

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Chester County  
Court of Common Pleas  
Brooks P. Goldsmith, Circuit Court Judge

 ORIGINAL

In the Matter of the Estate of Reba P.  
Hinson, Probate # 2008-ES-12-297,  
Circuit Court # 2010-CP-12-0201,

Mell Woods, . . . . . Appellant,

v.

Robert H. Breakfield, as Personal  
Representative of the Estate of Reba P. Hinson,  
. . . . .  
Respondent.

Rule 208 (a) (3) Reply Brief

Mell Woods  
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SC Court of Appeals  
MAY 16 2012  
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South Carolina Statutes:

§62-3-204 . . . . . pg. 2

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1. In the pleadings, in appellant's brief, and in the record itself, it is plainly set out that because appellant was not accorded his statutory right to be notified of the probate hearing in which the will in question was admitted to probate the entire proceeding heretofore is defective.

2. Appellant has the statutory right to be notified of, and be present at any hearing admitting the will in question to probate because appellant had served the probate court with notice of of appellant's interest in the estate, prior to the time the will hearing was held, this in and of itself gives appellant enough "standing" to contest an order which admitted a revoked will to probate. South Carolina Statute §62-3-403, requires notice of all formal proceedings, once a formal notice of interest is filed under §62-3-204.

3. When the hearing was held, it was secret, and appellant found out about it later by reading the newspaper. This is contrary to the assertions made on page 12 of the respondent brief.

4. In Tobias v. Rice, 386 S.C. 306 (2010), it was held:

“Accordingly, absent notice of the proceedings, Rice is entitled to relief from judgment. (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses).”

5. So, it can be readily seen that due process, and the right to examine witnesses, and have process issue for the production of witnesses, is such a basic right that any ruling by a judge serving to defeat due process is grounds enough for a new trial.

6. Paragraphs 1-3 will be directly tied to the Record when the Record is finally assembled.

Respectfully submitted,

This 12 day of May, 2012.



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Mell Woods

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Lancaster, SC 29721

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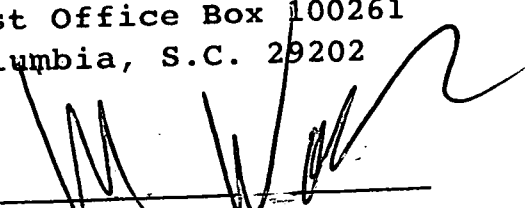
PROOF OF SERVICE

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I certify that I have served the within and foregoing  
*Reply Brief* by placing a true copy of the ~~return~~ *Brief*  
in the U.S. Mail, postage prepaid, addressed to the attorney  
of record for Respondent, as follows:

Moses Koon & Brackett, PC  
B. Michael Brackett  
Post Office Box 100261  
Columbia, S.C. 29202

This 12 day of MAY, 2012.

  
\_\_\_\_\_  
Mell Woods

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