

The South Carolina Court of Appeals

Mary Jean Tucker Swiger, by and through her Attorney-in-Fact, Carol DeHaven, Appellant,

v.

Ben R. Smith and Margaret P. Kelly, as Personal Representatives of Vinton Willis Tucker, Respondents.

Appellate Case No. 2016-000096

ORDER

Respondents have filed a motion to dismiss, arguing Carol DeHaven engaged in the unauthorized practice of law when she personally served and filed a notice of appeal on behalf of her deceased mother's interests. DeHaven served as her mother's attorney-in-fact pursuant to a durable power of attorney, but that appointment terminated upon her mother's death. *See Dibble v. Thomas*, 301 S.C. 314, 316 n.1, 391 S.E.2d 729, 730 n.1 (Ct. App. 1990) ("It is universally recognized in this country that a power of attorney, unless coupled with an interest, is terminated by the death of the principal." (quoting *Godwin v. Wachovia Bank & Trust Co.*, 131 S.E.2d 456, 460 (N.C. 1963))). To the extent DeHaven argues she is her mother's executrix, we note that a personal representative who is not a lawyer cannot represent an estate on appeal. *See Brown v. Coe*, 365 S.C. 137, 142, 616 S.E.2d 705, 708 (2005) (stating our statute limiting the practice of law to licensed attorneys prevented a nonlawyer administratrix from filing a notice of appeal and preparing briefs on behalf of the estate). We deny Respondents' motion to dismiss. However, we require that Appellant retain counsel within thirty days of the date of this order or this appeal will be dismissed.


FOR THE COURT

FILED

4/11/16

Columbia, South Carolina

cc: Carol DeHaven
B. Michael Brackett, Esquire