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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

Michael M. Jordan, Master In Equity

Appellate Case No. 2025-002220

Celestine Parker and Loretta Black.....Appellants

-vs-

John Doe, Jane Doe, Richard Roe, Mary Roe, Infants, Insane Persons and Incompetents, Being Fictitious Names, Designating as a Class Any Unknown Person or Persons, Whose Tur Names are Unknown, Who May be an Heir, Distributee, Devisee, Legatee, Wido, Widower, Issue, Personal Representative, Executor, Administrator, Successor, Creditor, Assign and/or alienee of Phillis Weathers; Valarie McCray, Harry Burns, Alma Jackson, Lynn Neely, Matthew Peterson, Carolyn Dupree, Gary Dupree, Greogry Dupree, Edith Davis, May Thelma McGee, Rodney Pitts, Denise Pitts, Sheryl James, Marie Gilespeie, Eugene Canty, Ethel Swain, Amanda Canty, Connie Canty, Alexander Canty, Clarence Canty, Jr., Daniel Canty, Luther Brogdon, Everette Brogdon, Naomi Brogdon, Obar Davis, Wilaba Brogdon, Michelle Thompson, Harold Brogdon, Jr., Janice Brogdon, Lillie Mae Cleaveland Payton, Brian Canty, Gloria Canty, Herbert Canty, Randolph Gaymon, Alvin L. Gaymon, Ernestine Gaymon, Aaliyaa Hasan, Taheedah Griffin, Eugene Dowling, Sheryl Dowling, Donna Dowling, Sherly Richards, Gail White, Debra White, Dana White, Damon White, Danielle White, Also Any and All Other Persons or Legal Entities, Known and Unknown, having or claiming and Right, Title, Estate, Interest in or Lien upon the Real Property Described in the Complaint.....Respondents

Of Whom Valarie McCray is the Respondent

INITIAL BRIEF OF RESPONDENT

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## STATEMENT OF ISSUES ON APPEAL

- 1. DID THE TRIAL COURT ERR IN WEIGHING ALL OF THE EVIDENCE PRESENTED IN DETERMINING RESPONDENT'S INTEREST IN THE SUBJECT PROPERTY?**

### STATEMENT OF THE CASE

In or around 1891, Phillis Weathers a/k/a Phyllis Weathers, was granted title and ownership of the subject property for which this matter was commenced, by Order of Partition found of record in the Sumter County Register of Mesne Conveyances in Book H at Page 367. At the time of her death in or around 1920, Phyllis Weathers, a widow, and the mother of four daughters, to wit: Persicella Robinson Geynes, Louise Richards, Lena Canty and Mary Robinson. It is believed by the parties herein that Mary Robinson passed away and had one daughter, whose name is not known to any of the parties herein.

Louise Richards is deceased, having left no children or spouse, with her Estate filed of record in the Sumter County Probate Court as Estate Package 53 (bundle 233). Ms. Richards Estate Package which lists in series and to the right of Phyllis Weathers; Mary (Willis) Dicks, Benjamin Willis and Ella (Willis) Clark.

Persicella Robinson Geynes is deceased and at the time of her death she was not known to be married and had three living children, she shared with Pinckney Willis, to wit: Benjamin Willis, Mary Willis and Ella Willis. There is no record of an Estate for Ms. Geynes with Sumter County.

Several of the family members and heirs of Phyllis Weathers, as listed above are now deceased, to include: Persicella Robinson Geynes (née Weathers), Louise Richards, Lena Canty

and Mary Robinson, Benjamin Willis, Mary Willis (Sumter County Probate Court, Estate No.: 96-ES-43-55), Ella Willis a/k/a Ella Clark Murphy, Angeline Dupree, Lena Canty Gillespie, Moses Canty, Joshua Canty, Evola Canty, Clarence Canty, Simon Canty, Gardenia Brogdon (Sumter County Probate Court Estate No: 94-ES-43-145), Lillie May White (mother of the Appellant Parker), Willie Heyward Canty, John Canty, and James Canty.

The Appellants assert in their Complaint that several of the grandchildren and/or great-grandchildren of Lena Canty are also now deceased, including the following persons; Earline Burns, Ferdinand Burns, Sarah Walker, Bertha Mae Dupree Hastie, Lue Dupree, Julia Mae Bennett, Joshua Dupree, Willie Dupree, Daniel Dupree, Isaiah Dupree, Leon Dupree, Ronetta Pitts, Rodney Pitts, Silas Gillespie, Moses Canty, Jr., Mozelle Canty, Eula Canty, Joshua Canty, Alexander Canty, Elijah Canty, Elijah Canty, Jr., Ruth Brogdon, Chris Brogdon, Harold Brogdon, Lena Canty Dowling, Henry W. White, Henry W. White, Jr., Daniel White, Herbert Canty, James Canty (son of John Canty), Ethel Dupree Gaymon, Mary Lou Gaymon Strudwick, and Porter Gaymon (father of the Appellant Black).

The Respondent Valarie McCray, is the daughter of Juliaette Blanding (Sumter County Probate Court Estate No: 2023-ES-43-178), who is the daughter of Edna Williams (Sumter County Probate Court Estate No: 97-ES-43-247), the daughter of Ella Clark Murphy (née Willis). The Respondent is in receipt of a shared interest in the title of this property by virtue of Deeds from the Estate of Juliaette Blanding and also through her uncle, Willie Williams. Upon the conveyance of the interest of Juliaette and Willie, and the recording of the Deed and/ or Deed of Distribution, the Sumter County Tax Assessor modified the property card to the subject property and the remission of the tax bills to reflect the Respondent McCray's name and mailing

address, which the Appellant Parker had previously directed to her sole attention and remitted payment towards for at least twenty (20) years.

It is the belief and the allegations made by the Appellants that the Respondent McCray's Deeds from her uncle and her mother's estate were erroneous and that the Respondent McCray deliberately removed the Appellant(s) from the tax records. The Respondent McCray asserted that she was not aware or responsible for the actions of the Tax Assessor's offices in processing the property cards for Sumter County to reflect the filings with the Register of Deeds offices.

The Respondent McCray denied any malicious action on her part as it relates to the issuance or titling of the Sumter County property cards or tax bills. Respondent McCray further asserts that she has a valid interest in the subject property as evidenced by her valid Deeds for the same as she is a descendant of Phyllis Weathers.

The Court ordered that Priscella Robinson Geynes, born Weathers, is the daughter of Phyllis Weathers; that Priscella Robinson Geynes had three children with Pinckney Willis, to wit: Benjamin Willis, Mary Willis and Ella Willis; that Ella Willis is the mother of Edna W. Williams, and therefore Edna is a descendant (granddaughter) of Phyllis Weathers; that Edna W. Williams, had two children, to wit: Willie Williams and Juliaette (Williams) Blanding (the mother of the Respondent (Valarie McCray)); that the Appellants and the Respondent Valarie McCray are legitimate heirs of Phyllis Weathers and possess interest by virtue of intestacy of certain real estate located on Loring Mill Road, in the County of Sumter, State of South Carolina, This appeal follows.

## STANDARD OF REVIEW

"The question of subject matter jurisdiction is a question of law." *Porter v. Labor Depot*, 372 S.C. 560, 567, 643 S.E.2d 96, 100 (Ct. App. 2007). "This Court reviews all questions of law de novo." *Fesmire v. Digh*, 385 S.C. 296, 302, 683 S.E.2d 803, 807 (Ct. App. 2009). "A partition action is an equitable action and, as such, we may review the evidence to determine facts in accordance with our own view of the preponderance of the evidence." *Zimmerman v. Marsh*, 365 S.C. 383, 386, 618 S.E.2d 898, 900 (2005). "However, this broad scope of review does not require this court to disregard the findings at trial or ignore the fact that the trial judge was in a better position to assess the credibility of the witnesses." *Laughon v. O'Braitis*, 360 S.C. 520, 524-25, 602 S.E.2d 108, 110 (Ct. App. 2004). On the other hand, "evidentiary and procedural rulings of the family court are reviewed for an abuse of discretion." *Brown v. Odom*, 425 S.C. 420, 429, 823 S.E.2d 183, 187 (Ct. App. 2019). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." *Burke v. Republic Parking Sys., Inc.*, 421 S.C. 553, 558, 808 S.E.2d 626, 628 (Ct. App. 2017) (quoting *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006)).

*Thompson v. Swicegood*, Appellate Case No. 2015-001860, Opinion No. 5736 (S.C. App. Jul 01, 2020)

## ARGUMENT

### I. THE TRIAL COURT CORRECTLY DETERMINED THE VALID INTEREST OF THE RESPONDENT IN THE SUBJECT REAL ESTATE PROPERTIES.

The Appellants do not assert any error of statutory law in the Master's Order.

The Appellants offered their testimony in this matter along with their witness, Mr. Canty, who also testified in support of the Appellants assertion regarding the family history and lineage as known to him regarding the lineage of Phyllis Weathers. The Appellants also provided Exhibits in support of their claims and requests in this matter; including the Plaintiff's "Family Tree" which indicates that "Priscilla Geynes" had no children, a July 19, 2000, (Plaintiffs Exhibit A); Deed of Distribution with an attached schedule indicating three children of Persicella Robinson Geynes, Ella Willis, Mary Willis and Benjamin Willis (Plaintiffs Exhibit B); Death Certificate of Ella Willis (Plaintiffs Exhibit C); a 2008 letter to the Attorney who prepared the Deed of Distribution in July 2000, disputing the familial relationship between Edna Williams and Persicella Robinson Geynes and the response from that attorney (Plaintiffs Exhibit D); a 1998 letter to the Probate Court requesting relief (Plaintiffs Exhibit E); a March 2, 1995, Deed of Distribution (Plaintiffs Exhibit F); documents from a 2002-2003 SCDOT Condemnation action against the subject property filed in order to obtain access to the property to construct a sidewalk along Loring Mill Road (Plaintiffs Exhibit G); a 2024 letter from Respondent McCray's counsel with the death certificate information for Ella Murphy and Edna Williams (Plaintiffs Exhibit H); and a notarized statement from a non-testifying witness opining on a central issue in the case, which the court accepted for identification only (Plaintiffs Exhibit I). The Court sustained an objection from defense counsel in regards to the provision of the Affidavit of a non-testifying witness. There was no raised objection or Motion made by the Plaintiff or her counsel in this

proceeding regarding the service of counsel for the Respondent McCray in the previous action of condemnation as the guardian twenty-three years preceding the initiation of this action.

The Respondent McCray offered her testimony in this matter along with her witnesses Vera Williams Bower and Vernetta Swinton, who both testified affirming the testimony of the Respondent McCray as to her family history and the issue of Phyllis Weathers known to them. The Respondent also provided documents and evidence in support of her defenses and claims in this matter, to include; Social Security Death Index for Ella Murphy (née Willis) citing date of death in 1974 and her birth indexed as August 15, 1888 (Defense Exhibit A); the 1910 Census Report (handwritten) reflecting Priscilla Willis and her three children; Benjamin, Mary and Ella, as residents of Sumter County (Defendant Exhibit B); the 1900 Census Report (handwritten) reflecting Priscilla Willis and her three children; Benjamin, Mary and Ella, as residents of Sumter County (Defendant Exhibit C); 1943 Probate Estate Petition for the Estate of Louise Richards (a daughter of Phyllis Weathers) showing familial relationship with Benjamin Willis, Ella Clark and Mary Dicks (Defendant Exhibit D).

The trial court reviewed the evidence and documents and exhibits presented by counsel for the parties finding that the evidence of both parties was not entirely consistent and some records were difficult to discern due to the age of the documents; the Court has also heard the remarks of counsel for the parties present and has heard the testimony of the Appellants and the witness for the Appellants; Daniel Canty; and the Court heard the testimony of the Respondent Valarie McCray and witnesses for the Respondent McCray; Vernetta Swinton and Vera Williams Bower.

## CONCLUSION

For all of the foregoing reasons, the order of the Master In Equity should be Affirmed.

RESPECTFULLY SUBMITTED,

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April 22, 2026