

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )  
IN THE MATTER OF )  
BARRY E. ROSIER )  
 )  
Donna M. Rosier, )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
Angelique Michelle Smith, Alexandria R. )  
Downs, individually and as Personal )  
Representative of the Estate of Barry E. )  
Rosier, and Savannah Rosier, )  
 )  
Respondents. )  
\_\_\_\_\_ )

IN THE PROBATE COURT  
Case No.: 2017-CP02-00593

**ORDER**

**RECEIVED**  
DEC 11 2017  
SC Court of Appeals

This matter was before the Aiken County Probate Court upon the passing of Decedent Barry E. Rosier (“Decedent”) in Case Number 2015-ES02-0860.2. Appellant Donna Rosier (“Appellant”) brought a Declaratory Judgment (“DJ”) action requesting an Order to 1) declare Appellant to be Decedent’s surviving spouse, and 2) amend Decedent’s Death Certificate to reflect Decedent’s correct marital status.

Service to Respondents Angelique Michelle Smith and Savannah Rosier was unsuccessful, to which a Motion for Service by Publication was granted. Respondents Angelique Michelle Smith and Savannah Rosier were subsequently found in default. Service upon Respondent Alexandria R. Downs (“Respondent”) was accepted by and through counsel. Respondent requested by Answer for a judgment to 1) dismiss the DJ, and 2) find that Appellant and Decedent were not married at the time of Decedent’s death.

After Appellant provided a Reply Brief, a hearing was set for January 23, 2017. Upon close of the hearing, the Probate Court provided an Order dated February 22, 2017, finding Appellant was not the lawful wife of Decedent at the time of Decedent's death. Upon receipt of the Order, Appellant timely filed a Motion to Alter or Amend the Probate Court's Order, pursuant to Rule 59(e) SCRPC. Appellant's Motion was subsequently denied. Appellant then timely filed a Notice of Intent to Appeal to the Circuit Court, along with a Statement of the Issues on Appeal, pursuant to S.C. CODE ANN. § 62-1-308 (2014) and Rule 59(f) SCRPC.

This matter was heard before me on Wednesday, October 11, 2017. At that time, the Court heard oral arguments from both parties and reviewed the briefs of parties and the entire record.

Actions for Declaratory Judgment are neither legal nor equitable, but are determined by the nature of the underlying issue. *Felts v. Richland County*, 303 S.C. 354, 357, 400 S.E.2d 781, 782 (1991). The nature of the underlying issue in this case concerns the validity of a marriage contract. Actions concerning contracts are actions at law. *Hofer v. St. Clair*, 298 S.C. 503, 508, 381 S.E.2d 736, 739 (1989). An Appellate Circuit Court may not disturb the Probate Court's finding of fact for proceedings concerning an action at law, unless review of the record discloses no evidence to support them. *Matter of Howard*, 315 S.C. 356 at 361.

After a close review of the record, I find that the record discloses evidence to support the finding of the Probate Court, that Appellant and Decedent were not married at the time of the death of Decedent. Therefore, the decision in the Probate Court is affirmed.

SIGNATURE PAGE TO FOLLOW



Aiken Common Pleas

**Case Caption:** Donna M Rosier VS Angelique Michelle Smith , defendant, et al

**Case Number:** 2017CP0200593

**Type:** Order/Other

So Ordered

s/D.A. Early III 2136

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LawyerLisa.com

[Lisa@LawyerLisa.com](mailto:Lisa@LawyerLisa.com)

o 803.563.5163

f 888.958.7850

**Lisa M Hostetler**

**Attorney at Law**

Licensed in SC & NC

December 5, 2017

Hon. V. Claire Allen  
SC Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

**RECEIVED**  
DEC 11 2017  
SC Court of Appeals

RE: Rosier v. Smith, et al.  
Appellate Case No.: 2017-002344  
Our File No.: 021734-00002

Dear Ms. Allen,

I have enclosed two copies of the signed Order of the Circuit Court which is the subject of the above referenced appeal as well as two copies of an e-mail to the court reporter, Bethanie Creppon as proof that the transcript of the hearing was timely ordered. Please file the enclosed documents and return the copies labeled "File Copy" in the self-addressed return envelope enclosed for your convenience.

Should you have any questions concerning this matter, please do not hesitate to contact me at (803) 563-5163 or by e-mail at [David@LawyerLisa.com](mailto:David@LawyerLisa.com).

Sincerely,



David Ziegler  
(SC Bar # 102415)

cc: Arthur W. Rich, Esq (*by e-mail only*)



Lisa M. Hostetler  
Attorney at Law  
534 St. Andrews Road, Suite B  
Columbia, SC 29210

COLUMBIA SC 29201  
DEC 2017



021734-00002/DZ

The Honorable V. Claire Allen  
SC Court of Appeals  
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29211-162929

