

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Dewey Lee Small,

Plaintiff,

vs.

Maxine Johnson a/k/a Maxine McQueen a/k/a Maxcine Johnson, Ernestine Small Bass, Rose Small a/k/a Rosemary Mary McQueen, Kassandra D. Odom a/k/a Kassandra D. Shea, Michelle D. Odom a/k/a Michelle D. DeLa Corte, Queenie Small a/k/a Queenie B. Arnold a/k/a Qunnie Arnold, Lewis Filton Small, Jr. a/k/a Pete Small, William Franklin Small a/k/a Danny Small, Patsy Ann Small a/k/a Patsy Small Crock a/k/a Patsy Ann Small Pierick Crock a/k/a Patsy Pierick, Donald Lee Small, Janava Small a/k/a Janava Small Lonneux a/k/a Candy Small, Daisy Dean Small a/k/a Dean Small, Sandra Small a/k/a Sandra Howard, Jacqueline L. White, Jimmy Prince, Jr., Veretta Norman, Venata Small Olivera, Marcus Johnson, Jr., Dewey Jerome Johnson, John Doe and Jane Doe, Representatives of any Unknown Heirs,

IN RE: THE ESTATE OF LEWIS SMALL

Defendants,

IN THE COURT OF COMMON PLEAS  
THE FIFTEENTH JUDICIAL CIRCUIT  
CASE NO.: 2012-CP-26-9832

RECEIVED  
NOV 10 2014

SC Court of Appeals

FINAL ORDER  
(ENDING ACTION)

FILED  
CLERK OF COURT  
JUN 19 PM 1:16  
JANELIE HUGGINS-WARD

DATE OF HEARING:  
PRESIDING JUDGE:  
PLAINTIFFS ATTORNEY:  
DEFENDANTS ATTORNEY:  
GAL FOR JOHN DOE & JANE DOE:  
COURT REPORTER:

MAY 9, 2014  
RALPH P. STROMAN  
N. DAVID DuRANT  
JACK M. SCOVILLE, JR.  
JOHN C. THOMAS  
SUNNY FRYE

The Plaintiff listed above is an heir of Lewis Small a/k/a Louis L. Small as well as the duly appointed, qualified and acting Personal Representative of the Estate of Lewis Small a/k/a Louis Small. Plaintiff commenced an action against the Defendants on December 19, 2012 for relief in his Summons and Complaint on the following two (2) matters:

1. The Plaintiff Dewey Small seeks a Quiet Title Action to distribute property acquired as an heir at law of Lewis Small a/k/a Louis L. Small Estate.

2. For a partition for an Order requiring the sale of real property described below and a division of proceeds according to the rights of the parties.

All parties to this action have been properly served. A Consent Order for Appointment and Refer to Special Referee was filed on April 1, 2014 for a hearing to obtain a Final Judgment with this Court.

### **FINDINGS OF FACTS**

Upon hearing the testimony of the witnesses in this case, the Court now makes the following Findings of Facts:

1. I find that this Court does have jurisdiction to have this property sold and the proceeds distributed to the appropriate Heirs.
2. That it is proper for this Court to resolve the outstanding issue of the undivided property and approve the sale of real property pursuant to S.C. Code Ann. § 62-3-1302.
3. I find that the Plaintiff listed above is an heir of Lewis Small a/k/a Louis L. Small as well as the duly appointed, qualified and acting Personal Representative of the Estate of Lewis Small a/k/a Louis Small.
4. I further find that Dewey Small is the executor and Personal Representative of the Will and has full authority to execute all necessary documents to distribute said proceeds from the real and personal property, to have and to hold in fee simple absolute, share and share alike, and to be divided equally.
5. I find that pursuant to Section 15-61-10 of the South Carolina Code, the Court approves the partition for the sale of real property obtained by Plaintiff.
6. I further find that it is proper to quiet title the described real property:

ALL AND SINGULAR, that certain piece, parcel, lot or tract of land situate, lying and being in Socastee Township, County of Horry and State of South Carolina, and containing Sixty acres (60) more or less and bounded and described as follows: Beginning at a station in the West margin of the McDowell Short Cut Road and running

N. 67 28' W. 1918 Feet to corner; thence N. 22 30' S. 1813 feet to corner; thence S. 56' 52' E. to Louisa Johnsons line which was formerly a part of this tract; thence following Louisa Johnson and a 1.90 acre tract of Exekil Johnson, a southerly direction to Road thence said Road to beginning corner. This tract which is to be conveyed is represented upon a map made of Johnson and Roberts, CEs, showing 62.9 acres more or less on tract adjoining Louisa Johnson to be sold to Exekil Johnson. This being the identical property sold to Lewis Small in Deed Book 53 at Page 218, records of Horry County, South Carolina, TMS #194-00-02-036.

7. I further find that the children shall not sell this land unless it is sold to one another and if any of these children decide to sell his or her share, they shall sell to the other heirs and if any child refuses to sign the deeds as directed, their share would be given up to the other children.

8. I find that the gross sale of the property to be that of \$2,046,000.00.

9. I further find that in order for any heirs to inherit any of the Estate, the heirs are required to sign cross deeds for the property they inherited; any heir that does not sign said cross deeds within the said 90 days of the signing of this Order, their share will be divided between the heirs that did sign.

10. I further find that expenses have incurred in the prosecution of this case in the form of litigation costs and attorney's fees. In addition to the attorney's fees, I find that any necessary litigation expense be deducted from the gross sale of the real property.

11. The net proceeds will be put in an Estate account to be distributed only to those heirs who have signed cross deeds.

12. The Court approves the following attorney's fees, costs and expenses to be calculated from the gross sale of the Estate of Lewis Small prior to any distributions of the net proceeds:

**ATTORNEYS FEES**

Coastal Paralegal (Title Work, Mailing & Service Expenses)	\$ 3,693.44
Coastal Paralegal (Reimbursement for Collins Appraisals)	\$ 1,500.00
Ralph Wilson, Esquire (To be paid to Dewey Smalls)	\$ 975.00
Bryan & Haar-Partition Suit-Heirs of Lewis (To be paid to Dewey Smalls)	\$ 7,705.00
N. David DuRant, Esquire (10% of gross sales)	<u>\$204,600.00</u>
<b>TOTAL:</b>	<b>\$218,473.44</b>

**EXPENSES**

Due to Dewey Small:	
Latimer's Funeral Home	\$ 3,047.00
Coastal Monument-Mattie Head Stone	\$ 1,468.00
Rezoning Fee	\$ 100.00
Surveys	\$ 1,468.00
Property Upkeep (60 acres)	\$ 58,670.00
Lewis Small loan (balance at time of death)	\$ 4,885.31
Lewis Small medical bills	\$ 299.00
Horry County Property Taxes 1983-2003 (To be paid to Dewey Small)	\$ 15,547.51
Horry County Property Taxes 2004-2013 (Lewis Small) (To be paid to Lewis Small)	\$ <u>27,674.31</u>
<b>TOTAL:</b>	<b>\$ 113,159.13</b>

**Costs for N. David DuRant**

Appraisal Services	\$ 3,300.00
Application for Subsequent Administration (Probate Court)	\$ 22.50
Petition for Publication	\$ 300.00

Partition Action/Quiet Title	\$	150.00
Guardian ad Litem Fee for John Thomas	\$	475.00
Motion Fee	\$	25.00
Special Referee Ralph Stroman	\$	2,625.00
Court Reporter Fee	\$	<u>750.00</u>
<b>TOTAL:</b>	<b>\$</b>	<b>7,647.50</b>

**CONCLUSION OF LAW**

1. This Court has subject matter jurisdiction over all matters that are currently before it pursuant to South Carolina Code Annotated § 14-5-380.
2. I conclude that this Court has jurisdiction and that venue is proper in Horry County and that this Court is authorized to order the sale of real property herein and above described.
3. I further conclude that this Court has jurisdiction to order the distributions of the proceeds from both the gross proceeds and sale proceeds.
4. I conclude that the purchase price of said property to be that of \$2,046,000.00.
5. And I further find that the Plaintiff has incurred personal expenses in the maintenance and/or expenses associated with this real property and that these expenses shall be deducted from the gross sale proceeds prior to the disbursement of the net funds to the individual Heirs.
6. And I further find that the costs and expenses incurred by N. David DuRant be deducted from the gross sale proceeds prior to the disbursement of the funds to the individual Heirs.
7. Further, this Court approves the distributions as set forth above against the Estate with the remaining proceeds being put into a Probate Estate Account.

Based upon the foregoing findings of fact and conclusions of law:

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

**IT IS, THEREFORE, ORDERED** that Pursuant to the Order of Quiet Title Action and Partition Action for Sale of Real Property, that a certain piece, parcel, lot or tract of land situate, lying and being in Socastee Township, County of Horry and State of South Carolina, and containing sixty (60) acres more or less, be recorded and satisfied and that everyone in this Order has been properly served and cleared and that there are no unknown heirs;

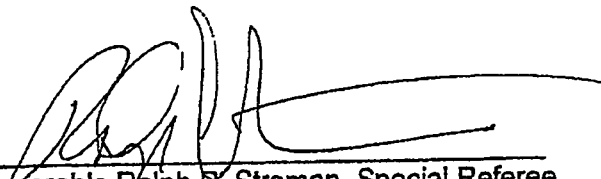
**IT IS, THEREFORE, ORDERED** authorizes that the Personal Representative, Dewey Small, Sr., to execute all documents necessary for legal title to the new owners. To include and not limited to: contracts, deeds, and closing statements and any related documents;

**IT IS, THEREFORE, ORDERED** that which the Last Will and Testament of Louis B. Small directed the property be divided into fourteen (14) equal parts; this is not a viable option and pursuant to § 15-61-10 of the South Carolina Code of Annotated Law, that the Court Order the property to be sold;

**IT IS, THEREFORE, ORDERED** Pursuant to the contract for Two Million Forty-Six Thousand (\$2,046,000.00) from the gross proceeds the Court Order that all of the cost, attorney fees, and any other related fees listed in the Order, are to be paid first, at the closing. Then the net proceeds are to be deposited into an Estate Account to be divided and disbursed pursuant to the Will;

**IT IS, THEREFORE, ORDERED** Each of the heirs are to receive a percentage of proceeds and are required to sign Cross Over Deeds to the other properties listed in the estate. Each of the heirs has ninety (90) days to do that. If any reason the Cross Over Deeds are not executed in that time frame, then that heirs portion will be forfeited and will be divided among the heirs. As soon as each heir has signed their Cross Over Deed, then they will receive their remaining appropriate proceeds.

**IT IS SO ORDERED.**

  
Honorable Ralph P. Stroman, Special Referee  
In the Court of Common Pleas for the  
Fifteenth Judicial Circuit

June 19, 2014  
Conway, South Carolina