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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
COURT OF COMMON PLEAS

THE HONORABLE EDWARD W. MILLER
CASE NO. 2014-CP-42-0639

RECEIVED

MAY 23 2016
Respondents
SC Court of Appeals

Debra S. Switzer, Shirlee K. Sands,
Donald E. Sands, Donald W. Sands, and Carl Hocker,

versus

Stephanie S. Smith,

Appellant.

MOTION TO STAY

The Respondent, Debra S. Switzer, brings this Motion pursuant to Rule 241, S.C. Rules of Appellate Practice.

FACTUAL BACKGROUND

The Decedent died August 5, 2012. The Respondent (Switzer) filed a Will which had been prepared by a local attorney which essentially left everything to her; the Appellant (Smith) filed a printed form Will which divided the estate among her and her family.

Shortly after the Decedent's death, Smith moved into the home and took possession. By Court Order dated December 17, 2012, she was allowed to stay in the home pending a final hearing.

The case was tried in July 2013. The court found that the Will of Smith was a forgery. Subsequent to the trial, Smith discharged her attorney, and in all proceedings thereafter, she has acted *pro se*.

Since the filing of the Order which found Smith's Will to be a forgery, Smith has filed 12 Motions and Appeals and there have been 9 Court Orders. [A summary is attached as Exhibit I.]

Notwithstanding all of the rulings of the court, Smith remained in the home until August 31, 2015. She vacated the home only because forcible ejectment was about to take place. Despite living in the home, Smith did not pay the 2014 taxes.

The multiple Motions and Appeals delayed the administration of the estate. Switzer was appointed the Personal Representative of the estate on March 17, 2016. The major asset of the estate is the home of the Decedent. Switzer has had to borrow money to pay the 2014 taxes. The 2015 taxes remain unpaid and a tax sale will take place in the fall if they are not paid. [See Exhibit II.]

The funeral bill has not been paid and a claim has been filed; in addition, there are considerable administrative costs and expenses. The house needs to be sold so that the asset will not be lost and so that there will be a source of funds to pay debts and to complete the administration of the estate.

RELIEF SOUGHT

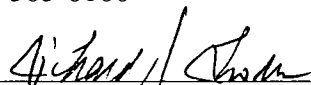
Switzer is asking this Court to hold that this present appeal does not stay the sale of the real property which is the major asset of the estate. Switzer (as the Personal Representative of the estate) needs to sell the subject property because this will stop the ongoing costs of taxes and insurance and will allow a source of funds to pay the past due 2015 taxes.

If this Court allows the sale of the house, the back taxes would be paid at closing from the sale proceeds. The net sales proceeds could be held in Trust pending this present appeal.


This requested relief does not prejudice any party.

Respectfully submitted,

Burts, Turner & Rhodes
P.O. Box 3408
Spartanburg, SC 29304
(864) 585-8166

By: 
Richard H. Rhodes

Harrison, White, Smith & Coggins
P.O. Box 3547
Spartanburg, SC 29304
(864) 585-5100

By: 
Ryan F. McCarty

Attorneys for Debra S. Switzer

May 19, 2016

PROBATE COURT

Temporary Order - December 17, 2012

Allows Smith to stay in house & keep insured
pending final hearing

Trial - July 15th and 16th 2013

Order - February 10, 2014

Smith's Will was a forgery
Smith was ordered to vacate

Motion for New Trial - April 23, 2014

Basis: Smith discovered evidence of
decendent's dementia

Motion to Stay Vacating the Home - June 27, 2014

Basis: Smith had made repairs pending trial
wants to stay without posting bond

Order - Judge Anderson December 15, 2014

Denied new trial - not filed timely
Also information could have been obtained through discovery
Directed to get out of house

CIRCUIT COURT

APPEAL →

Notice of Appeal - February 21, 2014

Order - Judge Kelly June 5, 2014

- * Appeal dismissed for failing to follow procedural requirements
- * Directed to vacate the home

Motion for Rehearing & Extension of Time - June 27, 2014

Order - Judge Kelly July 29, 2014

Denied without arguments

Motion to Alter or Amend - August 12, 2014

Order - Judge Kelly October 12, 2014

Denied Motion

APPEAL →

Notice of Appeal - January 5, 2015

(also filed Motion asking Judge Kelly to
recuse himself)

Motion - January 30, 2015

Smith asked that Judge Hayes be recused

Motion - February 11, 2015

Smith sought continuance because Judge Kelly
had not recused himself

Order - February 25, 2015

Judge Kelly recuses himself

Order - Judge Miller - April 27, 2015

- * Appeal dismissed because Notice of Appeal was filed untimely (17 days). Also, no Statement of Issues were filed and no transcript was ordered.
- * Smith was directed to vacate the home

Motion to Alter or Amend - May 15, 2015

Hearing was scheduled for July 14, 2015 - this hearing was continued because of Smith's medical issues.
[This was not disposed of until March 7, 2016 - below]

Motion to Vacate - Switzer asked that Smith be removed from home

Order - Judge Couch - July 21, 2015

Smith was ordered out of home within 30 days

Order - Judge Miller - March 7, 2016

Denied Motion to Alter or Amend

Appeal - April 6, 2016 - filed appeal with Court of Appeals

EXHIBIT I

Spartanburg County

ONLINE TAX PAYMENT

Record Information

No online delinquent payments. Please visit our office.

Notice #: 095223153

Status: Unpaid

2015

Tax Information

Name:	KNOWLES SHIRLENE K
Tax Year:	2015
Assessment Value:	6700
District/Levy:	6WWRF / 356.3
City/Levy:	/ 0

Property Information

Record Type:	Real Estate
Map Number:	6-41-00-215.00
Tax ID:	
Market Value:	111,700
Description:	360 TEMPLETON DR AD#16-65529

Taxes

County Tax:	\$2,387.21
City Tax:	\$0.00
Other Fees:	\$52.00
Residential Exemption:	\$0.00
Homestead Exemption:	\$0.00
Other Exemptions:	\$0.00
Local Option Credit:	\$0.00
Penalty:	\$365.88
Cost:	\$5.00
Total Taxes:	\$2,810.09

Balance Due:

\$2,810.09

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EXHIBIT II

STATE OF SOUTH CAROLINA
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Appellant.

PROOF OF DELIVERY

This is to certify that on the 19th day of May 2016, the undersigned served a copy of the **MOTION TO STAY** by depositing a copy of the same into the United States Mail, postage pre-paid and in the correct amount to the following:

Stephanie Sands Smith
2 Dublin Court
Spartanburg, SC 29301

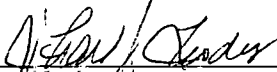
Mr. Donald E. Sands
Ms. Shirlee K. Sands
2 Dublin Court
Spartanburg, SC 29301

Mr. Donald. W. Sands
2 Dublin Court
Spartanburg, SC 29301

Mr. Carl Hocker
356 Templeton Drive
Spartanburg, SC 29306


JOANN CHAMPION

SWORN to before me this 19th
day of May, 2016.



NOTARY PUBLIC FOR SOUTH CAROLINA (SEAL)

My Commission Expires: 12-10-2025

BURTS TURNER & RHODES
ATTORNEYS AT LAW
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WILLIAM H. RHODES

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May 19, 2016

The Honorable Jenny Abbott Kitchings
Clerk, The South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

SC Court of Appeals
RECEIVED
MAY 23 2016
SC Court of Appeals

Re: Debra S. Switzer, et al vs. Stephanie S. Smith
Case No. 2014-CP-42-0639
Appellate Case No.: 2016-000782

Dear Ms. Kitchings:

I have enclosed the original and six (6) copies of a Motion to Stay which is being filed on behalf of Debra S. Switzer together with an Affidavit of Mailing showing proof of service on all opposing counsel. I have also enclosed a check in the amount of \$25.00 for the filing fee.

Please do not hesitate to contact me if you should have any questions or require any further information.

Sincerely,


Richard H. Rhodes

RHR/jc
Enc.

cc: Stephanie Sands Smith
2 Dublin Court
Spartanburg, SC 29301

Mr. Donald E. Sands
Ms. Shirlee K. Sands
2 Dublin Court
Spartanburg, SC 29301

Mr. Donald. W. Sands
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