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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DARLINGTON )  
 )  
In the Matter of Dorothy W. Hatcher )  
 )  
Harold Wilson, )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
Cynthia Barnett, Louise Sweat, and )  
Hubert Wilson, )  
 )  
Respondents. )  
\_\_\_\_\_ )

IN THE PROBATE COURT  
PROBATE FILE NO. 2012-ES16-287

ORDER

RECEIVED

MAR 24 2014

MARVIN LAWSON  
JUDGE OF PROBATE  
DARLINGTON COUNTY, SC

2014 FEB 27 AM 10:32

FILED

**SC Court of Appeals**

This matter came before me as a result of a filing of a Summons and Petition to Vacate or Modify Previous Order filed by Harold Wilson. A hearing on the matter was held on January 8, 2014, at 10:00 a.m. at the Darlington County Probate Court. Present at the hearing were the Petitioner, Harold Wilson, and Charlie J. Blake, Jr., his attorney of record and Gena Phillips Ervin, attorney for Cynthia Barnett, Personal Representative of the Estate of Dorothy W. Hatcher. The evidence presented at the hearing was the testimony of Harold Wilson. Mr. Wilson testified that he did not find the original Will he was attempting to present until approximately five months ago. In addition he testified that he was unable to attend the previous hearing held September 17, 2012, in this matter because he was at the hospital with a sinus infection. He further testified that a member of the Probate Court staff had told him to get there as soon as possible, however, the Court failed to wait until he arrived for the hearing.

The Court takes judicial notice however that Mr. Wilson's own Answer dated September 7, 2012, on page two, section two, subsection one states "I Harold Wilson am in possession of the original Will drawn up by Ms. Dorothy W. Hatcher on 9/10/09." The Court further takes

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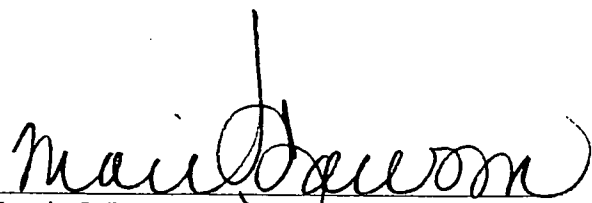
*Marvin Lawson*

JUDGE OF PROBATE  
DARLINGTON COUNTY, S.C.

notice that the prior Order of the Court dated September 26, 2012, shows that the Court called Probate Court employee, Corrie Williams and placed her under oath. Mrs. Williams informed the Court that at approximately 9:00 a.m. Harold Wilson called the Court to say that he was at the hospital with a sinus infection. Mrs. Williams further testified that as a result of the Probate Judge's instructions, Mr. Wilson was informed the hearing would start at 9:30 a.m. This instruction was given because a review of the file shows that on several prior occasions, on the date of a hearing, Mr. Wilson had called or had someone call on his behalf in an attempt to continue the matter based on sickness.

S.C. Code Ann. § 62-3-412 (1) provides for a Probate Court to entertain a Petition for Modification or Vacation of its Order in Probate and of another Will of the decedent if it is shown "...the proponents of the later offered Will were unaware of its existence at the time of the earlier proceedings or were unaware of the earlier proceedings and were given no notice thereof, except by publication." From a review of the Petitioner's own testimony, as well as a review of the file, it is abundantly clear that Mr. Wilson was both aware of the existence of the earlier Will and of the earlier proceeding. Based on this the Court finds that Mr. Wilson failed to meet his burden of proof pursuant to S.C. Code Ann. §62-3-412 and his Petition for Modification or Vacation of this Court's prior Order is therefore denied.

IT IS SO ORDERED!

  
Marvin I. Lawson  
Probate Judge for Darlington County

Darlington, South Carolina

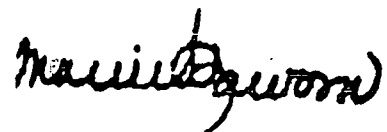
February 27, 2014

DARLINGTON COUNTY, S.C.  
JUDGE OF PROBATE  
MARVIN I. LAWSON

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