

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
JUN 01 2015
SC Court of Appeals

APPEAL FROM HORRY COUNTY
COURT OF COMMON PLEAS

RALPH P. STROMAN, SPECIAL REFEREE

APPELLATE CASE NO. 2014-002593

Dewey Lee Small, Individually and as Personal Representative
of the Estate of Lewis Small.....Respondent,

v.

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,
of whom Patsy Ann Crock and Fulton Louis Small, are.....Appellants.

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

PROBATE COURT

1. Last Will and Testament of Lewis Small dated May 21, 1979, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

2. Petition to Prove Will in Common Form of Law and For Letters dated January 24, 1984, and filed of record January 24, 1984, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

3. Letters Testamentary dated January 24, 1984, and filed of record January 24, 1984, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

4. Estate Notice/Affidavit of Publication dated February 15, 1984 and filed of record February 17, 1984, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

5. Petition dated March 6, 1984, and filed of record March 6, 1984, and Probate Court Order regarding lease of tobacco acreage dated March 6, 1984, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

6. Return and Accounting for the period of January, 1984 through December 1984, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

7. Warrant of Appraisement dated April 30, 1985, and filed of record May 10, 1984, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

8. Petition for Final Discharge dated May 20, 1985, and filed of record May 28, 1985, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

9. Notice of Discharge dated July 8, 1985, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

10. Notice of Discharge dated September 5, 1989, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

11. Letters Dismissory dated September 6, 1989, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

12. Application for Subsequent Administration dated September 13, 2012, and filed of record September 14, 2012, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

13. Order for Subsequent Administration dated October 2, 2012, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

14. Fiduciary Letters dated October 2, 2012, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

15. Motion for Service by Publication dated October 2, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

16. Affidavit of A. Lisa Cleary of Coastal Paralegal Services, LLC, filed October 3, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

17. Supplemental to the Original Petition for Sale of Real Estate dated September 26, 2012, and filed October 3, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

18. Summons and Petition for Sale of Real Estate dated October 2, 2102 and filed October 3, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

19. Marcus Johnson, Jr., Answer to Petitioner's Complaint dated October 25, 2012, and filed October 25, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

20. Donald Small Answer to Petitioner's Complaint dated October 25, 2012, and filed October 25, 2012, under the Estate of Lewis Small indexed under File Number 84-Es-752.

21. Queenie B. Arnold Answer to Petitioner's Complaint dated October 25, 2012, and filed October 25, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

22. Jacqueline L. White Response to the Petition for the Sale of Lewis Small Real Estate dated October 21, 2012, and filed November 5, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

23. Veretta Norman Answer in Response to the Petition for Sale of the Lewis Small Real Estate dated October 21, 2012, and filed November 6, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

24. Ernestine Bass Answer to Petitioner's Complaint dated November 2, 2012, and filed November 7, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

25. Maxine McQueen Answer to Petitioner's Complaint dated November 4, 2012, and filed November 8, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

26. Rose Mary Small Answer to Petitioner's Complaint dated November 4, 2012, and filed November 8, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

27. Venata Olivero Answer to Petitioner's Complaint, dated November 3, 2012, and filed November 8, 2012, under the Estate of Lewis Small indexed under File Number 84-ES-752.

28. Stipulation of Dismissal without Prejudice in Case Number 1984-ES-26-00075, dated July 1, 2013, and filed July 3, 2013, under the Estate of Lewis Small indexed under File Number 84-ES-752.

29. Plaintiff's Motion to Dismiss Action Pursuant to Rule 12 (b)(8), SCRCF, with exhibits, dated August 13, 2013, and filed August 14, 2013, under the Estate of Lewis Small indexed under File Number 84-ES-752.

30. Order of Dismissal without Prejudice executed by the Honorable Deirdre W. Edmonds dated September, 2013, and filed September 5, 2013, under the Estate of Lewis Small indexed under File Number 84-ES-752.

COURT OF COMMON PLEAS

31. Civil Action Coversheet dated December 17, 2012, and filed December 19, 2012, Summons and Complaint (Quiet Title Action and Partition Action for Sale of Real Property) dated December 17, 2012, and filed December 19, 2012, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832, inclusive of exhibits.

32. Marcus Johnson, Jr., Answer to Plaintiff's Complaint dated January 16, 2013, and filed January 16, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832

33. Jacqueline L. White Answer to Plaintiff's Complaint dated January 28, 2013, and filed March 8, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

34. Jacqueline L. White Answer to Plaintiff's Complaint dated January 28, 2013, and filed February 26, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

35. Veretta Norman Answer to Plaintiff's Complaint dated January 28, 2013, and filed March 15, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

36. Queenie B. Answer to Plaintiff's Complaint dated January 30, 2013, and filed March 15, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.
37. Veretta Norman Answer to Plaintiff's Complaint dated January 28, 2013, and filed February 1, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.
38. Donald Lee Small Answer to Plaintiff's Complaint dated January 28, 2013, and filed February 6, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.
39. Queenie B. Arnold Answer to Plaintiff's Complaint dated January 30, 2013, and filed September 6, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case number 2012-CP-26-9832.
40. Maxine McQueen Answer to Plaintiff's Complaint dated 2013 and filed September 6, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.
41. Rosemary Small Answer to Plaintiff's Complaint dated 2013, and filed September 6, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.
42. Venata Olivero Answer to Plaintiff's Complaint dated February 7, 2013, and filed September 6, 2013, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.
43. Order of Reference filed in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

44. Transcript of Hearing for hearing held on May 9, 2014, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

45. Plaintiff's Exhibit 1, Certificate of Appointment dated October 2, 2012, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

46. Plaintiff's Exhibit No. 2, Application for Subsequent Administration filed September 14, 2012, filed under the Estate of Lewis Small indexed under File Number 84-ES-75.

47. Plaintiff's Exhibit No. 3, Exhibit "B" reflecting reasons and need to sell real property, filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

48. Plaintiff's Exhibit No. 4, Summary of Salient Features by Appraiser Sarah Devers, dated April 9, 2013, and reflecting an Opinion of Value \$1,500,000.00.

49. Plaintiff's Exhibit No. 5, Names and addresses of the Heirs of Mattie Small.

50. Plaintiff's Exhibit No. 6, Names of the Heirs of Lewis B. Small with percentage of interest.

51. Plaintiff's Exhibit No. 7, Heirs of 60 acre tract per Will.

52. Plaintiff's Exhibit No. 8, List of Heirs.

53. Plaintiff's Exhibit No. 9, Civil action Coversheet, Summons and Complaint (Quiet Title Action and Partition Action for Sale of Real Property) dated December 17, 2012, and filed December 19, 2012, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832, inclusive of exhibits.

54. Plaintiff's Exhibit No. 10, Petition for Sale of Real Estate filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

55. Plaintiff's Exhibit No. 11, Listing of Small Heirs.

56. Plaintiff's Exhibit No. 12, Last Will and Testament of Lewis Small filed under the Estate of Lewis Small indexed under File Number 84-ES-752.

57. Plaintiff's Exhibit No. 13, Deed from Ida H. Marlow, et al., to Louis L. Small, dated January 30, 1948, and filed in the Office of the Registrar of Deeds for Horry County in Book 53 at Page 218.

58. Plaintiff's Exhibit 14, Expenses for Lewis Small Estate.

59. Plaintiff's Exhibit No. 15, comparable sales.

60. Defendant's Exhibit No. 1, Jayroe Appraisal Company letter of market value for a 61.5 acre vacant tract of land located on McDowell Shortcut Road, near Murrells Inlet, in Horry County, SC dated April 4, 2014.

61. FINAL ORDER (Ending Action) executed by the Honorable Ralph P. Stroman, Special Referee, and filed on June 19, 2014, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

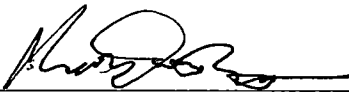
62. Motion for Reconsideration filed in response to FINAL ORDER (Ending Action) executed by the Honorable Ralph P. Stroman, Special Referee, and filed on June 19, 2014, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

63. Transcript of Hearing for hearing held on September 29, 2014, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

64. Affidavit of Attorney's Fees filed in Civil Action Number 2012-CP-26-9832 for N. David DuRant, Esquire dated August 26, 2014, and filed August 27, 2014, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

65. AMENDMENT TO THE FINAL ORDER OF THE COURT executed by the Honorable Ralph P. Stroman, Special Referee, and filed on November 18, 2014, in the Office of the Clerk of Court for Horry County and indexed under Case Number 2012-CP-26-9832.

66. Plaintiff's Attorney N. David DuRant's copy of written engagement letter signed by N. David DuRant, and Personal Representative Dewey Small that is part of the record from the Final Hearing held May 9, 2014 and under Case Number 2012-CP-26-9832



N. David DuRant, Sr., Esquire
Law Offices of N. David DuRant
P.O. Box 14722
Surfside Beach, SC 29587
Phone: (843) 650-7800
Fax: (843) 650-8090
Attorney for Respondent



Norwood D. DuRant, Jr. Esquire
Law Offices of N. David DuRant
P.O. Box 14722
Surfside Beach, SC 29587
Phone: (843) 650-7800
Fax: (843) 650-8090
Attorney for Respondent

May 28, 2015

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
COURT OF COMMON PLEAS

RALPH P. STROMAN, SPECIAL REFEREE

RECEIVED

JUN 01 2015

SC Court of Appeals

APPELLATE CASE NO. 2014-002593

Dewey Lee Small, Individually and as Personal Representative
of the Estate of Lewis Small.....Respondent,

v.

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,


of whom Patsy Ann Crock and Fulton Louis Small, are.....Appellants.


ATTORNEY'S CERTIFICATION

I, the undersigned attorneys for the Respondent, certify that the Designation of the Matter to be Included in the Record on Appeal contains no matter which is irrelevant to the appeal.

Dated at Surfside Beach, South Carolina, this 28th day of May, 2015.

Law Offices of N. David DuRant:

By: 
N. David DuRant, Sr., Esquire
Law Offices of N. David DuRant
P.O. Box 14722
Surfside Beach, SC 29587
Phone: (843) 650-7800
Fax: (843) 650-8090
Attorney for Respondent


Norwood D. DuRant, Jr. Esquire
Law Offices of N. David DuRant
P.O. Box 14722
Surfside Beach, SC 29587
Phone: (843) 650-7800
Fax: (843) 650-8090
Attorney for Respondent

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
JUN 01 2015
SC Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Ralph P. Stroman, Special Referee

Appellate Case No. 2014-002593

Dewey Lee
Small,.....Respondent,

v.

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,

of whom Patsy Ann Crock and Fulton Louis Small, are.....Appellants.

PROOF OF SERVICE

I certify that I have served Initial Brief of Respondent and Designation of Matter To Be Included In The Record On Appeal on May 28, 2015 by depositing a copy of it in the United States Mail, postage prepaid, on May 28, 2015, addressed to, Charles O. Nation, Esquire, Post Office Drawer 1657, Georgetown, South Carolina 29442.



Christina Judge, Paralegal to N. David DuRant

P.O. Box 14722

Surside Beach, South Carolina 29587

Phone: (843) 650-7800

Fax: (843) 650-8090

N. David DuRant

Attorney for Respondent

May 28, 2015

LAW OFFICES OF N. DAVID DuRANT
AND ASSOCIATES, P.A.

Attorneys-At-Law

1801 Glens Bay Road

Post Office Box 14722

Surfside Beach, South Carolina 29587

Telephone # 843-650-7800

Litigation FAX # 843-650-8090

Real Estate FAX #843-650-8077

PLEASE RESPOND:

_____ MAIL

_____ FAX

N. DAVID DuRANT, SR.

ATTORNEY AT LAW

L. JAMES PURVIS, JR.

ATTORNEY AT LAW

NORWOOD D. DuRANT, JR.

ATTORNEY AT LAW

May 28, 2015

The South Carolina Court of Appeals

Attn: Elizabeth Carter

Post Office Box 11629

Columbia, SC 29211

RE: Estate of Lewis Small a//k/a Louis Small
Appellate Case Number: 2014-002593

RECEIVED

JUN 01 2015

SC Court of Appeals

Dear South Carolina Court of Appeals:

Enclosed herewith please find the following:

- | | | | |
|-------------------------------------|------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | Summons and Petition | <input type="checkbox"/> | Mortgage |
| <input type="checkbox"/> | Order & Rule to Show Cause | <input type="checkbox"/> | Note |
| <input type="checkbox"/> | Interrogatories | <input type="checkbox"/> | Option of Title |
| <input type="checkbox"/> | Answers to Interrogatories | <input type="checkbox"/> | Application for EIN |
| <input type="checkbox"/> | Answer To Petition for Real Estate | <input type="checkbox"/> | Initial Report of Corp. |
| <input type="checkbox"/> | Final Order | <input type="checkbox"/> | Satisfied Note & Mortgage |
| <input type="checkbox"/> | Subpoena | <input type="checkbox"/> | Corrective Deed of Distribution |
| <input type="checkbox"/> | Affidavit of Personal | <input type="checkbox"/> | Title Insurance |
| <input type="checkbox"/> | Notice of Deposition | <input type="checkbox"/> | Check Number |
| <input type="checkbox"/> | Request for Production | <input type="checkbox"/> | Invoice |
| <input checked="" type="checkbox"/> | Self-addressed Envelope | <input type="checkbox"/> | Articles of Incorporation |
| <input type="checkbox"/> | Notice of Motion for Extension | <input type="checkbox"/> | Election by Small Business Corp. |
| <input type="checkbox"/> | Proof of Delivery | <input type="checkbox"/> | Release |
| <input type="checkbox"/> | Self Addressed Envelope | <input type="checkbox"/> | Endorsement |
| <input type="checkbox"/> | Certificate of Mailing | <input type="checkbox"/> | Power of Attorney |
| <input type="checkbox"/> | Inventory and Appraisalment | <input type="checkbox"/> | Notice of Correction |
| <input type="checkbox"/> | Information to Heirs and Devises | <input checked="" type="checkbox"/> | Initial Brief of Respondent, Designation
Of Matter To Be Included In The
Record On Appeal and Proof of Service |

Would you please:

- | | | | |
|-------------------------------------|----------------------------|--------------------------|---------------------|
| <input type="checkbox"/> | File the original | <input type="checkbox"/> | Certify Copy |
| <input checked="" type="checkbox"/> | Return Cloned-in copies | <input type="checkbox"/> | Sign and Return |
| <input type="checkbox"/> | Serve and Return Affidavit | <input type="checkbox"/> | Furnish Case Number |
| <input type="checkbox"/> | File For Your Records | <input type="checkbox"/> | For Full Payment |
| <input checked="" type="checkbox"/> | Handle Accordingly | | |

Yours very truly,

N. DAVID DuRANT AND ASSOCIATES, P.A.

By Christina B. Judge
Christina B. Judge, Probate & Estate Planning Paralegal .

neopost
05/28/2015

US POSTAGE \$0



LAW OFFICES OF N. DAVID DURANT
AND ASSOCIATES, P.A.
ATTORNEYS-AT-LAW
POST OFFICE BOX 14722
SURFSIDE BEACH, SOUTH CAROLINA 29587

The South Carolina Court of Appeals
Attn: Elizabeth Carter
Post Office Box 11629
Columbia, SC 29211

RECEIVED

JUN 07 2015

SC Court of Appeals