

APPEAL IN A CIVIL CASE
THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BERKELEY COUNTY
Master In Equity

Honorable Dale E. Van Slambrook

Case No.:2009-CP-08-1708

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JUN 01 2018
SC Court of Appeals

Valerie Green.....Appellant

v.

The Estate of Jake Green, a/k/a Jacob Green, et. al.....Respondents

INITIAL BRIEF OF APPELLANT

Willie B. Heyward
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Attorney for Appellant

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TABLE OF AUTHORITIES

Freeman, vs. Freeman , 323 S.C.95, 473 S.E.2d 467 (Ct.App. 323 S.C.95, 473 S.E.2d 467 (Ct.App. 1996)

Pinckney et. al. vs. Warren, et. al., 344 S.C. 282, 544 S.E.2d 620 (Ct.App. 2001

STATEMENT OF THE ISSUES ON APPEAL

- I. DID THE JUDGE FAIL PROPERLY APPLY THE LAW TO THE FACTS OF THIS CASE

STATEMENT OF THE CASE

This is a quiet title action regarding property located in Berkeley County, South Carolina, that involves conflicting interests of individuals who claimed or may have claimed rights in the subject property designated by the Berkeley County Auditor as belonging to one Jake Green. Appellant commenced an action to quiet title to real property in which her father Henry Green, Jr., a child of her deceased grandfather father Jake Green, had an interest. This matter was heard on October 23, 2017 before the Honorable Dale Edward Van Slambrook, Master In Equity, for Berkeley County. The underlying case in this matter is captioned Valerie Green vs. The Estate of Jake Green, a/k/a, Jacob Green, Case No.; 2009-CP-08-1708. A Final Order dated January 23, 2018 quieted the title in the property that is the subject of this action in the heirs of Jake Green and that the lawful heirs of her father, Henry Green, Jr. were the Appellant Valerie Green, Nathaniel Collins and Martha Greer.

Procedural Background

An action to quiet title to was filed in Berkeley County on May 15, 2009. Answers to the pleadings being filed on behalf of certain Defendants by David Low, Esquire. Amended

pleadings being filed on August 15, 2016. A Status Conference was held on December 14m 2016 whereby an Order issued allowing another amendment to the pleadings to add additional parties. Present at the status conference and their first appearance in this action, were the Defendants, Nathaniel Collins and Marcella Greer.

Second Amended Pleadings to quit title to the real property that was the subject of thos action on were filed December 29, 2016. The Defendants, Nathaniel Collins and Marcella Greer were served by personal service. A final hearing on the merits to determine the co-tenants and the heirs of Jake Green being held on October 23, 2017.

BACKGROUND FACTS

The parties have agreed and stipulated that the heirs of Jake Green have been properley brought before the Court and that the only contested issue is whether the Appellant's father, Henry Green, Jr., has one child, being the Appellent Valerie Green or three children, being also the Defendants, Nathaniel Collins and Marcella Greer.

STANDARD OF REVIEW

"When an appeal involves stipulated or undisputed facts, an appellate court is free to review whether the trial court properly applied the law to those facts." *WOW Prop-so v. City.of Sumter*, 342 S.C. 6,10, 535 S.E.2d 631, 632 (2000). "In such cases, the appellate court owes no particular deference to the trial court's legal conclusions." *J.K. Constr." Inc. v. W. Carolina Reg'l Sewer Auth.,.* 336 S.C. 162, 166, 519 S.E.2d 561, 563 (1999); *see also Duke Power Co. v. Laurens Elee. COO/2." Ine."* 344 S.C. 101, 104, 543 S.E.2d 560, 561-62 (Ct.App.2001).

ARGUMENTS

I. DID THE MASTER FAIL TO PROPERLY EVALUATE THE TESTIMONY GIVEN AT TRIAL?

At the call of this case both Defendants, Nathaniel Collins and Marcella Greer Where present and proffered testimony and evidence to substantiate their claim to be the children of Henry Green, Jr. Both parties where represented Pro Se.

Testimony of Nathaniel Collins

The Respondent Nathaniel Collins testified that he raised by his grandmother on his mother's side of the family and that he first became aware by that Henry Green, Jr , a/k/a, Henry Green, was his father after being told so by his grandmother when he was in the 5th or 6th grade in school.

He also proffered an obituary of Henry Green, Jr.in which he is named as a child of the deceased. He did not produce a birth certificate but testified that stated that Henry Green, Jr. was not named as his father.

A reported burial insurance policy that he stated that the Appellant Valarie Green had him sign to bury her father was also offered as evidence of his paternity. His mother is deceased and was never married to Henry Green, Jr. His initial testimony was that his grandmother told him that nor never told him that Henry Green, Jr. was his father. He later added that his mother told also told him the Henry Green was his father.

Testimony of Marcella Greer

The Respondent Marcella Greer testified that she was raised by his grandmother on her mother's side of the family and that she first became aware by that Henry Green was her father after being told so by her grandmother when she was about two years old.

She also proffered a family history that was prepared by the local funeral home indicting that she and Nathaniel Collins were children of Henry Green.

She also proffered an obituary of Henry Green in which she is named as a child of the deceased but could not produce a birth certificate that indicated Henry Green was her father.

She also testified that she signed a burial insurance policy that that she alleged the Appellant Valarie Green had her sign to bury her father.

In contrast to the above testimony, the testimony of the Appellant was never contested nor challenged that she is indeed the natural child of Henry Green She also proffered a birth certificated indicating same. Her relationship with her father's family has been starined since his death and the fact that she is a resident of the State of Florida hinders her overseeing her father's affairs.

CONCLUSION

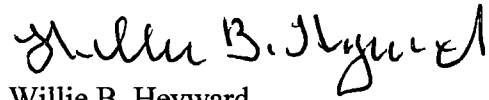
The testimony given by the Respondents is at best speculative in that their knowledge of the deceased Henry Green, Jr. is at best speculative given the fact that they never developed any personal relationship with him, nor told by their mother that he was their father.

More importantly the lack of birth certificates from either Respondent brings into question who is their natural father. Henry Green died after the applicability of cases that defined the additional requirements for illegitimate children to proof paternity but there still produce clear and convincing evidence to the court to substantiate there claims.

SIGNATURE PAGE FOLLOWS

May 30, 2018

Respectfully submitted,

A handwritten signature in black ink that reads "Willie B. Heyward". The signature is written in a cursive style with a large, stylized initial 'W'.

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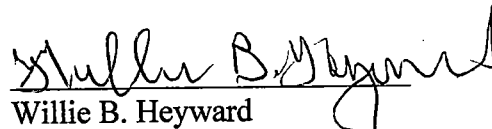
CERTIFICATE OF SERVICE

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SC Court of Appeals

I certify that I have served the Initial Brief and Designation of Matter for the Appellant on David M. Low, Esq., by depositing a copy of it in the United States Mail, postage prepaid, on May 30, 2018, addressed to him at his office located at 1459 Stuart Engals Blvd., Suite 203A, Mount Pleasant, S. C. 29464.


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May 30, 2018

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Re.: **Valerie Green vs. the Estate of Jake Green, et al.**
Appellate Case No.: **2009-CP-08-1708**

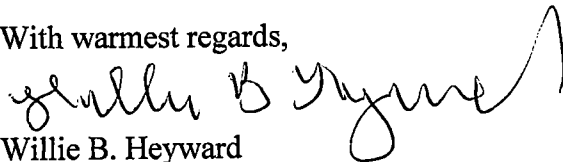
Dear Sir / Madam:

Enclosed please find the Initial Brief and Designation of Matter of the Appellant in the above-referenced matter. I have also included a copy of the Certificate of Service evidencing service of the Initial Brief and Designation of Matter on David M. Low, Esquire, attorney for the Respondents.

If you have any questions please do not hesitate to contact me at (843) 225-8764.

Thank you for your kind attention to this matter.

With warmest regards,



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cc: David M. Low, Esq.
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Enclosures as stated

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