

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

Paul M. Burch, Circuit Court Judge

Appellate Case No. 2026-001962

Jeri M. Adams.Appellant,

v.

Phyllis M. Watson, Personal Representative of
the Estate of Emma Cook Mims, RespondentRespondent.

**CONSENT MOTION TO REINSTATE APPEAL
AND CONSENT PETITION FOR REHEARING**

For the reasons set forth below, Appellant and Respondent respectfully submit this Consent Motion to Reinstate Appeal and Consent Petition for Rehearing pursuant to Rules 260(a), 221(a), and 240(j), SCACR, in response to the Court of Appeal's Order dated September 14, 2026, dismissing the Appeal as an unappealable non-final order of the Probate Court from which the Appeal originated.

RELEVANT BACKGROUND

This Appeal concerns the Estate of Emma Cook Mims, the mother of Appellant and Petitioner. Appellant appealed Darlington County Probate Court orders dated October 8, 2024 and December 23, 2024, as well as Darlington County Circuit Court orders dated September 30,

2025 and August 3, 2026 (on appeal from the Probate Court). The orders are attached hereto in chronological order as Exhibits A, B, C & D.

On September 14, 2026, the Court of Appeals dismissed the Appeal as a non-final order pursuant to S.C. Code Ann. § 62-1-308(a), based on the Circuit Court having remanded the Appeal to the Probate Court for proceedings consistent with the Circuit Court's order. However, the Probate Court orders in this matter do represent a final orders for the reasons to follow.

ANALYSIS

As indicated in page one of the Probate Court order dated October 8, 2024, the matter before the Probate Court was of a “final hearing in the Estate of Emma Cook Mims”. In addition, on the concluding page 6 of that order, the Probate Court indicated that the estate would be closed upon Appellant's compliance with the order. In other words, the Probate Court intended the order to be self-effectuating and final but for Appellant's right to appeal after Appellant also filed a motion to reconsider, which the Probate Court denied through its order dated December 23, 2024.

Thereafter, on appeal to the Circuit Court, the Circuit Court's order dated September 30, 2025 referred to the Probate Court order as a “final order” (see page 4) and went on to evaluate whether Appellant complied with the requirements for appealing a final order of the Probate Court pursuant to S.C. Code Ann. § 62-1-308(a) (see page 10). Accordingly, when the Circuit Court affirmed the Probate Court order and “remand[ed] this matter to the Probate Court for further proceedings consistent with this Order” it was merely so that the Probate Court could close the estate once the Appellant complied with the order.

Such remand procedure is also consistent with the statutes governing appeals from the probate court: “The final decision and judgment in cases appealed, as provided in this code, shall

be certified to the probate court by the circuit court, court of appeals, or Supreme Court, as the case may be, and the same proceedings shall be had in the probate court as though the decision had been made in the probate court.” S.C. Code Ann. § 62-1-308(j) (emphasis added). In other words, the probate appeals statute contemplates that a final order of the probate court may nevertheless need to be implemented by the probate court following the finality of appeals.

Moreover, although not applicable in this Appeal, a “final order” of the probate court need not result in the termination of the estate, but rather to finally determine rights of the persons interested in the estate. See, e.g., Ex parte Small, 69 S.C. 43, 46, 48 S.E. 40, 41 (1904) (holding that the probate court’s order appointing the estate administrator “was really the final order adjudicating the rights of the parties [as to the proper administrator], and was therefore appealable” even though the administration remained yet to be completed).

Finally, dismissing this Appeal would undermine the interests of judicial efficiency and prejudice the Appellant and Respondent in several respects. First, Appellant would ultimately refile what amounts to the same appeal before the Court of Appeals, but only after first having taken up additional judicial time at the Probate Court and Circuit Court levels. Similarly, the Appellant and Respondent have already spent nearly two years on the Appeal thus far, and it would cause them significant personal expense to have to restart the process over again.

Lastly, if the Probate Court orders were to stand as is, then Appellant would appear to have no choice but to immediately comply with the orders (which would then close the estate without further order of the Probate Court and possibly leave Appellant without an order she could appeal) or to face being in contempt of the Probate Court in order to have an additional order from the Probate Court from which Appellant could appeal yet again. Even Respondent does not desire for Appellant to be in such a predicament.

CONCLUSION

For the foregoing reasons, Appellant and Petitioner respectfully request the Court of Appeals enter an Order reinstating this Appeal.

s/Adam T. Silvernail

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AND

s/Matthew J. Myers

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Attorney for Respondent

Columbia, South Carolina
September 29, 2026

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SC Court of Appeals

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PROOF OF SERVICE

I certify that I have served a copy of the Appellant and Respondent's joint Consent Motion to Reinstate Appeal and Consent Petition for Rehearing in the above referenced matter by e-mailing a copy of same to the attorney of record as of the date indicated below, with a copy of such e-mail included with this Proof of Service.

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Respectfully submitted,

s/Matthew J. Myers
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Columbia, South Carolina
September 29, 2026



SWEENY WINGATE & BARROW P.A.

September 29, 2026

Matthew J. Myers
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SENT VIA EMAIL AND MAIL

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals Clerk of Court
Post Office Box 11629
Columbia, SC 29211

RE: Estate of Emma Cook Mims
Case No.: 2019-ES-16-00436
Our File: 6531-13398

Dear Ms. Kitchens:

Please find attached for electronic filing in the above referenced matter the Appellant and Respondent's joint Consent Motion to Reinstate Appeal and Consent Petition for Rehearing and Proof of Service thereof. The \$50 filing fee is included with the hard copy of this letter, without the electronic filings.

Thank you for your assistance, and please let me know if you need anything further at this time. With kind regards, I am,

Yours truly,

SWEENY, WINGATE & BARROW, P.A.

A handwritten signature in blue ink, appearing to read "mjm", is written over the printed name.

Matthew J. Myers

Enclosure

cc: Adam T. Silvernail, Esq. (via email)