

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from the Greenville County Circuit Court & Probate Court

Letitia H. Verdin, Circuit Court Judge
Debora A. Faulkner, Probate Judge

Case No. 2016-002015

RECEIVED

DEC 28 2016

SC Court of Appeals

Wilson Garner, Jr., et al,Appellants,

v.

The Estate of Nell Gaines , et al,Respondents.

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

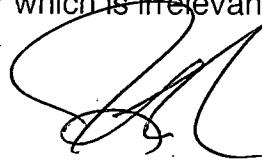
Appellant proposes the following be included in the Record on Appeal:

1. Transcript of Probate Court trial hearing commencing on September 15, 2015.
2. Transcript of Probate Court hearing on Motion to Reconsider commencing on January 12, 2016.
3. Transcript of Circuit Court hearing on interim appeal commencing August 30, 2016.
4. Form 300ES / Application for Informal Probate for Estate of Nell C. Donnan Gaines, dated August 26, 2014.
5. Form 300ES / Application for Informal Probate for Estate of Herman Tony Burrell.
6. Greenville News Obituary for Herman Tony Burrell.

7. 2014 Will of Nell Gaines, Petitioners' Exhibit #1 introduced at the hearing on September 15, 2015.
8. "Personal Property Memorandum" submitted by Respondents with the filing of the 2014 Will of Nell Gaines for Informal Probate on August 26, 2014.
9. 2008 Will of Nell Gaines, Respondents' Exhibit #1 introduced at the hearing on September 15, 2015.
10. Appellants' Motion for Reconsideration filed below on November 6, 2015.
11. Respondents' Response to Appellants' Motion to Reconsider served November 16, 2015.
12. Greenville County Probate Court's Order dated October 26, 2015.
13. Greenville County Probate Court's Order dated March 18, 2016.
14. Greenville County Circuit Court's Order dated September 14, 2016.
15. Notice of Appeal to the Court of Appeals dated September 22, 2016, and filed September 23, 2016.
16. First Amended Petition to Set Aside Devise pursuant to SC Code § 62-2-504, filed by Appellants below on August 7, 2015.
17. Answer and Counterclaim of Respondents to the First Amended Petition to Set Aside Devise filed July 27, 2015.
18. Appellants' (Appellants') Reply to Counterclaim filed August 24, 2015.

I certify that this designation contains no matter which is irrelevant to this appeal.

December 27, 2016



Richard L. Patton, Esq,

SC Bar # 0008627
The Patton Law Firm
819 East North Street
Greenville, South Carolina, 29601
864-233-9797

Attorney for Appellants

THE STATE OF SOUTH CAROLINA
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Debora A. Faulkner, Probate Judge

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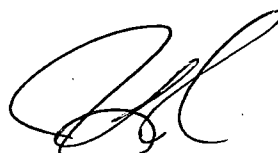
The Estate of Nell Gaines , et al,Respondents.

PROOF OF SERVICE BY MAIL

The undersigned certifies that he has served a copy of the within INITIAL BRIEF OF APPELLANTS in addition to the Appellants' DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL upon opposing counsel herein by depositing a copy of the same into the United States Postal Service with sufficient postage affixed thereto, all in compliance with SCACR 208, and addressed as follows:

Wes (Marcus) Meetze, Esq.
PO BOX 81118
Simpsonville, SC 29680

THIS 27 day of December, 2016



Richard L. Patton, Esq.

SC Bar # 0008627
The Patton Law Firm
819 East North Street
Greenville, SC 29601
(864) 233-9797

Attorney for Appellants

PATTON LAW FIRM

RICHARD L. PATTON

ATTORNEY AT LAW

819 E. NORTH STREET

GREENVILLE, SOUTH CAROLINA 29601

RICHARD L. PATTON*

*ALSO ADMITTED IN GEORGIA

TELEPHONE
(864) 233-9797

FAX
(864) 233-9790

VIA FEDERAL EXPRESS

December 27, 2016

S.C. Court of Appeals
Clerk of Court
1220 Senate Street
Columbia, SC 29211

Attention Shelby Snow

RE: *Wilson Garner, Jr, et al v. Estate of Nell Gaines*
Appellate Case 2016-002015

Dear Ms. Snow:

The ordering and delivery of the transcript in this case has caused immense problems. You may recall there was confusion following your letter of October 21, 2016 advising that I needed to file an extension to order the transcript. You and I spoke by phone and I advised that you had already received notice of my ordering the transcript in a letter dated September 22, 2016. You found that letter in your file and indicated that I did not need to do anything further to correct that issue. Enclosed is a copy of my earlier correspondence to refresh your memory.

I advised the court reporter by email on November 15th and 29th, 2016 that we were not in receipt of the transcript. In her email to me dated October 14, 2016, the court reporter said that she would get the transcript out in time and said that she would request an extension from court administration if she needed more time and advise when it was granted. I enclose a copy of her email. The court reporter delivered the same by hand-delivery on December 1, 2016 explaining the delay was due to the holidays. Because I had the transcript as of December 1, 2016, I understood there was cause to file for an extension under SCACR 207. I did advise opposing counsel by email that the transcript had been delivered on December 1, 2016.

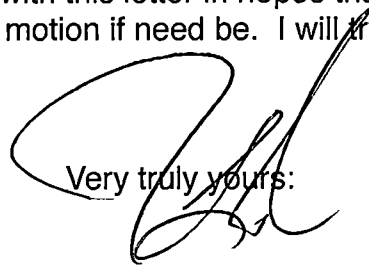
Although I ordered the transcript the same day as my Notice of Appeal, I had 10 days under the rules to order the transcript, which would not have expired by December 1, 2016.

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SC Court of Appeals

I am filing the Appellate Brief with this letter in hopes that the court will accept it for filing. I will file the appropriate motion if need be. I will try to reach you by phone to discuss the matter further.

A handwritten signature in black ink, appearing to be 'R. Patton', written over the text 'Very truly yours:'. The signature is fluid and cursive.

Very truly yours:

Richard L. Patton

C: Marcus W. Meetze, Esq.

PATTON LAW FIRM

RICHARD L. PATTON
ATTORNEY AT LAW

819 E. NORTH STREET

GREENVILLE, SOUTH CAROLINA 29601

RICHARD L. PATTON*

*ALSO ADMITTED IN GEORGIA

TELEPHONE
(864) 233-9797

FAX
(864) 233-9790

October 24, 2016

S.C. Court of Appeals
PO Box 11629
Columbia, SC 29211
Attn: Shelby Snow

RECEIVED

DEC 28 2016

SC Court of Appeals

RE: Wilson Garner, Jr. v. Nell Gaines
Appellate Case No. 2016-002015

Dear Ms. Snow:

I understand that you have the above-referenced appeal for purposes of filing compliance. I have the Clerk's letter dated October 21, 2016 advising that I needed to file a motion for extension to order transcript outside of filing deadlines in the above-captioned appeal. There must be some mistake. I filed a copy of my letter to the court reporter dated September 22, 2016, in which I ordered the transcript in question. I have confirmed with the Clerk that he already has that letter in the file. It was filed along with the Notice of Appeal on the same day.

Perhaps my contemporaneous filing somehow confused the issue. I apologize for that, if it did. Please advise if I still need to file a motion to order the transcript outside of filing deadlines. That would seem unnecessary, but I will take your lead on this in any event because I do not want my appeal dismissed. Given that I have already ordered the transcript from the court reporter involved in my case, I have been operating under SCACR Rule 207 (a)(2), which provides that the court reporter shall have 60 days to produce the transcript. By my count, that should give her until November 21, 2016.

Please reply in writing so I will know how to proceed further. A duplicate of my letter to the court reporter is enclosed for reference.

Very truly yours:

Richard L. Patton

C: Clients
Marcus W. Meetze, Esq.

Re: Wilson Garner, Jr. et al v. The Estate of Nell Gaines

Richard Patton

Tue 11/29/2016 4:42 PM

To: Johnson, Teresa B. <TJohnson@sccourts.org>;

Dear Mrs. Johnson

I have not yet received the transcript in the Gaines matter. I last contacted you on the 17th of November to advise I was mailing a check in payment. I do not see where that check has cleared my account. Did you receive it? I mailed it to your PO Box address.

Rick Patton
Patton Law Firm
818 East North Street
Greenville, SC 29601

From: Johnson, Teresa B. <TJohnson@sccourts.org>
Sent: Tuesday, November 15, 2016 10:21 AM
To: Richard Patton
Subject: Re: Wilson Garner, Jr. et al v. The Estate of Nell Gaines

Mr. Patton -

This transcript has been completed per your request. ?Please see attached invoice for payment. Thank you for your patience in this matter.

Thank you,

Teresa B. Johnson, CVR-M
Circuit Court Reporter
Thirteenth Judicial Circuit
P.O. Box 2812
Greenville, S.C. 29602

[Image result for glass half full]

PATTON LAW FIRM

RICHARD L. PATTON

ATTORNEY AT LAW

819 E. NORTH STREET

GREENVILLE, SOUTH CAROLINA 29601

RICHARD L. PATTON*

*ALSO ADMITTED IN GEORGIA

TELEPHONE
(864) 233-9797

FAX
(864) 233-9790

September 22, 2016

Ms. Teresa Johnson, Court Reporter
PO Box 2812
Greenville, SC 29602

RE: *Wilson Garner, Jr., et al - versus - The Estate of Nell Gaines*
Greenville County Case No. 2016-CP-23-02045
Notice of Appeal / Order of Transcript

Dear Ms. Johnson:

On August 30, 2016, you were the court reporter for the oral arguments heard before Circuit Court Judge Letitia H. Verdin. That matter was on appeal from the Probate Court to the Circuit Court, and the hearing lasted about 45 minutes as I recall.

I have filed a Notice of Appeal in this case and need to make arrangements with you for purchase of the transcript of that hearing before Judge Verdin. Please contact me at your earliest convenience to discuss the matter. I tried to contact you by phone but the Clerk's office told me they did not have that information.

I look forward to hearing from you.

Very truly yours:

Richard L. Patton

C: Clients
File

Thank you,

Teresa B. Johnson, CVR-M
Circuit Court Reporter
Thirteenth Judicial Circuit
P.O. Box 2812
Greenville, S.C. 29602

From: Richard Patton <pattonlawfirm@hotmail.com>
Sent: Friday, October 14, 2016 10:30 AM
To: Johnson, Teresa B.
Subject: Re: Wilson Garner, Jr. et al v. The Estate of Nell Gaines

Paper copy only will be fine, I think.

Rick Patton

Sent from my iPhone

> On Oct 14, 2016, at 10:22 AM, Johnson, Teresa B. <TJohnson@sccourts.org> wrote:

>

> Mr. Patton:

>

> I have received your request to prepare the transcript in the above referenced case held before the Honorable Judge Letitia H. Verdin on August 30, 2016. I have reviewed my records and estimate this transcript to total approximately 25 pages.

>

> Based on our current rate of \$3.25 per page plus postage of \$3.95, I estimate the cost to be \$85.20. I am not requesting a deposit at this time. It is my general practice to receive payment prior to delivery of transcripts. Upon my completing the transcript, the request for payment will be forwarded to your office.

>

> You may further define your request in terms of transcript format (paper copy via U.S. Mail, electronic copy via email, etc.) and the turnaround time that you are seeking, as there are additional fees for electronic copies and expedited services as specified in SCACR Rule 607(h)(1).

>

> Under our rules, I have 60 days to transcribe and deliver your request. In the event I need additional time to complete the transcript, I will request an extension from Court Administration. You will be notified if the extension is granted.

>

>

>

> Thank you,

>

> Teresa B. Johnson, CVR-M

> Circuit Court Reporter

> Thirteenth Judicial Circuit

> P.O. Box 2812

> Greenville, S.C. 29602

>

>

>

>

> [Image result for glass half full]

>

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> ~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

GAINES APPEAL

Richard Patton

Thu 12/1/2016 3:59 PM

To: Wes@meetzelaw.com <Wes@meetzelaw.com>;

Wes:

I hope your Thanksgiving holidays were enjoyable. This is to let you know that I received by hand-delivery today the transcript of the bench appeal before Judge Verdin. Teresa Johnson was the court reporter assigned to Judge Verdin that day. I plan to have my brief finished well ahead of Christmas.

Thanks:
Rick Patton

SHIP DATE: 27DEC16
CTWGT: 0.60 LB
AD: /OFFFC1722
IMS: 0x0x0 IN

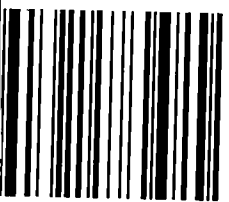
ILL SENDER

12/27/16 12:27 PM 4170421718EB



1 - 28 DEC 10:30A
PRIORITY OVERNIGHT

29211
SC-US CAE



00200

FedEx NEW Package Express US Airbill
FedEx Tracking Number 8992 6100 3666

1 From
Date 12-27-16 FedEx Tracking Number 899261003666

Sender's Name RICHARD L. PATTON Phone 864 233-9797

Company TEMPLE, MANN, BRIGGS, & HILL

Address 819 E NORTH ST

City GREENVILLE State SC ZIP 29601-3101

2 Your Internal Billing Reference

3 To Recipient's Name CLERK OF COURT Phone 803 734-1080

Company S.C. COURT OF APPEALS

Address 1280 SENATE ST. Dept./Floor/Suite/Room

Address Use this line for the HOLD location address or for continuation of your shipping address.

City COLUMBIA State SC ZIP 29311



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Recipient's Copy

4 Express Package Service *To most locations. Packages up to 150 lbs.
NOTE: Service order has changed. Please select carefully. For packages over 150 lbs, use the new FedEx Express Freight US Airbill.

Next Business Day
 FedEx First Overnight
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5 Packaging *Declared value limit \$500.
 FedEx Envelope*
 FedEx Box
 FedEx Tube
 Other

6 Special Handling and Delivery Signature Options
SATURDAY Delivery
No Signature Required
Direct Signature
Indirect Signature
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Does this shipment contain dangerous goods?
One box must be checked.
 No Yes
DANGEROUS GOODS (including dry ice) cannot be shipped in FedEx packaging or placed in a FedEx Express Drop Box.
7 Payment Bill to:
Sender Acct. No. in Section 1 will be billed
Recipient
Third Party
Credit Card
Cash/Check
Total Packages Total Weight
Credit Card Auth.
611

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