

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.

RECORD ON APPEAL

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Attorneys for Respondent

RECEIVED

Oct 26 2026

SC Court of Appeals

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STATE OF SOUTH CAROLINA)

COUNTY OF MCCORMICK)

ESTATE OF HOLLY RIEDEL,)

Ty D. Evans,)

Petitioner,)

V.)

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

Respondent.)
_____)

IN THE PROBATE COURT

ELEVENTH JUDICIAL CIRCUIT

CASE NO2024-ES-35-00038

ORDER GRANTING RESPONDENT'S
MOTION TO DISMISS

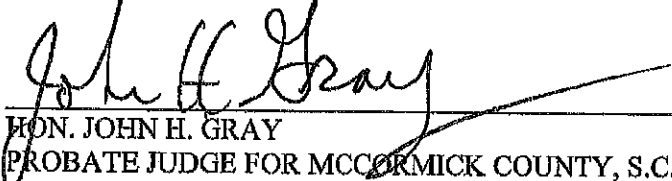
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2025 JUN -3 P 3:40
PROBATE COURT
MCCORMICK COUNTY

THIS MATTER COMES BEFORE THE COURT, upon the filing of a Motion for to Dismiss filed on January 30, 2025 by the Personal Representative and Respondent, Sara Riedel, by and through her Attorney, Zachary J. Moulton, Esq., in response to a Petition for Determination of Common Law Spouse filed by Petitioner on December 4, 2024. A hearing was held in his matter on May 8, 2025 in which the Respondent asked the court to dismiss the Petitioner's petition based on statute of limitations grounds. The finding of the Court is as follows:

- 1) S.C. Code §62-2-802(b)(4) requires a petition seeking determination of a common law spouse to be filed within the later of six months from appointment of personal representative or eight months from the decedent's death.
- 2) The Petitioner did not timely file his petition seeking determination of common law spouse within the timeframe provided by S.C. Code §62-2-802(b)(4), and therefore her petition is time-barred.
- 3) The Respondent's Motion to Dismiss the Petitioner's Petition for Determination of Common Law Spouse is hereby GRANTED.

NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the findings of the Court as set forth above is hereby adopted as an Order of this Court as fully set forth herein.

AND IT IS SO ORDERED.



HON. JOHN H. GRAY
PROBATE JUDGE FOR MCCORMICK COUNTY, S.C.

COPY

STATE OF SOUTH CAROLINA

COUNTY OF MCCORMICK

Estate of Holly Riedel

Petitioner,

TY EVANS

vs.

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

Respondent

IN THE PROBATE COURT
CASE NO:

MOTION TO RECONSIDER

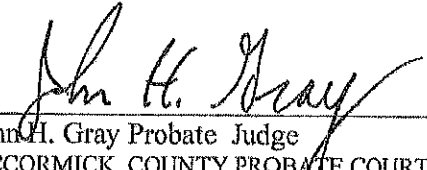
The Court has decided to extend sixty days before ruling on Motion to Reconsider.

The court does agree that the Petitioner Ty Evans is entitled to be reimbursed for all funeral expenses as well as the cost of travel, time and hardship that was involved in making the arrangements and covering the cost. It is apparent that Personal Representative Holly Riedel was aware there was a funeral, and her name was listed on the obituary.

The court also recognize the time lapse between March 25th, 2024 Ms. Riedel was filing paperwork to open an Estate of Holly Riedel, the funeral was conducted March 30th 2025. The court feels Ms. Riedel has adequate knowledge as well, already receiving legal advice concerning (Probate Matters).

COURT IS ATTACHING CLOCKED FUNERAL BILL/ PAID AND COPY OF OBITUARY

AND IT IS SO ORDERED.


John H. Gray Probate Judge
MCCORMICK COUNTY PROBATE COURT

07/02, 20 25
McCormick South Carolina

ROA 003

STATE OF SOUTH CAROLINA
COUNTY OF MCCORMICK

IN THE PROBATE COURT
CASE NO: 2024-ES-35-00038

Estate of Holly Riedel

Petitioner,

TY EVANS
vs.

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

Respondent

MOTION TO RECONSIDER

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2025 SEP 26 P 4:10

The Court has given the Motion to Reconsider thorough review.

The Motion to Reconsider is hereby denied. The Plaintiff's Petition is time-barred pursuant to South Carolina Code Section 62-2-802(b)(4), which requires that a claim of common law marriage must be adjudicated either before the decedent's death or within the later of eight months after the death or six months after the initial appointment of a personal representative. In this case, no such adjudication was timely commenced, and therefore the claim is barred.

However, the Court agrees that the Petitioner, **Ty Evans**, is entitled to reimbursement for all funeral expenses incurred.

Each party shall bear their own court costs and attorney's fees.

AND IT IS SO ORDERED.

John H. Gray
John H. Gray Probate Judge
MCCORMICK COUNTY PROBATE COURT

09/25, 2025
McCormick South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF McCORMICK
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2025-CP-35-00093

ESTATE OF HOLLY RIEDEL

TY EVANS, Appellant
PLAINTIFF(S)

SARA RIEDEL, PR of Estate, Respondent
DEFENDANT(S)

Submitted by: COURT

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☒ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☒ Affirmed; ☐ Reversed; ☐ Remanded; ☒ Other MODIFIED

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order attached) ☒ Statement of Judgment by the Court:

This matter came before the court on February 23, 2026 on a probate appeal. Ty Evans was present represented by Jamison Tinsley, Esq. Respondent was represented by Ronald Maxwell, Esq.. The Court finds as follows:

The probate court's dismissal of Appellant's action in which he sought a finding that he was the decedent's common law spouse is affirmed. The probate court correctly found that Appellant did not file his action in a timely manner. The Court also takes note of the extremely high bar to prove common law marriage by clear and convincing evidence. *See Stone v. Thompson*, 428 S.C. 79, 833 S.E.2d 266 (2019).

As to the probate court awarding Appellant costs and expenses other than the funeral expenses, the Court modifies the probate court's order to allow Appellant to be reimbursed only for the actual funeral expenses and not any other costs or expenses claimed. Funeral expenses have priority equal to administrative expenses and attorney's fees under the probate code and do not require filing of a creditor's claim. Accordingly, upon forwarding Respondent a paid copy of the funeral bill, Respondent shall reimburse said funeral expenses within ten (10) days.

It is so ORDERED.

ORDER INFORMATIONThis order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

s/ Frank R. Addy, Jr.

2159

March 23,
2026

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:
Jamison Tinsley _____

Ronnie Maxwell _____

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: Sharon Hardoon

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCP.



McCormick Common Pleas

Case Caption: Ty Evans VS Sara Riedel

Case Number: 2025CP3500093

Type: Order/Form 4

So Ordered

S/ Frank R. Addy, Jr.

Electronically signed on 2026-03-23 16:48:36 page 3 of 3

ROA 007

STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF MCCORMICK	)	
	)	
IN THE MATTER OF:	)	CASE NO: 2025-CP-35-00065
	)	
HOLLY RIEDEL,	)	
(Decedent)	)	
	)	CONSENT ORDER
Sara Riedel,	)	
	)	
Appellant,	)	
	)	
V.	)	
	)	
Ty D. Evans	)	
	)	
Respondent.	)	
_____	)	

THIS MATTER COMES BEFORE THE COURT, upon the filing of a Joint Motion to Consolidate filed by the Appellant and Respondent in Appeals from the McCormick County Probate Court bearing case numbers 2025-CP-35-00065 and 2025-CP-35-00093. Both appeals are from an Order by the McCormick County Probate Court made in the Estate of Holly Riedel (Probate Case No. 2024-ES-35-00038). The Court finds that good cause exists to consolidate the cases pursuant to Rules 41 and 1 of the South Carolina Rules of Civil Procedure. A hearing regarding the Appeals will be set no sooner than 10 days from the date of this Order.

AND IT IS SO ORDERED.

Aiken, South Carolina

December _____, 2025

Honorable William P. Keesley
Chief Administrative Judge
Eleventh Judicial Circuit

I SO MOVE:

MAXWELL LAW FIRM, PC

Aiken, South Carolina

December 10, 2025

s/Zachary J. Moulton
ZACHARY J. MOULTON
Attorney for Sara Riedel
PO Box 1115
Aiken, SC 29802
(803) 641-6700
zmoulton@maxwelllawfirm.com
S.C. Bar No. 102327

I CONSENT:

TINSLEY & TINSLEY, P.C.

Greenwood, South Carolina

December 10, 2025

s/R. Jamison Tinsley, Jr.
R. JAMISON TINSLEY, JR.
Attorney for Ty D. Evans
109 Oak Ave.
Greenwood, SC 29646
(864)223-0070
Tinslerj@gmail.com
S.C. Bar No. 79903



McCormick Common Pleas

Case Caption: Sara Riedel VS Ty Evans

Case Number: 2025CP3500065

Type: Order/Consolidate

Circuit Judge (Code #2050)

s/ William P. Keesley

Electronically signed on 2025-12-15 23:13:31 page 3 of 3

JOHN H. GRAY
PROBATE JUDGE-MCCORMICK COUNTY
133 S. MINE STREET, ROOM 101
MCCORMICK, SC 29835
PHONE: 864-852-2630
FAX: 864-852-0071
EMAIL: probatecourt@mccormickcountysc.org

Appointments required to be of better service to you

Cell phones are not allowed in the courthouse

Name of person completing this form: Ty D. EOANS
Address: 260 L.W. LYONS Rd. plumbranch
Telephone Number: Home: 803 257 7003 Cell: 803 257 7003
Email: _____

IS COVID LISTED ON THE DEATH CERTIFICATE: YES/NO NO
*if COVID is listed on the death certificate, appointments will be scheduled for 30 days after the memorial service

FULL NAME OF THE DECEDENT: (PERSON THAT PASSED AWAY)

Holly Sue RIEDEL

DATE OF BIRTH: 09-24-1958 DATE OF DEATH: MARCH 18, 24

LAST FOUR OF SOCIAL SECURITY NUMBER: 2283

HOME PHONE: WCTEL YES/NO

IF WCTEL-TELEPHONE NUMBER IS: 803 257 7003

MAILING ADDRESS: 260 L.W. LYONS Rd. plumbranch

PHYSICAL ADDRESS: SAME

ELECTRIC PROVIDER: LITTLE RIVER Y/N AIKEN ELECTRIC Y/N SCEG Y/N

WATER & SEWER PROVIDER: MCCORMICK COUNTY WATER Y/N CPW Y/N



ROA 011

NAME OF SPOUSE: Holly Sue Riedel

DOB: 09-24-58 EMAIL: _____

ADDRESS: 260 L.W. LYONS Rd Plumb Branch

CONTACT NUMBER:
HOME: 803 257 7003 CELL: _____ WORK: _____

*IF SPOUSE IS DECEASED, PROVIDE DATE OF DEATH: March 18, 24

NAME OF THE FUNERAL HOME THAT HANDLED THE SERVICE:

POSEY FUNERAL

HOW WAS THE FUNERAL BILL PAID?

LIFE INSURANCE: Companion Life NAME OF BENEFICIARY: Ty D. EVANS

PRE-NEED: _____ FUNDS OF THE DECEDENT: _____

OR PAID BY: Companion Life INSURANCE

DID THE DECEDENT OWN OR HAVE AN INTEREST IN REAL ESTATE/LAND IN MCCORMICK COUNTY?

Y/N, if yes, list the physical address and/or 911 address:

yes 260 L.W. LYONS Rd
Plumb Branch SC 29845

DID THE DECEDENT OWN OR HAVE AN INTEREST IN REAL ESTATE/LAND IN OTHER COUNTIES AND/OR STATES?

Y/N, if yes, list the physical address and/or 911 address:

yes
~~Our property in Edgefield County~~
our property in Edgefield County
281 Deerspring Rd Clarks Hill
29825

VEHICLES/CAMPER, BOATS, MOTORS, MOBILE HOME, MOTORCYCLE, ETC.

Mobile Home at 281 Deer Springs
Clarksville S.C.
2016 Chevy Silverado
1996 Camaro

DO YOU HAVE THE TITLES FOR THE VEHICLES: ☒ YES ☐ NO

FINANCIAL-LIST ACCOUNTS SOLELY IN THE NAME OF THE DECEDENT

FINANCIAL: ONLY LIST ACCOUNTS THAT DO NOT HAVE A NAMED BENEFICIARY
OR PAY UPON DEATH DESIGNATION:

NAME OF FINANCIAL INSTITUTION: ACCOUNT NUMBER: AMOUNT OF FUNDS:

Citizens Bank Checking \$10,000
Savings \$25,000 HASA \$2,000
Merrill Lynch \$30,000

DID THE DECEDENT HAVE LIFE INSURANCE WITHOUT BENEFICIARY NAMED:
YES ☒ NO ☐ IF YES: NAME OF INSURANCE COMPANY:

LIST BELOW THE LIVING CHILDREN OF THE DECEDENT:

FULL NAME, DOB & MAILING ADDRESS(S) FOR ALL BIOLOGICAL/ADOPTED
CHILDREN OF THE DECEDENT:

NAME: SARA Riedel
MAILING ADDRESS:
DOB: 4/16/81
NAME:
MAILING ADDRESS:
DOB:

NAME: _____

MAILING ADDRESS: _____

DOB: _____

NAME: _____

MAILING ADDRESS: _____

DOB: _____

NAME: _____

MAILING ADDRESS: _____

DOB: _____

NAME: _____

MAILING ADDRESS: _____

DOB: _____

If the decedent had a child or children that pre-deceased him/her, please list the name, former address & date of death of that child, then provide the name, date of birth & mailing address of his/her children. Please use a separate sheet of paper.

SAMPLE:

John Doe, deceased Date of Death: xx/xx/xxxx

Address of John Doe upon his death: _____

Children of John Doe:

Full name: _____ DOB: _____ Address: _____

Please furnish the following documents with the completed probate worksheet above:

✓

Certified copy of the death certificate

NO

Original will

✓

Check here if the decedent did not have a will

yes

Copy of the obituary & funeral program

yes

Statement from the funeral home reflecting paid in full or outstanding balance.

Must also reflect how the funeral bill was paid:

Example: beneficiary of life insurance, pre-need or personal funds of the decedent.

STATE OF SOUTH CAROLINA

COUNTY OF MCCORMICK

IN THE MATTER OF:

HOLLY RIEDEL,

☒ Decedent ☐ Alleged Incapacitated Individual
☐ Minor ☐ Other: _____

CO COPY

▲ PROBATE COURT USE ONLY ▲

IN THE PROBATE COURT

CASE NUMBER 2024-GC-35-

SUMMONS

TY D. EVANS,

Petitioner(s),

vs.

SARA RIEDEL, AS THE PERSONAL
REPRESENTATIVE OF THE ESTATE OF HOLLY
RIEDEL,

Respondent(s).*

*For Guardianship/Conservatorship matters, you must include the alleged incapacitated individual as a Respondent.

TO THE RESPONDENT(S) LISTED ABOVE:

YOU ARE HEREBY SUMMONED and required to Answer the Petition in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer upon the Petitioner(s) listed above at the following address(es):

Please Type or Print.

TY D. EVANS/R. JAMISON TINSLEY JR.

(Name of Petitioner/Attorney for Petitioner)

109 OAK AVE.

(Street Address or Mailing Address)

GREENWOOD, SC 29646

(City, State, and Zip Code)

FILED
2024 DEC -4 P 4:20
PROBATE COURT
MCCORMICK COUNTY SC

Your Answer must be served on the Petitioner at the above address within **thirty (30) days** after the service of this Summons and Petition upon you, exclusive of the day of such service; and if you fail to answer the Petition within that time, judgment by default will be rendered against you for the relief demanded in the Petition.

R. J. Tinsley
Signature of Petitioner(s)/Attorney for Petitioner(s)

Date: DECEMBER 4, 2024

STATE OF SOUTH CAROLINA

COUNTY OF MCCORMICK

Estate of Holly Riedel

Ty D. Evans,

Petitioner,

vs.

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

Respondent.

IN THE PROBATE COURT

ELEVENTH JUDICIAL CIRCUIT

Estate No.: 2024-ES-35-_____

**PETITION FOR DETERMINATION OF
COMMON-LAW SPOUSE**

FILED
2024 DEC -14 P 1:37
PROBATE COURT
MCCORMICK COUNTY, SC

1. Decedent Holly Riedel was a resident of McCormick County, South Carolina at the time of her death.

2. Respondent Sara Riedel is the personal representative appointed by the Probate Court of Decedent's estate.

3. Petitioner Ty D. Evans is a citizen and resident of McCormick County, South Carolina.

4. Prior to Decedent's death, she and Petitioner agreed to be married.

5. Decedent and Petitioner were cohabitating at the time of Decedent's death at 260 L.W. Lyons Road, Plum Branch, SC 29845.

6. Decedent and Petitioner held themselves out to others in the community as being married for more than fifteen years, and continued to do so until Decedent's death.

7.. The Court should, therefore, determine that Petitioner was Decedent's common-law husband at the time of her death pursuant to S.C. Code Ann. § 62-1-302(c).

8. Based upon this determination, the Court should determine that Petitioner is Decedent's surviving spouse and entitled to an intestate surviving spouse's share plus any other moneys he is owed by her estate.

WHEREFORE, Petitioner prays for the following relief:

1. That the Court determine that Petitioner was Decedent's common-law husband at the time of her death;
2. That the Court determine Petitioner is Decedent's intestate heir;
3. Costs and attorney's fees; and
4. Such other and further relief as the Court deems just, equitable, and proper.

TINSLEY & TINSLEY, P.C.
Attorney for Petitioner



R. Jamison Tinsley Jr.
109 Oak Ave.
Greenwood, SC 29646
(864) 223-0770
Fax: (864) 377-8278
Tinslerj@gmail.com
S.C. Bar No. 79903

Greenwood, South Carolina

December 4, 2024

STATE OF SOUTH CAROLINA

COUNTY OF MCCORMICK

ESTATE OF HOLLY RIEDEL,

Ty D. Evans,

Petitioner,

V.

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

Respondent.

IN THE PROBATE COURT

ELEVENTH JUDICIAL CIRCUIT

CASE NO2024-ES-35-00038

MOTION TO DISMISS PURSUANT
TO SCRPC 12(B)(6)

The Respondent, Sara Riedel, by and through her undersigned attorney hereby moves to dismiss the above-referenced action pursuant to South Carolina Rules of Civil Procedure Rule 12(b) as follows:

MOTION TO DISMISS PURSUANT TO RULE 12(B)(6)

1. The Petitioner filed a petition seeking Determination of Common Law Spouse, whereby he seeks to be adjudicated the common law spouse of the Decedent, Holly Riedel, and receive an intestate share of Decedent's estate.

2. The Decedent's died on March 18, 2024 and Respondent was appointed as Personal Representative by the McCormick County Probate Court on April 1, 2024.

3. 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. In this Estate, an action regarding determination of common law spouse needed to have been filed no later than November 18, 2024.

5. The Petitioner filed this action on December 4, 2024 after the statute of limitations had passed.

6. Thus, the Petitioner is time-barred and this action should be dismissed.

WHEREFORE, the Respondent, Sara Riedel, would respectfully pray as follows:

A. That the Court dismiss the Petition and for such other and further relief as the Court may deem just and proper;

B. That Respondent be granted attorney's fees, costs, and for such other relief as the Court deems just.

MAXWELL LAW FIRM, PC

Aiken, South Carolina

January 29, 2025



RONALD A. MAXWELL
Attorney for Sara Riedel
PO Box 1115
Aiken, SC 29802
(803) 641-6700
zmoulton@maxwelllawfirm.com

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF MCCORMICK	)	ELEVENTH JUDICIAL CIRCUIT
	)	
ESTATE OF HOLLY RIEDEL,	)	CASE NO2024-ES-35-00038
	)	
Ty D. Evans,	)	
	)	
Petitioner,	)	ANSWER TO PETITION FOR
	)	DETERMINATION OF COMMON
	)	LAW SPOUSE
V.	)	
	)	
Sara Riedel, as Personal Representative of	)	
the Estate of Holly Riedel,	)	
	)	
Respondent.	)	
	)	

The Respondent, Sara Riedel, by and through her undersigned attorney hereby answers the
Petition to Contest Will of the Petitioner as follows:

FOR A FIRST DEFENSE
(General Denial)

1. Respondent, upon information and belief, admits the allegations of Paragraphs 1 through 3 of the Petition.
2. Respondent denies the allegations of Paragraphs 4 of the Petition.
3. Respondent lacks sufficient knowledge to admit or deny the allegations of Paragraph 5 of the Petition.
4. Respondent denies the allegations of Paragraphs 6-8 of the Petition.

FOR A SECOND DEFENSE
(Claim is Time Barred by Statute of Limitations)

5. The Respondent would show that the Plaintiff's Petition is time barred as the time to file a petition for the actions alleged in the Petition had expired prior to the Petitioner's filing.

FILED
 2025 JAN 31 AM 10:40
 PROBATE COURT
 MCCORMICK COUNTY

6. The Decedent died on March 18, 2024 and the Respondent was appointed as personal representative on April 1, 2024.

7. 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).

8. In this Estate, a person would have needed to file an action for determination of common law spouse by November 18, 2024.

9. The Petitioner filed this action on December 4, 2024 after the statute of limitations had passed.

10. Thus, the Petitioner is time-barred and this action should be dismissed.

WHEREFORE, having fully responded to the Petition, Respondent Sara Riedel, would respectfully pray as follows:

A. That the Petition be dismissed and for such other and further relief as the Court may deem just and proper;

B. That the Court deny Petitioner's request to be determined the common law spouse of the Decedent;

C. That the Court deny Petitioner's request for an intestate share of the Decedent's estate as common law spouse;

D. That the Court find that Sara Riedel is the sole heir of the Estate of Holly Riedel;

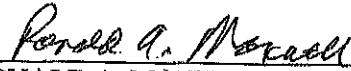
E. That the Court deny Petitioner's requests for attorneys' fees, costs, and all other relief;

F. That Respondent be granted attorney's fees, costs, and for such other relief as the Court deems just and proper.

Aiken, South Carolina

January 29, 2025

MAXWELL LAW FIRM, PC



RONALD A. MAXWELL

Attorney for Sara Riedel

PO Box 1115

Aiken, SC 29802

(803) 641-6700

zmoulton@maxwelllawfirm.com

ROA 022

STATE OF SOUTH CAROLINA

COUNTY OF MCCORMICK

ESTATE OF HOLLY RIEDEL,

Ty D. Evans,

Petitioner,

V.

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

Respondent.

IN THE PROBATE COURT

ELEVENTH JUDICIAL CIRCUIT

CASE NO: 2024-ES-35-00038

MEMORANDUM IN SUPPORT
OF MOTION TO DISMISS

The Respondent, Sara Riedel, by and through her undersigned attorney hereby provides this memorandum in support of her Motion to Dismiss the above-referenced action pursuant to South Carolina Rules of Civil Procedure Rule 12(b)(6) as follows:

FACTUAL AND PROCEDURAL BACKGROUND

The Decedent died on March 18, 2024 and Respondent was appointed as Personal Representative by the McCormick County Probate Court on April 1, 2024. The Petitioner filed a petition for Determination of Common Law Spouse on December 4, 2024. Respondent filed a Motion to Dismiss Petitioner's Petition on January 30, 2025. A hearing was held on Respondent's Motion to Dismiss on May 8, 2025.

At the hearing, Petitioner provided an information form to the Court that listed Petitioner as the spouse of the Decedent. (Attached hereto as Exhibit A). Petitioner mailed this document to the Court but never provided a copy to the Respondent. Respondent was not aware of and had never seen the document until the hearing on May 8, 2025. Petitioner further argued that he was not aware of Respondent's appointment as Personal Representative on April 1, 2024. Respondent contended

that the statute of limitations period does not change simply from lack of notice, particularly in this case where the Respondent had no obligation to provide the Petitioner notice of her appointment.

STANDARD OF LAW

"In deciding a motion to dismiss pursuant to 12(b)(6), SCRCP, 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.* A court can always take judicial notice of its own records, files and proceedings for all proper purposes including facts established in its records. *Freeman v. McBee*, 280 S.C. 490, 494, 313 S.E.2d 325, 327 (Ct. App. 1984). In addition, a Court "may properly take judicial notice of matters of public record" in reviewing a Rule 12(b)(6) motion. *Philips v. Pitt Co. Memorial Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009).

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).

ARGUMENTS

I. Statute of Limitations for Determination of Common Law Spouse

The South Carolina Code requires that a petition to determine 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). In this Estate, a petition would have needed to be filed by November 18, 2024 as this was the later date based on the Decedent's death on March 18, 2024. The Petitioner did not file his petition until December 4, 2024.

At the hearing, Petitioner argued he was not aware of Respondent's appointment as Personal Representative. However, Respondent was not required to give Petitioner direct notice of her appointment as he was not and is not an interested party nor had he filed a demand for notice in this estate. The relevant statute gives two options and allows for an action to be filed within the later of the two dates. There is no relevant case law that allows for an extension past the 8 months deadline in events where a person is not aware initially of an appointment of a personal representative. It is likely that the purpose of allowing a filing based on the later date is for situations where a personal representative is appointed much later after death. That is not the case in this estate.

Additionally, as the informant on the Decedent's death certificate, Petitioner was well aware of Decedent's date of death. In this particular estate, the 8 months from date of death was the latest date by which Petitioner could file his petition. Thus, he was not harmed even if he was not aware of Respondent's exact appointment date. The Petitioner knew of Decedent's death and had ample time to file within the 8 months limitations period, and he failed to do so. The Petitioner has not been able to provide any other reason that his petition was not timely filed.

Petitioner further introduced the form attached as Exhibit A. This is simply an information form given to any person who requests it by the Court. Additionally, this is not a specific action seeking to have the Petitioner determined as the common law spouse of the Decedent. The statute requires an action be commenced within the ascribed 6 or 8 month period. This envisions a specific action that puts any interested party on notice of the Petitioner's intent. This form is not a formal petition, and it was never served upon the Respondent. Even if it had been served on the Respondent, it is not clear enough to put the Respondent on notice of Petitioner's intent to be determined as the Decedent's common law spouse.

CONCLUSION

The question before the Court is the Petitioner's failure to file his Petition for Determination as Common Law Spouse within the ascribed statute of limitations period. When viewed in the light most favorable to the Petitioner, it is clear that the Petitioner failed to comply with the statute of limitations and has not provided any reasonable excuse for his untimely filing of his Petition. Petitioner was well aware of Decedent's date of death and Respondent's appointment as Personal Representative, and he had plenty of opportunity to timely file his Petition. Based on the foregoing, Respondent respectfully submits and requests that Respondent's Motion to Dismiss should be granted and the Petitioner's Petition should be dismissed in its entirety.

Aiken, South Carolina

May 20, 2025

MAXWELL LAW FIRM, PC


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Attorney for Sara Riedel
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STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF MCCORMICK	)	ELEVENTH JUDICIAL CIRCUIT
	)	
Estate of Holly Riedel	)	Estate No.: 2024-ES-35-00038
	)	
Ty D. Evans,	)	PETITIONER'S BRIEF IN
	)	OPPOSITION TO MOTION TO
Petitioner,	)	DISMISS
	)	
vs.	)	
	)	
Sara Riedel, as Personal Representative of	)	
the Estate of Holly Riedel,	)	
	)	
Respondent.	)	

FACTS AND PROCEDURAL HISTORY

Holly Riedel died from injuries suffered in a motor vehicle collision in Edgefield County on March 18, 2024. At the time of her death, Holly Riedel lived at 260 L.W. Lyons Road, Plum Branch, SC 29845, with Petitioner Ty D. Evans. The McCormick County Probate Court appointed Respondent Sara Riedel as personal representative of Holly Riedel's estate on April 1, 2024. Sara Riedel never sent a notice of her appointment or any other document to Mr. Evans. On December 4, 2024, Mr. Evans filed a summons and petition for determination of a common-law spouse with the McCormick County Probate Court. He served this document on Sara Riedel.

Previously, in November 2024, Mr. Evans had filed an information form about Holly Riedel's death with the probate court.¹ This document is a form regularly used by the probate court and gave biographical information, life insurance information, property information, and Mr. Evans listed Holly Riedel as his spouse. Mr. Evans also listed Sara Riedel as Holly Riedel's only living adult child.

¹ Mr. Evans provided this document as an exhibit at the hearing on May 8, 2025.

LEGAL STANDARD

When deciding a motion to dismiss for failure to state a claim pursuant to SCRCP 12(b)(6), "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." Plyer v. Burns, 373 S.C. 637, 647 S.E.2d 188 (2007). "A motion to dismiss pursuant to Rule 12(b)(6) must be based solely on the allegations set forth in the complaint, and [the court] must presume all well-pled facts to be true." Gressette v. South Elec. and Gas Co., 370 S.C. 377, 635 S.E.2d 538, rehearing denied (2006) (internal citations omitted). "A motion to dismiss under Rule 12(b)(6) should not be granted if facts alleged and inferences reasonably deducible therefrom entitle the plaintiff to relief under any theory. The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action." Bergstrom v. Palmetto Health Alliance, 358 S.C. 388, 596 S.E.2d 42, rehearing denied (2004). "A judgment on the pleadings is considered to be a drastic measure," so a motion to dismiss under Rule 12(b)(6) should not be granted if facts alleged and inferences reasonably deducible therefrom entitle a plaintiff to any relief under any theory of the case. Overcash v. S.C. Elec. & Gas Co., 364 S.C. 569, 572, 614 S.E.2d 619, 620 (2005).

"On appeal, the appellate court applies the same standard of review [as the trial court]." Benedict College v. National Credit Systems, Inc., 400 S.C. 538, 544, 735 S.E.2d 518, 521 (Ct. App. 2012). "In deciding whether the trial court properly granted the motion to dismiss, the appellate court must consider whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief." Spence v. Spence, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006).

ARGUMENT

The Court should deny Sara Riedel's motion to dismiss Mr. Evans' petition to be determined to be Holly Riedel's common-law spouse. Sara Riedel's argument relies on S.C. Code Section 62-2-802(b), which excludes someone from being a surviving spouse unless "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).

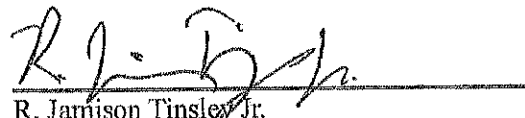
At this stage of the litigation in this case, the Court should find that Mr. Evans commenced this action when he filed the information sheet with the Court in November 2024, within the eight-month timeframe. Mr. Evans was claiming in that document that Holly Riedel was his spouse, which is sufficient to commence the action. He then filed the more formal petition with the assistance of counsel and perfected service of that document on Sara Riedel, the personal representative. The Court should treat the second document as an amendment of the first document for purpose of determining when Mr. Evans commenced this action.

Sara Riedel argues that the statute requires "a specific action that puts any interested party on notice of the Petitioner's intent." The statute does not contain such language but just states that the action must be commenced within the six- or eight-month time period. Any defects in the original filing by Evans were corrected by the filing of the more formal petition, which was filed on December 4, 2024, and should be treated as an amended filing. Given this procedural history, the Court should not grant the drastic measure of dismissing Mr. Evans' petition and should let the case proceed.

CONCLUSION

For the reasons argued above, at this early stage of the litigation, the Court should deny Sara Riedel's motion to dismiss Mr. Evans' petition to be determined to be the common-law spouse. Mr. Evans' initial filing with the Court that listed Holly Riedel as his spouse should be considered timely and the subsequent petition treated as an amendment. Mr. Evans' timely commenced his case, and it should be allowed to proceed.

TINSLEY & TINSLEY, P.C.
Attorney for Petitioner



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S.C. Bar No. 79903

June 3, 2025

Greenwood, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF MCCORMICK)
Estate of Holly Riedel)
Ty D. Evans,)
Petitioner,)
vs.)
Sara Riedel, as Personal Representative of)
the Estate of Holly Riedel,)
Respondent.)

IN THE PROBATE COURT
ELEVENTH JUDICIAL CIRCUIT
Estate No.: 2024-ES-35-00038
**PETITIONER'S MOTION TO
RECONSIDER**

FILED
2025 JUN 20 A 7:29
CLERK OF COURT

Pursuant to Rule 59, SCRPC, Petitioner Ty D. Evans respectfully requests the Court reconsider and amend its Order filed June 3, 2025, and received by Petitioner's counsel on June 9, 2025, for the following reasons discussed herein.

The Court should reconsider its ruling and find that Petitioner's case for a common-law spouse determination can proceed.

The Court should find that Mr. Evans commenced this action when he filed the information sheet with the Court in November 2024, within the eight-month timeframe. Mr. Evans was claiming in that document that Holly Riedel was his spouse, which is sufficient to commence the action. He then filed the more formal petition with the assistance of counsel and perfected service of that document on Sara Riedel, the personal representative. The Court should treat the second document as an amendment of the first document for purpose of determining when Mr. Evans commenced this action.

Sara Riedel argued that the statute requires "a specific action that puts any interested party on notice of the Petitioner's intent." The statute does not contain such language but just states that the action must be commenced within the six- or eight-month time period. Any defects in the

original filing by Evans were corrected by the filing of the more formal petition, which was filed on December 4, 2024, and should be treated as an amended filing. Given this procedural history, the Court should not grant the drastic measure of dismissing Mr. Evans' petition and should let the case proceed.

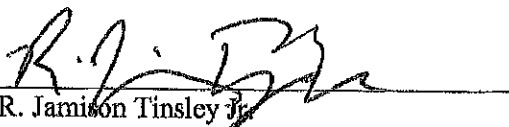
The Court should also address Evans' claim for the funeral expenses. Mr. Evans paid \$5,446.40 to Posey Funeral Home for Holly Riedel's funeral. This cost has priority pursuant to S.C. Code Section 62-3-805. The Court should award Evans' these costs as a claim against the Estate.

CONCLUSION

For the reasons stated above, the Court should reconsider its decision and allow Evans' claim to be a common-law spouse to proceed. The Court should also allow Evans' claim for \$5,446.40 for the funeral expenses.

TINSLEY & TINSLEY, P.C.

Attorney for Petitioner



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June 13, 2025

Greenwood, South Carolina

Ty Evans vs. Sara Riedel – Case No. 2025-CP-35-_____
Notice of Appeal

COPY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF MCCORMICK	)	EIGHTH JUDICIAL CIRCUIT
	)	
Estate of Holly Riedel	)	Common Pleas Case No. 2025-CP-35-____
	)	
Ty Evans,	)	Probate Case No. 2024-ES-35-00038
	)	
Appellant,	)	NOTICE OF APPEAL
	)	
vs.	)	
	)	
Sara Riedel, as Personal Representative of	)	
the Estate of Holly Riedel,	)	
	)	
Respondent.	)	

Appellant Ty Evans hereby gives notice of appeal from the judgment of the Probate Court in the above-referenced action to the Court of Common Pleas in McCormick County. This notice of appeal is made subsequent to the order denying Appellant's motion to reconsider. The written order was dated September 25, 2025, and filed September 26, 2025. Counsel for Appellant received written notice of the order on September 30, 2025.

As required by Section 62-1-308(a), within ten days after Appellant received notice of the order, a copy of this notice of appeal has been filed with the Court of Common Pleas and the Probate Court and has been served upon Respondent by mailing it to her attorney via first-class U.S. Mail with proper postage affixed and addressed to:

Ronnie Maxwell
Zachary Moulton
225 Chesterfield St. NW
Aiken, SC 29802

(SIGNATURE BLOCK ON FOLLOWING PAGE)

Ty Evans vs. Sara Riedel – Case No. 2025-CP-35-_____
Notice of Appeal

TINSLEY & TINSLEY, P.C.
Attorney for Appellant

s/R. Jamison Tinsley Jr.
R. Jamison Tinsley Jr.
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October 10, 2025

Greenwood, South Carolina

ELECTRONICALLY FILED - 2025 Oct 10 4:15 PM - MCCORMICK - COMMON PLEAS - CASE#2025CP3500093

STATE OF SOUTH CAROLINA

COUNTY OF MCCORMICK

Estate of Holly Riedel

Ty Evans,

Appellant,

vs.

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

Respondent.

IN THE COURT OF COMMON PLEAS

EIGHTH JUDICIAL CIRCUIT

Common Pleas Case No. 2025-CP-35-00093.

Probate Case No. 2024-ES-35-00038

**APPELLANT'S STATEMENT OF
ISSUES ON APPEAL**

STATEMENT OF ISSUE ON APPEAL

Whether the probate court erred in holding that Ty Evans ("Evans") was time barred from claiming he is the common-law spouse of Decedent Holly Riedel when his filings with the Court were timely.

STATEMENT OF CASE & FACTS

Holly Riedel died from injuries suffered in a motor-vehicle collision in Edgefield County on March 18, 2024. At the time of her death, Holly Riedel lived at 260 L.W. Lyons Road, Plum Branch, SC 29845, with Evans. The McCormick County Probate Court appointed Sara Riedel as personal representative of Holly Riedel's estate on April 1, 2024. Sara Riedel never sent a notice of her appointment or any other document to Evans. On December 4, 2024, Evans filed a summons and petition for determination of a common-law spouse with the McCormick County Probate Court. He served this document on Sara Riedel.

Previously in November 2024, Evans filed an information form about Holly Riedel's death with the probate court. This document is a form regularly used by the probate court and gave

biographical information, life insurance information, property information, and Evants listed Holly Riedel as his spouse. Evans also listed Sara Riedel as Holly Riedel's only living adult child.

The probate court held a hearing on Sara Riedel's motion to dismiss the petition on May 8, 2025. The Court issued an order granting Sara Riedel's motion on June 3, 2025. Evans filed and served a motion to reconsider on June 13, 2025. The Court issued an order on September 25, 2025, that still dismissed Evans' petition but found that he was entitled to reimbursement for all funeral expenses.

LEGAL STANDARD

When deciding a motion to dismiss for failure to state a claim pursuant to Rule 12(b)(c), SCRCP, "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." Plyer v. Burns, 373 S.C. 637, 647, S.E.2d 188 (2007). "A motion to dismiss pursuant to Rule 12(b)(6) must be based solely on the allegations set forth in the complaint, and [the court] must presume all well-pled facts to be true." Gressette v. South Elec. And Gas Co., 370 S.C. 377, 635 S.E.2d 538, rehearing denied (2006) (internal citations omitted). "A motion to dismiss under Rule 12(b)(6) should not be granted if facts alleged and inferences reasonably deduced therefrom entitle the plaintiff to relief under any theory. The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action." Bergstrom v. Palmetto Health Alliance, 358 S.C. 388, 596 S.E.2d 42, rehearing denied (2004). "A judgment on the pleadings is considered to be a drastic measure," so a motion to dismiss under Rule 12(b)(6) should not be granted if facts alleged and inferences reasonably deducible therefrom entitled a plaintiff to any relief under any theory of the case. Overcash v. S.C. Elec. & Gas Co., 364 S.C. 569, 572, 614 S.E.2d 619, 620 (2005).

“On appeal, the appellate Court applies the same standard of review [as the trial court].” Benedict College v. National Credit Systems, Inc., 400 S.C. 538, 544, 735 S.E.2d 518, 521 (Ct. App. 2012). “In deciding whether the trial court properly granted the motion to dismiss, the appellate court must consider whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief.” Spence v. Spence, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006).

ARGUMENT

The Court should reverse the probate court’s order dismissing Evans’ petition to be determined to be Holly Riedel’s common-law spouse. The Court relied on S.C. Code Section 62-2-802(b), which excludes someone from being a surviving spouse unless “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).

The probate court erred in dismissing the petition at this stage of the litigation. The probate court should have found that Evans commenced this action when he filed the information sheet with the Court in November 2024, within the eight-month timeframe. Mr. Evans claimed in that document that Holly Riedel was his spouse, which is sufficient to commence the action. He then filed a more formal petition with the assistance of counsel and perfected service of that document on Sara Riedel, the personal representative. The probate court should have treated the second document as an amendment of the first document for purpose of determining when Evans commenced this action. Neither order of the probate court addressed this argument by Evans.

The statute just states that the action must be commenced within the six- or eight-month time period, whichever is later. Any defects in the original filing by Evans were corrected by the

filing of the more formal petition, which was filed on December 4, 2024, and the probate court should have treated as an amended filing. Given the procedural history, the probate court erred in granting the drastic measure of dismissing Evans' petition and should have let the case proceed.

The Court should affirm the probate court's order allowing reimbursement for Holly Riedel's funeral expenses. Evans paid \$5,446.40 to Posey Funeral Home for the funeral. This cost has priority pursuant to S.C. Code Section 62-3-805.

CONCLUSION

For the reasons argued above, the Court should reverse the probate court's order dismissing Evans' petition to be determined to be Holly Riedel's common-law spouse. Evans' initial filing with the Court that listed Holly Riedel as his spouse was timely so the subsequent petition should be treated as an amendment. Evans' timely commenced this case so the Court should remand the case to the probate court allowing Evans' case to proceed.

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November 7, 2025

Greenwood, South Carolina

RECEIVED

Apr 27 2026

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.: 2025-CP-35-00093

Ty Evans,

Appellant,

v.

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

Respondent.

NOTICE OF APPEAL

Appellant Ty Evans appeals the Form 4 issued March 24, 2026, that dismissed Appellants' appeal from the probate court's dismissal of his petition.

April 16, 2026



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(864) 223-0770
Attorney for Appellant Ty Evans

Other Counsel of Record:
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Zachary J. Moulton, Esq.
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PO Box 1115
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803-641-6700

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

1 STATE OF SOUTH CAROLINA
2 IN THE COURT OF COMMON PLEAS
3 COUNTY OF MCCORMICK

4 Ty Evans,

5 Petitioner,

6 vs.

Transcript of Record
2025-CP-35-0065

7 Sara Riedel,

8 Respondent.

9
10 February 23, 2026
11 McCormick, South Carolina

12 B E F O R E:

13 The HONORABLE FRANK R. ADDY
14

15 A P P E A R A N C E S:

16 R. Jamison Tinsley, Jr., Representing the Petitioner
17 Joseph Moulton, Representing the Respondent
18
19

20 SHARON G. HARDOON, CSR
21 Official Circuit Court Stenographer, III
22
23
24
25

INDEX

Certificate of Reporter

Certificate of Reporter

Page Line

15 1

1 THE COURT: We are going on the record on 25-CP-35-65,
2 the matter of the Estate of Holly Riedel, Sara Riedel is the
3 appellant and Todd Evans, of course, is the respondent.

4 I've reviewed the -- I'm going to call it the
5 memorandum before it was forwarded to Mr. Moulton on behalf
6 of Miss Riedel. Essentially, the -- I believe Mr. Tinsley's
7 client, or Evans, was awarded funeral expenses as well as
8 reimbursement for time and travel and hardship in order to
9 make the funeral arrangements. An award done during the
10 course of the motion for reconsideration. Appellant takes
11 issue with the fact that the request for funeral expenses
12 and such was not filed within the time period prescribed by
13 the probate code. This case, of course, was consolidated
14 with another case, 25-CP-35-93, and here's where we are.

15 I guess you're the moving party.

16 MR. MOULTON: Thank you, Your Honor. May it please the
17 Court?

18 THE COURT: Yes, sir.

19 MR. MOULTON: And just for the Court's clarity, I will
20 add, Judge Gray issued two different orders. The first of
21 which was a partial order, which is the one that we appealed
22 on behalf of Miss Riedel which dealt with the issues of the
23 funeral expenses. I think since then Judge Gray issued a
24 final order that was worded a little bit differently in
25 regards to the funeral expenses.

1 Mr. Tinsley and I discussed this before the hearing,
2 and so I think some of those issues have resolved based on
3 the final order. One of those being our concern about the
4 additional expenses about the time, hardship, et cetera. So
5 for us, in regards to funeral expenses, the two concerns we
6 still have, the biggest one is, this was granted in the
7 context of a motion to reconsideration, and that motion to
8 reconsider was on a motion to dismiss the common law spouse
9 claim. Our position is that ruling is improper because that
10 issue of the funeral expenses was not at issue in that
11 original motion to dismiss.

12 And then, additionally, Mr. Evans, the respondent,
13 never filed a claim with the probate court for the funeral
14 expenses. So those really are where our two issues with
15 that rise. I can say that my client is not disputing that
16 Mr. Evans paid those expenses, but the issue of the timing
17 of when that was filed and then the fact that this was
18 granted during a motion to reconsider is our issue there
19 with that.

20 And then I know Mr. Tinsley has appealed the common law
21 spouse issue, so I will defer to him on that. We obviously
22 believe that the Court was correct in its ruling denying
23 Mr. Evans' motion to reconsider.

24 THE COURT: I don't have -- I was unable to locate the
25 order from that common law spouse. Was a formal order done?

1 MR. TINSLEY: Judge, there was. I can it up.

2 THE COURT: Okay.

3 MR. TINSLEY: I was to trying to send what I had filed,
4 basically a similar memorandum. I don't know if I filed it
5 wrong. I got kind of confused with the procedural stuff, so
6 I got a little brief which mirrors what I filed. I can hand
7 up that order as well. It's just a little confusing because
8 there were three orders issued. One is a partial order that
9 they appealed on. They issued a final order that took care
10 of all of that. And then I filed a motion to reconsider any
11 issue -- the third, I guess we can call it, which is the
12 final order.

13 MR. MOULTON: I've got a copy. These are the two, a
14 motion to reconsider --

15 Your Honor, I've got -- I'm passing up the two motions
16 on -- the two orders on the motion to reconsider. I think
17 Mr. Tinsley -- I should have a copy too of the original
18 order denying -- I guess granting Miss Riedel's motion to
19 dismiss the common law spouse claim due to it being untimely
20 filed.

21 MR. TINSLEY: This would be the July 2nd order.

22 What -- Judge Addy, which of the two dates of the
23 orders you got up there?

24 THE COURT: I got September 5th or 6th of 2025. It
25 looks like '26. And the 2/22 of '25. The second looks like

1 '25.

2 MR. TINSLEY: I got this other one right here. It's
3 filed June 3rd, 2025.

4 MR. MOULTON: I believe that would be other one.

5 MR. TINSLEY: I'll hand this one up, Judge.

6 THE COURT: Mr. Moulton, you indicated in your motion
7 that you had reached out to Judge Gray, but apparently he's
8 unable to prepare a transcript because the recording device
9 malfunctioned.

10 MR. MOULTON: That's correct, Your Honor. There is no
11 transcript from the hearing.

12 MR. TINSLEY: That is what he told me as well, Judge.

13 THE COURT: All right. Mr. Tinsley, let me hear from
14 you.

15 MR. TINSLEY: Okay, Judge. I represent Ty Evans who
16 brought a claim for -- to be declared as the common law
17 spouse of Holly Riedel. Miss Riedel died in a car wreck in
18 Edgefield County on March the 18th of 2024. She died
19 without a will. She lived with -- it's undisputed she lived
20 my client at the time. They had a long-term relationship
21 otherwise that predates the Supreme Court doing away with
22 common law marriage in this state.

23 Her only heir-in-law would be her daughter, Sara
24 Riedel, who Mr. Moulton represents. She was appointed as
25 personnel representative on April the 1st of 2024.

1 My client in early November filed -- filled out, filed
2 some paperwork with the probate court. Something -- you
3 know, how different probate courts have different forms and
4 paperwork -- paperwork that they use unlike common pleas or
5 general sessions or family court in this state.

6 In that paperwork, he claimed that she was his spouse.
7 He also listed Miss Riedel as her only living child, and had
8 some other information dealing with assets, debts, and that
9 sort of thing.

10 I filed on his behalf a petition to be -- a formal
11 petition to be determined as the common law spouse. Filed
12 and served it on Miss Riedel December the 4th of 2024 on
13 Mr. Evans' behalf.

14 Judge Gray in his order found that he was out of time
15 based off of the probate statute 62-2-804(b)(4) which says
16 six months from appointment or eight months after death,
17 whichever is a later. Clearly, 12/4 would not meet that.
18 However, we argue below and continue to argue that it should
19 relate back to what he initially filed with the court and
20 put everyone on notice that he was claiming he was her
21 spouse in early November, particularly at this procedural
22 juncture on a motion to dismiss, a 12(b)(6) motion,
23 essentially is what is, and continue to argue that.

24 He's got several affidavits backing up his argument,
25 his case that he is a common law spouse. He's never said

1 anything about Miss Riedel as personnel representative.
2 Initially, they went and saw another lawyer, Mr. Hawk, a
3 fellow who is involved in the civil side of things. They
4 went and saw him together, and my client was under the
5 impression that he was representing both Mr. Evans and
6 Miss Riedel. So he feels like there was a runaround to make
7 her PR and not even -- and him get left out. That's kind of
8 the back story rather than anything that's in the pleading
9 itself.

10 So we would ask that you allow -- that you reverse the
11 Court, the probate court, remand this case back to probate
12 court and let my client proceed on his claims to be the
13 spouse.

14 Like I said, I brought up this brief, a statement of
15 issues on appeal. I know I printed three copies out this
16 morning and now I can't find them. So I guess I would ask
17 that I'd be allowed to email the Court and opposing counsel
18 that. It's essentially the same argument I just made
19 verbally. The same argument from below. It's almost
20 identical to the brief that I filed that Judge Gray has. I
21 submitted briefs on the case below.

22 So that is our argument, Judge, and I'll be happy to
23 answer any questions you have.

24 THE COURT: Okay. And just so that I understand Judge
25 Gray's order, and, again, we don't have a record here, but I

1 assume he limited his ruling simply to the timeliness of the
2 application and not the actual merits of --

3 MR. MOULTON: Correct, Judge.

4 MR. TINSLEY: Yeah, he treated it, basically,
5 straight like a 12(b)(6), is the way I interpreted it.
6 Because there was no -- no outside stuff was brought in. No
7 discovery has been done on this case. It wasn't like a.

8 THE COURT: Okay.

9 MR. TINSLEY: summary judgment. I would say it's
10 strictly on the timeliness on a 12(b)(6) basis.

11 THE COURT: Okay. So there was no testimony taken, or
12 anything like that. Basically, they took the position, even
13 if he's the common law spouse, it's simply filed outside of
14 the time frame?

15 MR. TINSLEY: Correct, Judge. No testimony. It was
16 just argument from counsel like we're doing today.

17 THE COURT: Okay. Do you have -- can you provide -- at
18 a later point in time, perhaps, when you send over your
19 memorandum, can you also send me whatever it was that he
20 initially filed?

21 MR. TINSLEY: Yes, Judge.

22 THE COURT: On their motion, Mr. Tinsley, did you have
23 that?

24 MR. TINSLEY: I do have a copy of that, Your Honor,
25 when it was submitted in the probate court hearing.

1 THE COURT: I assume that this is the form that the
2 probate court uses here just, kind of, as an introductory,
3 not a State kind of thing. Is that what this is?

4 MR. TINSLEY: That's my understanding. It's got -- it
5 is certainly and introductory document. I don't know if
6 it's the first one, but it's something early in the process,
7 is my understanding of how they operate here, Judge.

8 THE COURT: And the second page, that does reflect that
9 Mr. Evans listed, basically, name a spouse, Holly Riedel,
10 R-i-e-d-e-l. I have copies of that. I'll hand you those
11 back.

12 All right. How much was awarded for funeral expenses
13 and how much for the inconvenience of time, travel, that
14 sort of a thing? Do you want to speak to that aspect of
15 this appeal?

16 MR. TINSLEY: Yes, Judge. The amount of the funeral
17 expenses were \$5,446.40, which were paid by my client to the
18 Posey Funeral Home. We've never submitted anything --
19 Judge, nothing has ever been submitted regarding this time,
20 travel expenses. The only other thing that my client has
21 submitted is some expenses that Miss Riedel's sister, Joy
22 Benson, that she incurred, \$3074.60. But, admittedly, he
23 did not incur those expenses. She did. I don't really have
24 an answer for that on that hardship and time and travel
25 stuff for you, Judge. I don't have anything that I can hand

1 up calculating that.

2 THE COURT: Did the judge award that \$3,074 for the
3 sister as well, or was that even mentioned?

4 MR. TINSLEY: No, I don't think so. I certainly didn't
5 file anything on her behalf. The client provided that to
6 me. I'm just letting the Court know about it. She's the
7 one who did incur that expense, not my client.

8 THE COURT: What's your position regarding whether it's
9 necessary to request funeral expenses and that sort of a
10 thing?

11 MR. TINSLEY: Judge, I would say that in our initial --
12 it's a different time period on the funeral predators claim
13 rather than the common law spouse claim.

14 So, although I did not -- in the petition I filed, I
15 did not specifically ask for that five thousand some-odd
16 dollars, I did, you know, kind of had a catch-all, any other
17 monies he's owed. I think this funeral bill clearly comes
18 off the top. It's not undisputed that he incurred those
19 expenses. I think he's okay there. I mean, he's timely
20 there.

21 THE COURT: Okay. Let me hear from you on those two
22 issues then, the appeal, et cetera, and his aspect of the
23 appeal, and the funeral expenses.

24 MR. MOULTON: Okay. In regards to the funeral
25 expenses, I think that would be the easier one to address to

1 start with. The Court did provide me, on behalf of my
2 client, with a copy of the funeral bill. I would need just
3 some more verification from Mr. Evans, but I don't think
4 there's any real dispute that he did pay those expenses.
5 Our biggest concern was about the hardship and, you know,
6 the time incurred that was not granted.

7 Additionally, the judge's order does not grant a
8 specific amount, but I think probably the most appropriate
9 ruling there, or at least what we would request, is just a
10 remand to the probate court to address that issue on the
11 creditor -- or on the funeral expenses.

12 In regard to the common law spouse claim, the document
13 that Mr. Evans filed with the court, you know, our position
14 is, it's just an informational document. Something that the
15 Court gives out to anyone who is attempting to open a new
16 estate, file an estate with the McCormick County Probate
17 Court.

18 Mr. Evans was aware of Miss Riedel's death. He's the
19 informant on Ms. Riedel's death certificate.

20 Additionally, it was mentioned that Miss Sara Riedel,
21 my client, did not inform Mr. Evans that she had been
22 appointed the personal representative. There is no
23 requirement in the probate code that she do so as he is not
24 a relative. He had not been adjudicated as a common law
25 spouse, or -- well, he was not legally the spouse either at

1 that point in time. He was aware of her appointment. We
2 are correspondence between my office and Mr. Tinsley's
3 office where we informed him that Miss Riedel had been
4 appointed as personal representative.

5 The biggest issue, there's no doubt that the petition
6 was filed late on December the 4th after the timing would
7 have ended for Mr. Evans to file a common law spouse
8 petition. That is -- let's see. It's 62-2-802(b) is the
9 code, and it's either, the later of eight months from death
10 or six months from appointment of a PR. The eight months
11 from death would have ended November 18th of 2024. So even
12 if we time it from that date, which would have the later
13 date, Mr. Evans was clearly aware of her death based on the
14 death certificate, and he still had not timely file. And
15 that our argument to the probate judge in regards to that,
16 that he had knowledge. It was not hidden from him. He did
17 not file within the time prescribed by the probate code.

18 And I would be happy to, if it would help, Judge, what
19 Mr. Tinsley said, as far as us submitting a brief or
20 something just to provide to you to review, I'd be happy to
21 do that as well. I think we have something that we filed
22 with probate court in regards to the motion to reconsider
23 that addresses some of those issues.

24 THE COURT: If you want to send me that, that's fine.
25 I'm intimately familiar with the probate code even though

1 they changed it a year after I got this job.

2 MR. MOULTON: Absolutely. I thought you'd probably
3 know it very well.

4 I'll be happy to submit that. But, you know, our
5 position is that the Court was correct in granting our
6 motion to dismiss based on the petition not being timely
7 filed. We ask that you would uphold the probate judge's
8 order in regard to the common law spouse claim.

9 THE COURT: All right. Obviously, I'll be taking the
10 matter under advisement so that Mr. Tinsley can forward me
11 that -- what's probably sitting back on his printer in his
12 office.

13 MR. TINSLEY: Correct.

14 THE COURT: Anything else on this case?

15 MR. MOULTON: Nothing further, Your Honor.

16 THE COURT: Very good. If I need anything further from
17 you all, I'll reach out to you. My AA is going to make
18 copies of those documents that you handed up so that she can
19 give those back to you.

20 MR. TINSLEY: Thank you, Judge.

21 THE COURT: Good to see you.

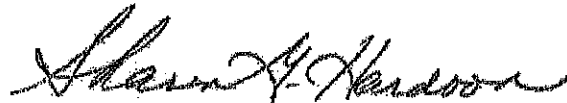
22 (The hearing concluded.)
23
24
25

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Stenographer, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas, McCormick County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

July 14, 2026



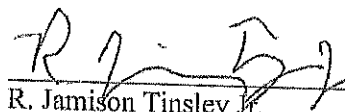
Sharon G. Hardoon, CSR
Official Circuit Court Stenographer, III

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

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