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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM McCORMICK COUNTY

Court of Common Pleas
Frank R. Addy Jr., Circuit Court Judge

Case No.: 2026-001015

Ty Evans,

Appellant,

v.

Sara Riedel, as Personal Representative of the Estate of Holly Riedel,

Respondent.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Whether the circuit court correctly ruled that Ty Evans (“Evans”) was time barred from presenting a claim for determination of himself as the common law spouse of Decedent Holly Riedel when he failed to file an action within the allotted statutory time limit.

STATEMENT OF CASE

This appeal is of the circuit court’s Form 4 order dated March 24, 2026. (Form 4 filed March 24, 2026.) The Respondent agrees with the Appellant’s Designation of Matter and does not wish to include any additional documents. The Appellant filed a summons and petition for determination of a common-law spouse with the McCormick County Probate Court on December 4, 2024. (Summons and Petition.) This summons and petition was served on the Respondent in her capacity as the Personal Representative of the Estate.

The Appellant, though he was aware that the Respondent had been appointed as Personal Representative of the Estate of Holly Riedel, filed an information form about Holly Riedel’s death with the probate court in November 2024. (McCormick County Probate Information Form.) This form is routinely provided by the probate court to persons seeking to initiate probate administration in McCormick County. The form requests biographical information, life insurance information, banking information, and property information. On this document, Evans listed Holly Riedel as his spouse. Evans also listed Sara Riedel, the Respondent, as Holly Riedel’s only living adult child (*See McCormick County Probate Information Form*).

The Respondent, by and through her attorney, filed a motion to dismiss pursuant to SCRCF 12(b)(6) on January 31, 2025, and served a copy on the Appellant on February 3, 2025. (Motion to Dismiss.) A hearing was held in the McCormick County Probate Court on Sara Riedel’s motion to dismiss the common law spouse petition on May 8, 2025. Each party

submitted a brief in favor of its position. (*See* Memorandum in Support of Motion to Dismiss; Petitioner's Brief in Opposition of Motion to Dismiss.) The probate court issued an order granting the Respondent's motion to dismiss on June 3, 2025. (Order Granting Motion to Dismiss.) Evans filed and served a motion to reconsider on June 13, 2025. (Petitioner's Motion to Reconsider.) The probate court initially issued an order that reserved an additional sixty days to rule on Appellant Evans' motion and found that the Appellant was entitled to reimbursement for funeral costs and expenses. (Order titled Motion to Reconsider dated July 2, 2025.) The probate court issued another order on September 25, 2025, that reaffirmed its dismissal of Appellant's common law spouse petition and reaffirmed its ruling that Appellant Evans was entitled to reimbursement from the Estate of Holly Riedel for all funeral expenses. (Order re Motion to Reconsider dated September 25, 2025.)

The Respondent filed and served a notice of appeal to the Circuit Court for the Eleventh Judicial Circuit on July 17, 2025 appealing the order regarding the funeral expenses. The Appellant filed and served a notice of appeal with the circuit court on October 10, 2025. (Notice of Appeal to Circuit Court.) On December 16, 2025, the circuit court consolidated both appeals. (Order of Consolidation.) The circuit court held a hearing on February 23, 2026. The Court then issued a Form 4 order on March 24, 2026, that affirmed the probate court's findings both in regard to the funeral expenses and to the dismissal of the common law spouse petition. (Form 4 filed March 24, 2026.) Evans then filed and served this notice of appeal from that order on April 20, 2026 appealing the circuit court's order affirming the probate court's order granting the Respondent's motion to dismiss. (Notice of Appeal to Court of Appeals.) Neither the Appellant or Respondent appealed the portion of circuit court's order regarding payment of funeral

expenses as the order clarified the Estate's obligation to reimburse only actual funeral expenses and not any other costs.

FACTS

Holly Riedel died on March 18, 2024, as a result of a car accident. At the time of her death, she was living at 260 L.W. Lyons Road, Plum Branch, SC 29845 with Evans. (Petition ¶ 5; Tr. p. 6, ll. 19-20.) She died intestate, and the Respondent is her sole surviving child. The Respondent was appointed as the Personal Representative of Holly Riedel's estate on April 1, 2024.

STANDARD OF REVIEW

"In deciding a motion to dismiss pursuant to 12(b)(6), SCRPC, the trial court should consider only the allegations set forth on the face of the plaintiff's complaint." *Plyler v. Burns*, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007). "The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." *Id.* The court must consider the question whether, "in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987). The appellate Court should apply the same standard of review as the trial court upon an appeal. *Benedict College v. National Credit Systems, Inc.*, 400 S.C. 538, 544, 735 S.E.2d 518, 521 (Ct. App. 2012).

A person that wishes to be determined a common law spouse after a person's death must do so by commencing an action within the later of eight months after the death of the decedent or six months after the initial appointment of a personal representative. *See* S.C. Code Ann. §62-2-

802(b)(4) (2012). An action is commenced when a summons and complaint is filed. Rule 3(a), SCRCP.

ARGUMENT

THE CIRCUIT COURT PROPERLY UPHELD THE PROBATE COURT'S GRANT OF RIEDEL'S MOTION TO DISMISS STATING THAT EVANS WAS TIME-BARRED FROM PURSUING HIS CLAIM AS HOLLY RIEDEL'S COMMON-LAW SPOUSE WHERE HE FAILED TO COMMENCE AN ACTION WITHIN THE STATUTORILY ALLOTTED TIME.

The Court should affirm the circuit court's order affirming the probate court's dismissal of Appellant, Evans' petition seeking determination of himself as Holly Riedel's common-law spouse. Both courts properly interpreted and relied on S.C. Code Section 62-2-802(b), which excludes someone from being a surviving spouse unless the person is "established to be a common law spouse by an adjudication commenced...within the later of eight months after the date of death of the decedent or six months after the initial appointment of a personal representative." S.C. Code Ann. § 62-2-802(b)(4) (2012). A person seeking an adjudication as the common law spouse of Holly Riedel needed to file an action on or before November 18, 2024, and both the probate and circuit court properly held that the Appellant failed to do so.

The Appellant argues that the circuit court should have found that he commenced his action when he filed the Information Form with the Court in November 2024, which was provided to the probate court within 8 months of the Decedent's death. (McCormick County Probate Information Form.) This form is simply an information form provided by the McCormick County Probate Court and given to any person who requests it. The form does not purport to initiate any action for formal adjudication, including an action for determination of common law spouse. In fact, it does not even initiate informal or formal probate administration

as it is simply a form to assist a person in gathering the information necessary to begin probate administration for a decedent.

The Appellant further argues that because he claimed in that informal document that Holly Riedel was his spouse, his unofficial claim is enough to initiate an action for adjudication of common law spouse. This completely ignores the plain language of S.C. Code Ann. § 62-2-802(b)(4) which requires an action requesting adjudication be commenced within the statutorily allotted time period. Rule 3(a), SCRPC, requires the filing of a summons and complaint to commence an action and would further require notice to all interested parties, including the Respondent in her role as Personal Representative and as intestate heir of the Decedent. The Information Form failed to accomplish any of those requirements.

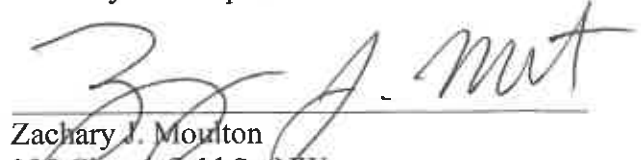
The Appellant then argues that the formal petition that was filed December 4, 2024 should relate back to the November 2024 filing of the Information Form and be considered an amended pleading pursuant to Rule 15(c), SCRPC. This argument again ignores the fact that the Information Form is not a formal pleading sufficient to commence an action for adjudication pursuant to S.C. Code Ann. § 62-2-802(b)(4) and Rule 3(a), SCRPC. There is no question that the December 4, 2024 filing qualifies as the commencement of an action as defined in Rule 3(a), SCRPC. However, the Information Form is not a summons and complaint and cannot be considered to commence an action. Furthermore, the Respondent was never served with the Information Form and was only served with the December 4, 2024 Petition, which was filed after the expiration of the statute of limitations. There can be no relation back to the November date when the Information Form cannot be considered a formal pleading sufficient to commence an action.

Both the circuit court and probate court properly interpreted the plain language of the statute to reach the conclusion that the Appellant did not timely file his action for adjudication as common law spouse. An informal filing that does not clearly commence an action for determination as common law spouse, which furthermore was not served upon the Respondent in her capacity as Personal Representative or heir, cannot be considered adequate to commence an action for adjudication. Furthermore, there is no question that the formal petition filed on December 4, 2024 is clearly not within the timeframe allotted by S. C. Code § 62-2-802(b)(4). Therefore, both the circuit court and probate court rightly determined that the Appellant's Petition filed on December 4, 2024 was barred by the statute of limitations in § 62-2-802(b)(4) and properly dismissed his action.

CONCLUSION

For the reasons argued above, the Court should affirm the circuit court's order affirming the probate court's order dismissing Evans' petition to be determined to be Holly Riedel's common-law spouse. The Appellant failed to timely commence his action, and therefore, his action was properly dismissed pursuant to Respondent's Motion to Dismiss under SCRCP 12(b)(6).

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