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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Marvin Dukes III, Master in Equity

Appellate Case No. 2023-001519
Case No. 2020-CP-07-01507

James Reid and Sarania Reid, Respondents,

v.

Carrie Gaston Henderson, Appellant.

APPELLANT'S FINAL BRIEF

Ms. Carrie Gaston Henderson,
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Appellant, Pro Se

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STATEMENT OF ISSUES ON APPEAL

1. Whether the trial court committed reversible error by awarding all 110 acres of family land to other heirs, disregarding Cecil Gadsden's undisputed ownership of 56 acres
2. Whether the trial court ignored material evidence and attorney conflicts that undermine the chain of title.
3. Whether the delay in notifying Appellant of the court's July 29, 2023 ruling prejudiced her appeal rights.
4. Whether the denial of Appellant's Motion for Reconsideration failed to address core evidentiary and procedural errors.

STATEMENT OF THE CASE AND FACTS

This appeal arises from an eviction dispute involving the rightful ownership and possession of 22.9 acres of land located in South Carolina. The disputed parcel forms part of a 110¹-acre tract of ancestral property historically owned by the Gadsden family, with documented ownership dating back to 1887.

Appellant, Carrie Gaston Henderson, is the daughter of Cecil Gadsden Jr.², who lawfully held title to 56 acres of the 110-acre family tract. In a 1991 quiet title proceeding, the court awarded Cecil the title to the full 110-acres. (1991 Order ¶ 3, ROA p. 84). The remaining land had been treated as heirs' property among various Gadsden family members, including Cecil's siblings.

Between the 1940s and 1960s, Cecil planted timber on his portion of the property. After Herman's death in 1956, the law firm of Brown & Brown—where Gary Brown was employed—began communications with Cecil concerning satisfaction of the mortgage on Herman's share. (ROA p. 186). Records indicate that Cecil paid \$618.77 to the Bank of Ridgeland to prevent foreclosure and preserve the family's land. (ROA pp. 187–188).

By 1981, Cecil retained Attorney Darrell Johnson to facilitate a timber sale, and Attorney Louis Dore to retrieve the satisfied mortgage from Brown & Brown. Johnson also prepared documents including a family tree identifying Herman, Carrie Sr., and their children. (ROA pp. 176–179). In 1983, Cecil sold timber to Georgia Pacific for \$87,761.

In 1982, a quiet title action was filed, naming Cecil as a party and ultimately awarding him full ownership of the 110-acre tract. Years later, the heirs of Herman and Carrie Sr. contested the

¹ Appears as 110 acres in Plat Book 30 Page 171, but is often referenced as 113 acres in previous motions and pleadings.

² All references herein regarding Cecil Gadsden are made using that name, but several pleading and court documents also reference Cecil Gaston, Jr., Cecil J. Gaston, Jr., or Cecil J. Gadsden, Jr.

title, asserting they were never properly notified of the quiet title action and had been wrongfully excluded. In 1991 and 1995³, the trial court found in their favor, ordering the entire 110 acres—without carving out Cecil’s original 56 acres—to be partitioned among the heirs of Herman and Carrie Sr. (1991 Order ¶ 3, ROA p. 84).

In the early 2000s, Attorney Dore reappeared to draft and notarize partition deeds conveying portions of the land to Cunningham Realty. (ROA pp. 156, 160–162). Judge Ellis Drew later ordered Dore’s recusal due to conflicts of interest. (ROA pp. 130–131).

Conflicts of interest further marred the legal process: C. Scott Graber, who acted as Cecil’s guardian ad litem in the 1983 quiet title action due to Cecil’s legal blindness (ROA p. 173), later represented plaintiffs against Cecil in the 1991 action alongside Gary Brown (ROA p. 174). Though not unlawful, this dual role raises serious concerns about ethics and attorney-client confidentiality.

In addition, Gary Brown submitted an affidavit claiming Cecil never mentioned Herman. (ROA p. 170). However, records show Brown’s firm assisted Cecil in satisfying Herman’s mortgage in 1968 and continued representing him through 1981 (ROA p. 169), directly contradicting that claim and casting doubt on the affidavit’s credibility.

While Appellant concedes it may be difficult to prove whether Cecil disclosed all heirs in the quiet title action, she maintains he did. Regardless, the undisputed fact remains: Cecil’s original 56-acre interest should not have been entirely forfeited due to alleged notice defects. (1991 Order ¶ 3, ROA p. 84).

The 1991 trial court further imposed a 30-day deadline to partition or face judicial sale—an inequitable and hasty timeframe that deprived heirs of fair opportunity for appraisal, negotiation, or in-kind partition. (Amen. Memo ¶ 7, ROA p. 85). This undermines due process and statutory rights

³ Case No. 90-CP-07-310 herein known as “The Original 1991 Case.”

protected under S.C. Code § 15-61-25. The Supreme Court’s decision in *Perry v. Heirs at Law & Distributees of Gadsden*, 313 S.C. 296 (1993), the appeal from the original quiet title dispute, has a significant bearing on the partition of heir’s property and should have informed the trial court’s approach.

On April 5, 2016, Respondents purchased 22.9 acres of the 110-acre tract. (ROA pp. 114–116). On July 27, 2020, they initiated eviction proceedings against Appellant, whose mobile home is located on that portion of the land. The trial court granted the eviction and denied Appellant’s Motion for Reconsideration. (ROA pp. 7, 12–13).

Although the order was issued on July 29, 2023, Appellant did not receive notice until September 8, 2023—despite diligent follow-up. (ROA pp. 30–31). The delay prejudiced her ability to timely appeal and seek appropriate relief.⁴

Appellant now seeks reversal of the eviction order and remand for a full investigation into the flawed quiet title proceedings, the chain of title, and potential attorney misconduct spanning decades of litigation. The issues raised here go to the heart of due process, property rights, and the integrity of the judicial system.

STANDARD OF REVIEW

The appellate court reviews a trial court’s grant of summary judgment *de novo*, applying the same standard as the trial court: whether there exists a genuine issue of material fact and whether the moving party is entitled to judgment as a matter of law. *David v. McLeod Reg’l Med. Ctr.*, 367 S.C. 242, 247, 626 S.E.2d 1, 3 (2006). All evidence and reasonable inferences must be viewed in the light most favorable to the nonmoving party. *Id.*

The denial of a Rule 59(e) motion is reviewed for abuse of discretion. *Pelican Bldg. Ctrs. of*

⁴ February 8, 2024, Appellants’ mother’s mobile home was torn down with no permit. See BCSO Civil Dispute Report upon request.

Horry-Georgetown, Inc. v. Dutton, 311 S.C. 56, 59, 427 S.E.2d 673, 675 (1993). An abuse of discretion occurs when the ruling is controlled by an error of law or is without evidentiary support. *Coward Hund Constr. Co. v. Ball Corp.*, 336 S.C. 1, 10, 518 S.E.2d 56, 61 (Ct. App. 1999).

Further, when post-trial motions raise credible claims of procedural error, ethical concerns, or lack of notice that may implicate due process, the appellate court must ensure that the trial court's failure to address or remedy such claims does not result in substantial injustice. See *Brock v. Town of Mount Pleasant*, 402 S.C. 47, 739 S.E.2d 651 (2013) (recognizing reversible error where procedural deficiencies impair a party's legal rights).

ARGUMENT

I. The Trial Court Erred in Vacating the Quiet Title Judgment in Its Entirety Based on an Alleged Failure to Notify All Heirs.

The trial court's decision to invalidate the prior quiet title judgment and award all 110 acres of land to the heirs of Herman and Carrie Gaston, Sr.—despite Cecil Gadsden's original ownership of only 56⁵—constitutes a legal error. The court conflated a potential failure of service with a lack of subject matter jurisdiction, resulting in an improper expansion of the remedy far beyond what was warranted under South Carolina law. In *David v. McLeod Regional Medical Center*, 367 S.C. 242, 626 S.E.2d 1 (2006), the South Carolina Supreme Court drew a clear distinction between subject matter jurisdiction and procedural defects such as lack of service or notice. The Court held that while subject matter jurisdiction concerns the court's authority to hear a type of case and can never be waived, a failure to notify or serve a party implicates personal jurisdiction and due process—not subject matter jurisdiction—and therefore renders a judgment voidable, not void. *Id.* at 247–48, 626 S.E.2d at 4.

⁵ Cecil's brother Cornelius conveyed his undivided interest to Cecil in deed book 353 Page 1567.

Here, the trial court had subject matter jurisdiction under S.C. Code Ann. § 15-67-10 to hear quiet title actions. Even assuming, *arguendo*, that some of Herman and Carrie Sr.'s heirs were not properly notified in Cecil Gadsden's original quiet title action, that alleged defect would not automatically render the entire judgment void under *David*. Rather, such a defect may provide grounds to challenge the judgment as to the affected parties and specific parcels of land—not a wholesale reallocation of property beyond the scope of the original claim.

The trial court's finding that the heirs of Cecil Gadsden had no legal interest in the property contradicts the documented history of title ownership. Cecil Gadsden held title to 56 acres of the 110-acre tract. (1991 Order ¶ 3, ROA p. 84); occupying the northwest section of land labeled as "Barbara Ann Gaston" on Plaintiff's Exhibit 10. (ROA p.109). Furthermore, in 1928, Cecil's elders exclusively deeded him 74 acres and granted him free usage of the remaining 41 acres in a Family Trust. (1991 Order ¶ 5, ROA p. 78). Nonetheless, the court awarded the entire 110 acres of property to the plaintiffs in the original 1991 case—the heirs of Herman and Carrie Sr.—without acknowledging Cecil's separate and undisputed interest. The 1991 and 1995 orders do not operate as final determinations against Appellant because they were rendered against Cecil Gadsden individually, not against his estate or successors. (ROA pp. 71-91). The 1983 quiet title action, at most, warranted reversal or modification, not complete dispossession.

Appellant preserved these issues by raising them in a Motion for Reconsideration, arguing that the court's failure to distinguish Cecil's 56 acres from the broader tract constituted a deprivation of her inherited property rights. (ROA pp. 124-129). This deprivation lacks evidentiary support and is contrary to settled precedent. As the Supreme Court held in *Mid-State Distribs., Inc. v. Century Imps., Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 780 (1993), and reaffirmed in *Pelican Bldg. Ctrs. of Horry-Georgetown, Inc. v. Dutton*, 311 S.C. 56, 427 S.E.2d 673 (1993), a judgment not supported

by reliable, probative, and substantial evidence must be reversed. Here, the record fails to justify the trial court's sweeping award and overlooks key distinctions in ownership and procedure.

Moreover, settlement offers presented on November 13, 1997, to permit the heirs of Cecil Gadsden to retain only 1–3 acres not only failed to recognize his original ownership of 56 acres but were made without the knowledge or consent of Appellant—his direct heir. (ROA pp. 92-93). The very basis for the original 1991 case was that heirs had not been notified of the 1983 quiet title action and subsequent timber sale. Yet even after initiating litigation, the represented heirs declined a settlement offer without consulting Appellant, further compounding the due process concerns.

Accordingly, consistent with the reasoning in *David*, this Court should reverse the trial court's judgment and remand the case for further proceedings to determine: (1) which, if any, parcels were impacted by inadequate notice; and (2) whether a more limited remedy is appropriate under principles of equity and due process.

II. The Trial Court Improperly Permitted a Collateral Attack on a Final Quiet Title Judgment in Violation of Principles of Finality and Judicial Economy

Even if this Court were to find that some of the heirs of Herman and Carrie Sr. were not properly notified of the original quiet title action brought by Cecil Gadsden, the trial court nonetheless erred by vacating the judgment in its entirety and redistributing all 110 acres to those heirs. Such action violates well-established South Carolina precedent protecting the finality of judgments, including *Plum Creek Development Co. v. City of Conway*, 334 S.C. 30, 512 S.E.2d 106 (1999). In *Plum Creek*, the South Carolina Supreme Court held that a party who had notice and an opportunity to be heard may not later collaterally attack a final judgment simply because they failed to participate in the original proceeding. *Id.* at 35, 512 S.E.2d at 109. The Court emphasized the importance of preserving the finality of judicial decisions and rejected post hoc efforts to relitigate issues that were—or could have been—raised earlier.

This principle squarely applies here. If the heirs had notice or reasonable opportunity to contest Cecil Gadsden's quiet title action but failed to do so, they cannot now demand full invalidation of that judgment years later. Even if the Court finds some deficiencies in notice, *Plum Creek* strongly suggests that any remedy must be narrowly tailored to protect the interests of due process without disturbing final judgments more than necessary. By awarding the entire 110 acres to the heirs based on a procedural claim without distinguishing which parcels were actually affected by the alleged notice failures, the trial court violated both the holding and the spirit of *Plum Creek*. Such an expansive remedy undermines the principle that judgments must eventually reach repose and threatens to chill legitimate quiet title actions by encouraging collateral attacks long after the fact.

Accordingly, this Court should reverse the trial court's blanket ruling and remand for further proceedings to determine which—if any—interests were prejudiced, consistent with the due process framework in *David* and the finality doctrine affirmed in *Plum Creek*.

III. The Trial Court's Ruling Ignored Material Evidence Linking Attorneys and Judges to the Disputed Deed

Appellant asserted, and submitted documentation indicating, that Attorney Louis Dore had previously prepared, notarized, and signed the disputed deeds prior to his court-ordered recusal of representing Herman and Carrie Sr.'s heirs in 2007. (ROA pp. 130-131). Louis Dore has been involved with the Appellant's father Cecil since satisfying his brother Herman's mortgage in 1981. (ROA p.188). By 2001-2004, Dore prepared the deeds for the sale of all partitions belonging to the heirs of Herman and Carrie, Sr. Despite this, the trial court concluded that Dore only witnessed the deed, disregarding clear documentary evidence. (ROA pp.101-113). While notarization alone is not inherently improper, Dore's vested interest in the proper execution of the deed raises concerns of an ethical violation and potential conflict of interest from the beginning. The failure to address this contradiction is material because it directly undermines the chain of title upon which the

Respondents' claim rests. *See Kriti Ripley*, 404 S.C. 379, 746 S.E.2d 432.

Attorney Thayer Rivers represented Attorneys C. Scott Graber and Gary Brown when the heirs of Herman and Carrie Sr., refused to pay the hefty legal bill of \$164,000 awarded to the attorneys by Judge Kemmerlin. As a result, half of the 110 acres of ancestral land was sold to pay attorney's fees with the deeds being handled by Attorney Dore. By May 10, 2007, Rivers then represented one of Herman and Carrie Sr.'s heirs, Willis Floyd, against Appellant and was subsequently asked to be recused by Appellant. (ROA pp. 180-181).

IV. The Trial Court's Delay in Issuing Notice of the Ruling on Appellant's Motion Prejudiced Her Right to Timely Appeal and Violated Procedural Due Process

Although the trial court entered its order on July 29, 2023, Appellant did not receive notice of the ruling until September 8, 2023—more than a month later—despite her repeated, diligent efforts to obtain an update. (ROA pp. 30–31). This unexplained delay prejudiced Appellant's ability to timely file an appeal or seek appropriate post-judgment relief within the narrow procedural windows allowed under the South Carolina Rules of Civil Procedure.

Rule 77(d), SCRPC, requires that “immediate written notice of the entry” of an order or judgment be served by the clerk on all parties. The Rule further makes clear that “lack of notice of the entry by the clerk does not affect the time to appeal...except as permitted by Rule 59 and Rule 60.” Nevertheless, South Carolina courts recognize that procedural due process demands meaningful notice and opportunity to be heard—particularly where appellate rights are at stake.

In this case, the trial court's failure to provide timely notice not only burdened Appellant's procedural rights but also echoes the core due process violation at issue in the underlying dispute: the failure to properly notify interested heirs. Just as the 1991 action was predicated on claims of lack of notice, so too was Appellant denied timely and adequate notice of a ruling that directly impacted her right to appeal.

This pattern of procedural irregularities—especially involving notice—undermines the fairness and integrity of the judicial process. Accordingly, this Court should consider the prejudice resulting from the trial court’s delay as an additional basis to reverse and remand for proceedings that comply with the fundamental principles of notice and due process.

V. The Trial Court Erred in Summarily Denying Appellant’s Motion for Reconsideration Without Addressing the Merits of Her Legal Claims

The Order Denying Reconsideration (ROA pp. 12–13) fails to meaningfully engage with the legal and factual claims raised in Appellant’s Rule 59(e), SCRCP motion. Appellant challenged the treatment of her father’s 56-acre ownership interest and the adequacy of notice provided to interested parties. Rather than addressing those issues, the trial court summarily denied the motion on the grounds that it could not revisit earlier rulings—despite Appellant’s contention that those rulings were procedurally flawed and legally insufficient.

South Carolina courts have held that such perfunctory denials of Rule 59(e) motions are improper. In *Brock v. Town of Mount Pleasant*, 371 S.C. 224, 231, 638 S.E.2d 1, 4 (2006), the South Carolina Supreme Court held that "when the trial court refuses to rule on an issue raised in a Rule 59(e) motion, the appealing party is effectively denied judicial review of that issue." A court’s failure to address the merits of a timely and properly raised motion deprives litigants of due process and frustrates appellate review.

Similarly, in *Coward-Hund Construction Co. v. Ballut*, 336 S.C. 1, 7–8, 518 S.E.2d 56, 59–60 (Ct. App. 1999), the Court of Appeals held that a trial court must address the substantive grounds raised in a Rule 59(e) motion, especially where the motion challenges fundamental errors in the prior ruling. The court emphasized that simply reiterating the prior judgment without confronting the arguments raised in the motion is insufficient under South Carolina law.

This cursory dismissal of Appellant’s motion—without analysis or findings—violates both

the spirit and the requirements of Rule 59(e). Appellant raised substantial concerns implicating due process, property rights, and the finality of judgments based on defective service and flawed title determinations. The court's refusal to engage those arguments effectively blocked appellate review and denied Appellant a meaningful opportunity to be heard.

Accordingly, this Court should reverse the denial of the Rule 59(e) motion and remand the case for proper consideration of the issues raised therein.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reverse the judgment of the trial court, vacate the eviction order, and remand the matter for further proceedings consistent with South Carolina law. The lower court's failure to address critical evidentiary deficiencies and procedural defects—particularly its refusal to distinguish between Cecil Gadsden's independently held 56 acres and the broader 110-acre tract—constitutes reversible error. The decision effectively divested Appellant of her lawful inheritance without due process or a sound legal basis.

Appellant further urges this Court to order an evidentiary hearing or investigation into: (1) the validity of the disputed deed that underpins Respondent's claim; (2) the procedural sufficiency of the 1991 and 1995 trial court decisions; and (3) the accuracy and lawfulness of the resulting chain of title. These issues strike at the heart of property rights and judicial integrity.

As the South Carolina Supreme Court reaffirmed in *Hartford Accident & Indem. Co. v. S.C. State Highway Dep't*, 201 S.C. 32, 41–42, 21 S.E.2d 209, 212 (1942), an appellate court must reverse where the lower court's findings are “without evidentiary support or are controlled by an error of law.” That principle applies with particular force here, where the trial court's ruling ignored material facts, overlooked controlling precedent, and rendered a judgment unsupported by the record.

Appellant respectfully requests that this Court restore clarity, equity, and due process by reversing the judgment and remanding for proceedings to determine rightful ownership, proper notice, and the legality of all prior conveyances.

RESPECTFULLY SUBMITTED,

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PROOF OF SERVICE

I certify that I have served the Final Brief on Attorneys Chereese T. Handy of Heritage Law Firm, PC, Thomas J. Rode and Sarah D. Baum of Thurmond Kirchner & Timbes, P.A. for James Reid, and Sarania Reid by depositing a copy of it in the United States Mail, postage paid, on June 23, 2025, addressed to the Appeals Court 1220 Senate St, Columbia, SC 29201.

June 23, 2025

s/ Carrie Gaston Henderson
Carrie Gaston Henderson,
Pro Se