

RECEIVED

Sep 29 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM KERSHAW COUNTY

Honorable Daniel Coble, Circuit Court Judge

Appellate Case No. 2026-001664

Beverly Hennager.....Appellant

v.

Mary E. Deardon, Personal Representative of the Estate of M.K. Jennings.....Respondent

INITIAL BRIEF OF RESPONDENT

September 29, 2026

s/Moultrie B. Burns, Jr.
Moultrie B. Burns, Jr. / SC Bar# 1042
Savage, Royall & Sheheen, LLP
Post Office Drawer 10
Camden, South Carolina 29021
803-432-4391
Attorney for Respondent

TABLE OF CONTENTS

Statement of Issues on Appeal	(see appellants' statement.....	1
Statement of the Case.....		3
Argument.....		3, 4
Conclusion.....		5

TABLE OF CASES AND AUTHORITIES

Rule 60 SCRCF.....	3, 4, 5
Wilder Corp. v. Wilke, 330 S.C. 71, 46, 497 S.E. 2d 731, 733 (1998).....	5

STATEMENT OF THE CASE

M.K. Jennings (“Decedent”) died March 20, 2010. By her Will dated September 17, 1999, her probate assets passed to her five (5) children, Mary (Respondent herein), Michael, Randy, Beverly (Appellant herein), and Louis.

A merits hearing was conducted on July 20-21, 2016, by Probate Judge Debra Branham (Judge Pierce had retired) resulting in her Order dated October 27, 2016. The 2016 probate court Order, appealed by both parties, was affirmed by the circuit court Order dated July 10, 2020, which was not appealed.

Respondent (as Personal Representative) then filed the estate closing documents which, after a hearing, were approved by probate court Order dated September 3, 2021. Upon appeal of the probate court is 2021 Order to the circuit court, Judge Daniel Coble affirmed by his Order filed June 19, 2024. Appeal of that circuit court 2024 Order resulted Hennager v. Deardon, Op. No. 2025-UP-196 (S.C. Ct. App. filed June 11, 2025) which affirmed the circuit court’s 2024 order. Writs of Certiorari to the South Carolina Supreme Court and the Supreme Court of the United States were denied.

Appellant’s Rule 60(b)(4) motions in the circuit court were rejected by Judge Coble in his circuit court orders of September 4, 2025, and July 14, 2026, the latter being appealed herein.

ARGUMENT

1. As to Appellants’ Issue on Appeal No. 1.

Appellant makes no concise or direct statement as to any issue or alleged error in the circuit court’s 2026 order. Appellant’s statement is so vague it should be disregarded.

2. As to Appellants’ Issue on Appeal No. 2.

Appellant makes no concise or direct statement as to any issue or alleged error in the circuit court's 2026 order being appealed here. Appellant's statement is so vague it should be disregarded.

3. As to Appellants' Issue on Appeal No. 3.

There are no grounds for remand in this case because the circuit court's 2026 order should be affirmed. The court of appeals' 2025 Order ended the appeal, including addressing the Rule 60(b)(4) issues Appellant now tries to resurrect to relitigate. More fundamentally, Appellant's attempted Rule 60(b)(4) motion was filed in the circuit court, not in the trial court, as the circuit court's 2025 and 2026 orders make clear.

CONCLUSION

On September 4, 2025, in response to Appellant's motion filed in Case No. 2021-CP-28-0795, Judge Daniel Coble filed an Order, as follows:

“This is a probate appeal which ended with the probate court being affirmed. My decision was appealed to the Court of Appeals where the lower court was upheld, order attached. **There is no judgment in this case and no paperwork will be added to this ended appeal.**” (emphasis added)

The court of appeals order to which Judge Coble refers is Hennager v. Deardon, Op. No. 2025-UP-196 (S.C. Ct. App. filed June 11, 2025). Thereafter, Appellant's writs of certiorari to the South Carolina Supreme Court and the Supreme Court of the United States were denied.

In spite of the above, Appellant filed motions again in the circuit court resulting in another order by Judge Coble, filed July 14, 2026, which reiterates his prior order as follows:

“This matter is closed based on the Court of Appeals opinion filed June 11, 2025, and **this court will not accept any more filings.**” (emphasis added)

By appealing the circuit court's 2026 order, Appellant is simply refusing to accept the finality of the court of appeals' 2025 order, which affirmed the circuit court's 2024 order affirming the probate court's 2021 order. In addition, Appellant fails to accept that a Rule 60(6)(4) motion must be filed in the trial court. “It is axiomatic that an issue cannot be raised for the first time on appeal but must be raised to and ruled upon **by the trial court** to be preserved for appellate review.” (emphasis added). See *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E. 2d 731, 733 (1998).

For the above reason, the circuit court's 2026 order should be affirmed.

Respectfully submitted,

s/Moultrie B. Burns, Jr.
Moultrie B. Burns, Jr. / SC Bar# 1042
Savage, Royall & Sheheen, LLP
Post Office Drawer 10
Camden, South Carolina 29021
803-432-4391
Attorney for Respondent

September 29, 2026