

IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

Appeal from Georgetown County
Court of Common Pleas

RECEIVED

The Honorable Benjamin H. Culbertson

SEP 22 2015

Case No. 2012-CP-22-00971

S.C. SUPREME COURT

In the Matter of the Estate of Willie Rogers Deas

Carolyn Deas.....Petitioner,

v.

Marvadine Giles a/k/a Marvdine Giles, Willie Deas, Jr.,
Michelle Deas, Rodney Branton, Moya Branton, Whitney
Beaufort

Of whom Marvadine Giles a/k/a Marvdine Giles isRespondent.

RETURN TO PETITION FOR REHEARING

Andrew T. Shepherd, Esquire
Katherine H. Hyland, Esquire
Gregory L. Hyland, Esquire
HART HYLAND SHEPHERD, LLC
Post Office Box 130
Summerville, SC 29484
(843) 410-0711
ATTORNEYS FOR PETITIONER
CAROLYN DEAS

RETURN TO PETITION FOR REHEARING

In order to prevail on a petition for rehearing, appellants must demonstrate the Court overlooked or misapprehended some fact or point. Rule 221(a), SCACR. Carolyn Deas, in Return to the Petition for Rehearing, submits that the Court did *not* overlook or misapprehend any issue when reversing the Court of Appeals pursuant to Mrs. Deas' Petition for Writ of Certiorari.

A Petition for a Writ of Certiorari seeks review of a decision containing a potential conflict of law. In this case, the Court reversed the Court of Appeals on the basis of precedent. In reversing the Court of Appeals, the Supreme Court stated, "This Court has strictly construed the language of § 62-1-308(a) and directly addressed this issue, holding the notice of appeal from a probate court order *must be filed* in the circuit court within ten days." *In the Matter of the Estate of Willie Rogers Deas*, 2015-MO-049 (Sup. Ct. August 26, 2015). The Respondent ("Giles") now seeks rehearing on the basis allegedly misapprehended or overlooked facts should set aside prior precedent and strict construction by this Court.

Notably, Giles made no Return to the Petition for Certiorari raising the argument or the facts she now presents as her basis for setting aside precedent. As oft quoted, "[A]ppellate courts, like well-behaved children, do not speak unless spoken to and do not answer questions they are not asked." *State v. Austin*, 306 S.C. 9, 19, 409 S.E. 2d 811, 817 (Ct. App. 1991).

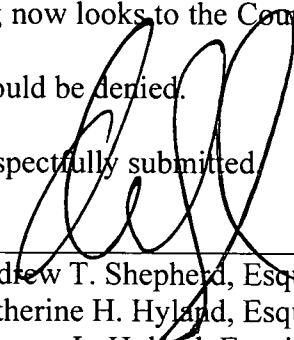
The Court has not misapprehended or overlooked any issue raised by Giles' Petition for Rehearing. In fact, in its decision, the Court specifically cited the very facts appearing in the Record upon which Giles now relies as a basis for rehearing. Furthermore, in its Memorandum Opinion reversing the Court of Appeals (2015-MO-049), the Supreme Court

succinctly addressed and considered the two sole and salient facts bearing on the question before the Court:

Tracking information provided by the respondent showed the postal service attempted delivery of the notice of appeal to the clerk of court's post office box on September 10, 2012. However, an authorized recipient was not available to sign for it, as required by the type of mailing selected by respondent. The clerk of court further explained the notice of appeal may have initially been put in the Georgetown County's general post office box instead of the clerk's box when it first arrived at the post office.

As a result of mailing issues encountered by Giles, her notice of appeal was simply not received by the clerk and *filed* by the due date of September 10, 2012. These facts as quoted above, together with the additional facts appearing in Giles' Petition for Rehearing, are all set forth in the Court's Memorandum Opinion. Thus, Giles' points were not overlooked or misapprehended in entering a reversal of the Court of Appeals because: (1) the Supreme Court had already directly addressed the issue before the Court; and, (2) the Supreme Court had already strictly construed the applicable statute. Having made no Return arguing why the facts should lead to a different conclusion as to the settled precedent and strict construction, Giles' Petition for Rehearing now looks to the Court to answer a question it was not asked. The Petition for Rehearing should be denied.

Respectfully submitted,



Andrew T. Shepherd, Esquire
Katherine H. Hyland, Esquire
Gregory L. Hyland, Esquire
HART HYLAND SHEPHERD, LLC
Post Office Box 130
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September 21, 2015.

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PROOF OF SERVICE

I certify that I have served the Return to Petition for Rehearing, by depositing a copy in the United States Mail, postage prepaid, addressed to Respondent's attorneys of record, Malcolm M. Crosland, Esquire, Charles S. Goldberg, Esquire, and J. Kevin Holmes, Esquire, 61 Broad Street, Charleston, SC 29401.



Margaret C. Hiel
HART HYLAND SHEPHERD, LLC
Post Office Box 130
Summerville, SC 29484
(843) 410-0711

September 21, 2015

Summerville, South Carolina