation rules are designed to give the trial court a fair opportunity to rule on the issues, and thus provide us with a platform for meaningful appellate review." Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp., 368 S.C. 342, 373, 628 S.E.2d 902, 919 (Ct. App. 2006). At a minimum, issue preservation requires that an issue be raised to and ruled upon by the trial judge. Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998). It is "axiomatic that an issue cannot be raised for the first time on appeal." Id. Here, Appellant did not even make a Motion for Removal[1] prior to the hearing on Respondent's Petition for Appointment of Special Administrator. Additionally, there is not a single order in the entire universe of the cases/appeals stemming from this Estate in which a court denied removal. This issue was not preserved.

To the extent the Court is inclined to consider the merits of this argument, Respondent incorporates herein her Opposition to Respondent's Motion for Removal and Jury Trial. (R. pp.

[1] Inexplicably, over five months after the probate court granted Respondent's Petition for Appointment of Special Administrator and issued its Order for Appointment of Special Administrator on September 27, 2023, Appellant filed a Motion for Removal, asking the probate court to remove Respondent's Petition for Appointment of Special Administrator to the circuit court. (R. p. 260)

261-266) In short, a Petition for Appointment of Special Administrator is not removable as a matter of right and Appellant's Motion for Removal, which was not ruled upon, was untimely.

B. The probate court was not required to find, prior to appointing a special administrator, that Appellant was unfit to serve as personal representative or that he would not or could not act in such capacity.

Appellant argues that the probate court erred in appointing a special administrator without making certain findings as to Appellant's fitness to serve as personal representative. These are entirely distinct concepts. The appointment of a special administrator is addressed by S.C. Code Ann. § 62-3-614 which provides:

> A special administrator may be appointed:
>
> (1) informally by the court on the application of an interested person when necessary:
>
> > (a) to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated as provided in Section 62-3-609;
> >
> > (b) for a creditor of the decedent's estate to institute any proceeding under Section 62-3-803; or
> >
> > (c) to take appropriate actions involving estate assets;
>
> (2) in a formal proceeding by order of the court on the petition of any interested person and 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. If it appears to the court that an emergency exists, appointment may be ordered without notice.

See S.C. Code Ann. § 62-3-614.

Here, subsection (2) is applicable because Respondent's Petition for Appointment of Special Administrator, which was served on Appellant along with a summons, was a formal proceeding. See S.C. Code Ann. § 62-1-201(17) ("'Formal proceedings' means actions commenced by the filing of a summons and petition with the probate court and service of the

summons and petition upon the interested persons."). Consistent with S.C. Code Ann. § 62-3-614(2), the probate court found, in its September 27, 2023, Order for Appointment of Special Administrator, that "the appointment of a special administrator is necessary to preserve the Estate and to secure its proper administration", a finding that is fully supported by the record. (R. pp. 112-113, ¶¶ 6-10) Appellant's assertion that the probate court was also required to find that he could not or should not act is without merit. First, the statute does not require such a finding and Appellant has cited no authority to the contrary. Second, Appellant was not the acting "general personal representative", making it impossible for the court to find that he could not or should not act in that capacity. His appointment as personal representative was terminated by the probate court on January 22, 2019, an order which was not appealed.

Appellant further argues that S.C. Code Ann. § 62-3-615 ("Special Administrator; who may be appointed") required the probate court to find that he was unfit to serve as personal representative prior to appointing a special administrator. That section provides as follows:

> (a) 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.
>
> (b) In other cases, any proper person may be appointed special administrator.

See S.C. Code Ann. § 62-3-615. This section, specifically subsection (a), by its terms is applicable where a special administrator is being appointed *pending the probate of a will which is the subject of a pending application or petition for probate*. Here, the Decedent's Will was admitted to probate in 2019 when the Estate was initially opened. No proceeding concerning the probate of any will was pending at the time the probate court appointed a special administrator and there was no requirement that the probate court determine whether Appellant was qualified to be appointed as a personal representative.

Appellant also alleges error, citing S.C. Code Ann. § 62-3-618, which addresses the termination of a special administrator's appointment. Respondent submits that S.C. Code Ann. § 62-3-618 is entirely irrelevant to this appeal and the question before this Court: whether the probate court erred in appointing a special administrator.

C. Appellant's Motion to Reconsider the Order for Appointment of Special Administrator was untimely and properly denied by the probate court.

To the extent Appellant argues that the probate court erred in denying his Motion for Reconsideration, seeking reconsideration of the Order for Appointment of Special Administrator, Respondent submits that the probate court correctly held that Motion was untimely and thus, properly denied the same. (R. p. 393) However, it does not appear that Appellant is contesting this finding as it was not addressed in his brief. Respondent incorporates by reference her arguments from her Memorandum in Opposition to Motion for Reconsideration, filed October 23, 2023, and her Supplemental Memorandum in Opposition to Motion for Reconsideration, filed January 16, 2024. (R. pp. 120-177; 178-241)

D. The circuit court did not err in affirming the probate court's Order for Appointment of Special Administrator.

Appellant makes a number of arguments assigning error to the circuit court's affirmation of the Order for Appointment of Special Administrator. First, Appellant argues that the circuit court erred in not proceeding on the matter *de novo*, citing S.C. Code Ann. § 62-1-302(d) and (f) and Ex parte McLeod, 272 S.C. 373 (1979). It is unclear how this argument, or the cited authorities, are relevant. S.C. Code Ann. § 62-1-302(d) and (f) address the removal of actions from probate to circuit court. However, the Petition for Appointment of Special Administrator was not removed. The matter was before the circuit court as a result of Appellant's appeal of the probate court's Order for Appointment of Special Administrator. Additionally, Ex parte McLeod, concerning the

conduct of grand jury proceedings, does not appear to have any bearing at all on this matter. Regardless, a review of the transcript from the September 13, 2024, hearing before the circuit court and the orders issued thereafter by the circuit court establish that the court did, in fact, conduct a *de novo* hearing and that Appellant had every opportunity to present evidence and testimony. (R. pp. 624-648)

Second, Appellant argues the circuit court erred in "holding that no determination of fitness was required under §§ 62-3-614 and 62-3-615." For the same reasons that the probate court did not err by omitting an evaluation of Appellant's fitness to serve as personal representative, the circuit court similarly did not err. See § I(B), above.

Third, Appellant asserts the circuit court "improperly applied S.C. Code Ann. § 62-3-309 to a formal proceeding." Respondent respectfully submits that the circuit court did no such thing. Rather, in connection with Appellant's argument that the probate court failed to specifically state the reasons it was refusing Appellant's informal application to be reappointed as personal representative, the circuit court took notice of S.C. Code Ann. § 62-3-309 which allows an informal application for appointment to be denied for "any reason". See S.C. Code Ann. § 62-3-309. (R. p. 371, ¶ 3) As succinctly stated by the probate court to counsel for Appellant during the hearing on Appellant's Motion for Reconsideration seeking reconsideration of the Order for Appointment of Special Administrator:

> You filed an informal application [for appointment] without a hearing. It was responded to with a summons and a petition, a formal hearing. At the formal hearing you requested that your client be appointed as personal representative. I have ruled on that and I have not reappointed your client. I have appointed a special administrator.

(R. p. 577, l. 22 – p. 578, l. 3)

The circuit court did not err in affirming both the probate court's Order for Appointment of Special Administrator and its denial of Appellant's Motion for Reconsideration.

II. The circuit court did not err in dismissing Appellant's appeal of the probate court's Order Lifting Any Applicable Stay.

A. The Order Lifting Any Applicable Stay was not immediately appealable.

Following Appellant's appeal of the probate court's Order for Appointment of a Temporary Special Administrator, Respondent filed a Motion to Lift Any Applicable Stay, asking the probate court to lift any stay that may have resulted from Appellant's appeal. (R. pp. 275-299)

On March 12, 2024, the probate court entered its Order Lifting Any Applicable Stay. (R. pp. 300-305) Appellant appealed this order by Notice of Intent to Appeal filed on March 20, 2024. It is well-established that an order lifting a stay is not immediately appealable. See Carolina Water Serv., Inc. v. Lexington Cnty. Joint Mun. Water & Sewer Comm'n, 373 S.C. 96, 98, 644 S.E.2d 681, 682 (2007); Edwards v. SunCom, 369 S.C. 91, 631 S.E.2d 529 (2006) (holding order lifting stay not immediately appealable and dismissing appeal of same). The circuit court, sitting in its appellate capacity, did not err in dismissing Appellant's appeal of the Order Lifting Any Applicable Stay.

B. Appellant's argument that the probate court lacked jurisdiction to issue the Order Lifting Any Applicable Stay was not preserved for appellate review.

In his brief, which appears to be the first time, Appellant argues that, following his appeal of the initial order appointing a special administrator, the probate court was divested of jurisdiction to consider Respondent's Motion to Lift Any Applicable Stay. To clarify, Respondent's Motion to Lift Any Applicable Stay was filed in relation to Appellant's appeal of the probate court's order appointing a *temporary* special administrator, not his appeal of the probate court's previous order appointing a special administrator.

Regardless, Respondent does not believe that this particular issue – i.e., whether or not the probate court had jurisdiction to lift any stay – was raised or ruled upon by either the probate court or the circuit court and submits it was therefore not preserved for appellate review.

Even if preserved, Appellant's argument fails. There can be no question that, following an appeal, a lower court can entertain a motion to lift any applicable stay occasioned by the appeal. In fact, Rule 241(d)(1), SCACR, dictates that, absent excepting extraordinary circumstances, "an application for an order lifting the automatic stay or for supersedeas must first be made to the lower court…which entered the order or decision on appeal."

CONCLUSION

For the above reasoning and law, Respondent Jones respectfully requests that the circuit court's orders be affirmed.

SAXTON & STUMP, LLC

/s/ Elizabeth J. Palmer
Elizabeth J. Palmer (SC Bar #73680)
151 Meeting St., Suite 400
Charleston, SC 29401
(843) 414-5080
ep@saxtonstump.com

Attorneys for Respondent 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

March 17, 2026

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Probate Court

David L. Michel, Associate Judge of Probate

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..... Respondents,

---

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that Respondent's Final Brief complies with Rule 211(b), SCACR.

SAXTON & STUMP, LLC

/s/ Elizabeth J. Palmer
Elizabeth J. Palmer (SC Bar #73680)
151 Meeting St., Suite 400
Charleston, SC 29401
(843) 414-5080
ep@saxtonstump.com

Attorneys for Respondent 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