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Aug 24 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

William W. Wheeler, III, Presiding Judge

Case No. 2026-CP-40-00467
Appellate Case No. 2026-001100

Elsbeth Murday, Appellant,

v.

Alanna Murday, Respondent.

RESPONDENT'S MOTION TO DISMISS APPEAL FOR FAILURE TO PAY BOND

Respondent Alanna Murday respectfully submits this Motion to Dismiss Appeal for Failure to Pay Bond. For the reasons stated below, Respondent requests that this Court grant this Motion to Dismiss.

FACTUAL BACKGROUND

I. Probate Court

On or about January 9, 2025, David E. Murday ("Decedent") died testate. Respondent Alanna Snow Murday, as the primary Personal Representative named in Decedent's Will, filed the Application for Informal Appointment and Probate of Will on February 13, 2025, with the Richland County Probate Court. Respondent has since resigned as the Personal Representative of the Estate and Donald A. Murday, who is named as the alternate Personal Representative in Decedent's Will, has been appointed. Decedent's Will, as amended by the Private Agreement

Among Successors filed June 6, 2025, provided that his real property located at 828 Whaley Street, Columbia, SC 29201 (TMS No. R08913-08-02) (“Property”) be sold and the proceeds split equally between Decedent’s daughters, Appellant and Respondent. Appellant and Respondent discussed the possibility of Appellant buying the Property, but Appellant refused to purchase the Property at half (1/2) of the appraised value of \$450,000.00 and instead wanted to purchase the Property for \$1.00 or, at most, at the tax appraised value of \$261,200.

Therefore, Respondent entered into a contract for the sale of the Property for the appraised value with a closing date of December 5, 2025. On or about November 19, 2025, the currently contracted buyers of the Property informed Respondent that Appellant began texting them in an effort to convince them to not buy the Property, wherein Appellant stated that she has substantial health problems and that it would end her life if they proceeded with the purchase of the Property. Appellant also filed an Application for Restraint (“Application”) on December 2, 2025, requesting that the Richland County Probate Court restrain Respondent from selling the Property “due to substantial, likely life-threatening medical harm.” Appellant’s Application for Restraint was heard by The Honorable Amy W. McCulloch on January 12, 2026. Judge McCulloch denied Appellant’s Application by her Order Denying Application for Restraint (“Order”) on January 15, 2026, finding that Appellant did not show that Respondent “jeopardize[d], unreasonably” Appellant’s interest in the Property; that Appellant “did not provide evidence showing a causal link between the sale of the Real Property and life-threatening harm to her health;” and that Respondent was “directed to continue with the sale of the Real Property.”

II. Circuit Court

Appellant attempted to appeal Judge McCulloch’s Order by emailing a Notice of Intent to Appeal to Circuit Court to the Probate Court and filing such Notice with the Circuit Court on

January 27, 2026. Respondent filed a Motion to Dismiss the Appeal on February 5, 2026, due to Appellant failing to follow the filing requirements of S.C. Code Ann. § 62-1-308(a). After a hearing held March 19, 2026, the Honorable William W. Wheeler, III granted the Respondent's Motion based on Appellant's failure to comply with the statutory filing requirements by Form 4 Order filed March 20, 2025. Appellant filed a Motion to Alter or Amend Judgment Pursuant to Rule 59(e), SCRCPP, against Judge Wheeler's Form 4 Order on March 25, 2026. Judge Wheeler denied Appellant's Motion on April 8, 2026. Respondent filed a formal Order pursuant to Judge Wheeler's Form 4 Order on March 27, 2026, and Appellant filed a Motion to Alter or Amend Judgment Pursuant to Rule 59(e), SCRCPP, on April 6, 2026, against the formal Order. Judge Wheeler has not ruled on Appellant's second Motion to Alter or Amend Judgment Pursuant to Rule 59(e), SCRCPP, but Respondent believes that Judge Wheeler would similarly deny the second Motion as it makes fundamentally the same arguments as the first Motion.

Appellant filed a Notice of Appeal to the Court of Appeals on May 6, 2026. Pursuant to Rule 241, SCACR, and Rule 65(c), SCRCPP, Respondent filed an Expedited Motion for Appeal Bond with the Circuit Court requesting that the Circuit Court require Appellant to provide a supersedeas bond, as the appeal essentially stays Judge McCulloch's Order and prevents the Estate from making final distributions and closing during the appeal. The Honorable Daniel Coble granted Respondent's Motion, requiring Appellant to furnish a fifty thousand and 00/100 (\$50,000.00) dollar bond. Appellant filed a Motion to Alter or Amend Judge Coble's ruling, but her Motion was denied by Judge Coble on July 9, 2026. Appellant was required to furnish the bond within ten (10) days of the Court's Order, but has still failed to furnish the required bond.

III. Court of Appeals

Appellant filed a Notice of Appeal to the Court of Appeals on May 6, 2026. Appellant

Elsbeth Murday appealed three Orders signed by the Honorable William W. Wheeler, III, in the above-referenced matter: (1) the Form 4 Order granting Respondent's Motion to Dismiss Appeal filed March 20, 2026, (2) the formal Order Granting Respondent's Motion to Dismiss Appeal filed March 27, 2026, and (3) the Form 4 Order filed April 8, 2026 denying Appellant's Rule 59(e) Motion to Alter or Amend the Form 4 Order filed March 20, 2026.

LEGAL ARGUMENT

Appellant was ordered by the Circuit Court to furnish a fifty thousand and 00/100 (\$50,000.00) dollar bond, but has failed to pay this bond timely. Rule 241(a), SCACR, allows the Court of Common Pleas to "retain[] jurisdiction over matters not affected by the appeal," including the grant or denial of a bond and the determination of the amount of the bond. Generally, civil matters are automatically stayed upon service of a notice of appeal. Rule 241(a), SCACR. However, there are some exceptions to the automatic stay, including "judgments directing the execution of conveyances or other instruments" and "judgments directing the sale or delivery of possession of real property." Rule 241(b), SCACR.

In this case, the Probate Court's Order directed the Personal Representative for the Estate of David E. Murday to "continue with the sale of the Real Property." Therefore, the exceptions in Rule 241(b) apply to this case and the matter is not automatically stayed. However, as stated in the Affidavit of Edward C. Boggs, the contracted buyers have been unable to obtain title insurance while Judge McCulloch's Order is under appeal and have thus been unable to close on the Property, which puts the Estate of David E. Murday at risk of breaching its contract with the contracted buyers, exposed to further carrying costs, and loss of the sale of the Property at the appraised value. See Exhibit A.

Rule 241(c), SCACR, allows the Circuit Court to condition supersedeas upon terms such

as the filing of bond. Rule 65(c), SCRCF, states that the Court may require in the amount it deems proper “the giving of security by the applicant . . . for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.” After considering the sale price of the Property and the expenses incurred by the Estate due to the sale of the Property essentially being stayed by the appeal itself as stated by Respondent, the Circuit Court granted an appeal bond of \$50,000.00. Appellant filed a 59(e) Motion asking the Circuit Court to reconsider the bond, but her Motion was denied by the Circuit Court on July 9, 2026.

Generally, the non-payment of the bond only means that the underlying action is not stayed pending the appeal. However, in this case, the appeal effectively stays the sale of the Property, even without the bond, because the contracted buyers are unable to obtain title insurance. The bond is meant to protect the Estate from any further carrying costs and/or the loss of the sale of the Property with the contracted buyers. Therefore, since Appellant has not furnished the bond timely, the Estate is not protected from risk and the continuation of this appeal could will a severe impact on the Estate and its beneficiaries, without proper recourse against the Appellant who failed to post the ordered bond.

CONCLUSION

For the reasons stated above, Respondent requests that this Court grant this Motion and dismiss the Appellant’s appeal.

Respectfully submitted,

s/William H. Edwards

William H. Edwards, SC Bar No.: 71199

Moore Bradley Myers Law Firm, P.A.

1700 Sunset Boulevard

West Columbia, SC 29169

Phone: 803-796-7190

Email: will@mbmlawsc.com

Attorney for Respondent

August 21, 2026



S. Jahue Moore[†]
James Edward Bradley^{*†}
Sheila McNair Robinson
Christian G. Spradley
William H. Edwards
S. Jahue Moore, Jr.
William B. Fortino
Ralph Nichols Riley, Jr.
Lester McGill Bell, Jr.
Sierra Carini Hartley
Emily E. Collins

Melissa K. Moore
Catherine Liscusky Jumper
Brian M. Eckstrom
Joshua S. E. Martin
Madison Kelly Bush

Retired

J. Mark Taylor^{*†}
C. David Sawyer, Jr.[‡]
John C. Bradley, Jr.
Billy C. Coleman (1916-2019)
Stanley L. Myers^{*†} (1976-2023)
Robert D. Hazel[†] (1936-2024)

August 24, 2026

VIA E-MAIL: ctappfilings@sccourts.org
VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

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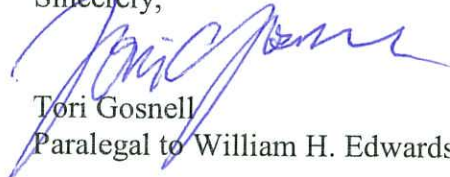
RE: In the Matter of: David E. Murday
Elspeth Murday v. Alanna Murday
Case No. 2026-CP-40-00467
Appellate Case No. 2026-001100

Dear Ms. Kitchings:

Please find for filing and enclosed our firm check in the amount of \$50.00 for our Respondent's Motion to Dismiss Appeal for Failure to Pay Bond in this matter.

Please contact our office with any questions or concerns. Thank you for your assistance with this notification.

Sincerely,



Tori Gosnell
Paralegal to William H. Edwards

Enclosure
cc w/encls.: Elspeth Murday