

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

In the Matter of the Estate of Ervin Christopher Pressley,

Gwendolyn Leveritt,

Appellant,

vs.

Lorine C. Pressley, as Personal Representative of the Estate of Ervin Christopher Pressley,

Respondent.

A CERTIFIED TRUE COPY
IN THE COURT OF COMMON PLEAS
Sharon W. Staggers
SHARON W. STAGGERS
CLERK OF COURT
WILLIAMSBURG COUNTY

ORDER DENYING
RESPONDENT'S MOTION TO ALTER
OR AMEND JUDGMENT
PURSUANT TO RULE 59(e) and
RULE 60, SCRPC
[No Hearing Held]

CA No. 2015-CP-45-00198

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SC Court of Appeals

THIS MATTER was previously before the undersigned in Williamsburg County. This Court issued an Order reversing the Probate Court and remanding this matter back to the Probate Court for disposition consistent with this Court's Order. The Order was filed December 9, 2015 and received by Respondent's counsel on December 21, 2015. Respondent's present motions were filed and served on December 30, 2015 and are therefore apparently timely. This Court disposes of the present motions without necessity of a formal hearing.

Background

The undisputed facts presented establish that the decedent executed his Last Will and Testament on February 5, 2008 while a resident of New York state. Thereafter, decedent and his wife, Erica Danielle Bledsoe-Pressley, were effectively divorced in New York on or around November 14, 2012. The decedent moved to South Carolina and thereafter died on January 25, 2014.

The decedent's Last Will and Testament admitted to Probate provided, inter alia:

"In the event my said spouse shall predecease me, fail to qualify, or having qualified thereafter dies, resigns is removed from office or for any reason ceases to act as an Executor, I hereby appoint Lorine Pressley as Executor of this my Last Will and Testament"

Lorine Pressley (decedent's mother) serves as Personal Representative without objection. Further, the parties stipulate that South Carolina law applies to this matter.

The decedent's will further provides, after payment of debts and funeral expenses, that:

All the rest, residue and remainder of the property both real, personal and mixed and wheresoever situate which I may own or be entitled to at the time of my death, I give, devise and bequeath to my spouse, ERICA DANIELLE BLEDSOE-PRESSLEY if my said spouse shall survive me. If my said spouse shall not survive me, then I give, devise and bequeath my residuary estate to my issue, per stirpes, and if there be no surviving issue, then to GWENDOLYN LEVERITT and LORINE PRESSLEY, equally, or all to the survivor of them. If there be no survivor between them, then to JAKOYA GRISSETT and JAHEEN PRESSLEY, equally, or all to the survivor between them. If there be no survivor between them, then to those persons to whom and in those proportions in which the same would have been distributable if I had then died the owner thereof, intestate, and a resident of the State of New York."

In her memorandum in support of the present motions, Respondent states that "[n]othing in S.C. Code Ann §62-2-802 or S.C. Code §62-2-507 requires, or in any way states, that the spouse who is divorced or whose rights to property have been eliminated is completely removed from the Will, as if the spouse predeceased the former spouse".

During the hearing and in the present motions, Respondent urges the Court to find that decedent's will created a condition precedent requiring decedent's former spouse predecease decedent before the contingent beneficiaries could take under the subject Last Will and Testament. In doing so, Respondent urges this Court to affirm the Probate Court's ruling that decedent's estate shall be distributed as if decedent died intestate.

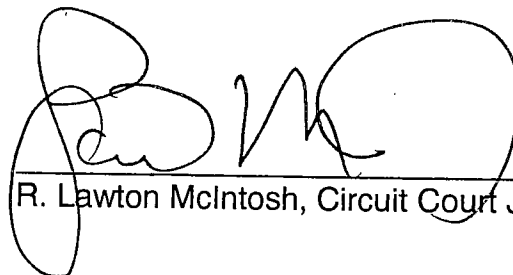
S.C.Code Ann. §62-2-507(e) provides that "[p]rovisions of a governing instrument and nomination in a fiduciary or representative capacity that are revoked by this section are given effect as if the former spouse predeceased the decedent".

(Emphasis added.)

Contrary to Respondent's argument that decedent's ex-wife actually survived decedent thus defeating the condition precedent, S.C.Code Ann. §62-2-507(e) treats decedent's ex-wife as predeceasing him as a matter of law. To hold otherwise would defeat the clear and unambiguous language of S.C.Code §62-2-507(e) and decedent's Last Will and Testament and would lead to absurd results.

Accordingly, Respondent's Motions are denied without a formal hearing; and the matter is remanded to the Probate Court to make distribution of decedent's estate, at the appropriate time, in accordance with decedent's Last Will and Testament and consistent with the South Carolina Code and this Order.

IT IS SO ORDERED This 4th Day of January, 2016.



A handwritten signature in black ink, appearing to read 'R. Lawton McIntosh', is written over a horizontal line.

R. Lawton McIntosh, Circuit Court Judge

Anderson, South Carolina.