

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BERKELEY COUNTY

Master-in-Equity

The Honorable Dale Edward Van Slambrook

Appellate Case No. 2018-000438

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JUL 19 2018

SC Court of Appeals

Valerie Green,

Appellant,

v.

The Estate of Jake Green a/k/a Jacob Green, Margaret Wilder (deceased), Mary Harrell a/k/a Mary Cromedy (deceased), Henry Green (deceased), Thomas Henry Green (deceased), Ethel Bengall, Rebecca Alls (deceased), Rena Mae Green-Calvin, Barbara Green, Linda Cromedy, Walter Harrell, Laverna Green, Kathleen Pinkston, Robert Kinloch, Oliver Alls, Jackie Alls, Norman Alls, Isaac Alls (deceased), Isaac Alls, Jr., Evelyn Alls Terry, Patricia Spratton, Hazel Owens, Suzette Ford, Linda Beauford, Lanny Venning, Thomas Wilder (deceased), Thomas Wilder, Jr., Savona Green, Terrance Green, Nathaniel Green, Henry Green, Jr., Marcella Brown, Valerie Green, John Doe and Mary Roe, fictitious names used to designate persons in the military service within the meaning of Title 50, United States Code, commonly referred to as the Service Members Civil Relief Act of 2003 as amended, if any, and the unknown heirs at law, devisees, widows, widowers, executors, personal representatives, successors and assigns firms or corporations of the Estate of Jake Green and any of the defendants who may be deceased, and all other persons claiming any right, title, estate, interest in or lien upon the real estate described in the complaint of in the complaint or any part thereof,

Defendants,

Of whom The Estate of Jake Green a/k/a Jacob Green, Margaret Wilder

(deceased), Mary Harrell a/k/a Mary Cromedy (deceased), Henry Green (deceased), Thomas Henry Green (deceased), Ethel Bengall, Rebecca Alls (deceased), Rena Mae Green-Calvin, Barbara Green, Linda Cromedy, Walter Harrell, Laverna Green, Kathleen Pinkston, Robert Kinloch, Oliver Alls, Jackie Alls, Norman Alls, Isaac Alls (deceased), Isaac Alls, Jr., Evelyn Alls Terry, Patricia Spratton, Hazel Owens, Suzette Ford, Linda Beauford, Lanny Venning, Thomas Wilder (deceased), Thomas Wilder, Jr., Savona Green, Terrance Green, Nathaniel Green, Henry Green, Jr., and Marcella Brown are,

Respondents.

INITIAL BRIEF OF RESPONDENTS

David M. Low (SC Bar #70381)
Low Law Firm, LLC
1459 Stuart Engals Boulevard, Suite 203A
Mount Pleasant, South Carolina 29464
(843) 849-1009

ATTORNEY FOR RESPONDENTS

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<i>Townes Associates, Ltd. v. City of Greenville</i> , 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976)	2

STATEMENT OF ISSUE ON APPEAL

Did the trial court err when it entered a Master's Decree finding clear, credible and convincing evidence that Nathaniel Collins, Martha Greer and Valerie Green were the children and heirs at law of Henry Green, Jr.?

STATEMENT OF THE CASE

This appeal stems from an action brought by the Plaintiff to quiet title to certain real property located in Berkeley County, South Carolina, and to partition said property amongst the rightful owners, and to obtain a deed or deeds vesting title to the subject property in those owners. The case was filed on May 15, 2009 in Berkeley County. Answer to the pleadings were filed on behalf of Defendants on December 18, 2009. Amended pleadings were necessary of the years to conform to newly discovered heirs and additional property of Jacob Green a/k/a Jake Green that has been previously omitted. The final, updated Lis Pendens, Summons and Complaint of Plaintiff were filed on December 29, 2016. All matters in the case were agreed to be stipulated to by the parties at a status conference held April 11, 2017, except for the issues of determining the heirs of Jacob Green a/k/a Jake Green and the value of the real property which is the subject of this action. The Master bifurcated the issues as to the heirs of Jacob Green a/k/a Jake Green and the property valuation and was to set separate hearing dates as to both issues. A final hearing on the merits to determine the heirs of Jacob Green a/k/a Jake Green was held on October 23, 2017. At that hearing, parties agreed and stipulated to the heirs of Jacob Green a/k/a Jake Green except to the issue of who were the children and heirs-at-law of Henry Green, Jr.

Henry Green, Jr. being a deceased heir of Jacob Green a/k/a Jake Green. Plaintiff contended that she was the only child and lawful heir of Henry Green, Jr. Defendants contended that Martha Greer and Nathaniel Collins were also the children and lawful heirs of Henry Green, Jr. At the hearing on October 23, 2017, the testimony of witnesses and exhibits were entered into evidence establishing the heirs of Jacob Green a/k/a Jake Green, including the children of Henry Green, Jr. A Master's Decree was executed January 23, 2018 finding "By clear, credible and convincing evidence taken at the hearing, it is established that Henry Green, Jr. had three children at the time of his death and are his heirs at law. Those children are as follows: Nathaniel Collins, Martha Greer and Valerie Green." [Master's Decree, p. 7, Para. 11]

STANDARD OF REVIEW

In Townes Associates, Ltd. v. City of Greenville, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976), the court recognized "In action at law, on appeal of a case tried without a jury, the findings of fact of the judge will not be disturbed upon appeal unless found to be without evidence which reasonably supports the judge's findings. The rule is the same whether the judge's findings are made with or without, a reference. The judge's findings are equivalent to a jury's findings in a law action." See also Chapman v. Allstate Ins. Co., 263 S.C. 565, 211 S.E.2d 876 (1975).

ARGUMENT

I. The record supports the Master's conclusion that Henry Green, Jr. had three

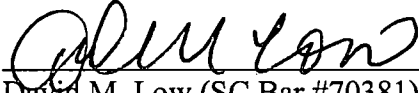
children at the time of his death and those children are his heirs at law.

Here the Master-in-Equity was both the trier of fact and arbiter of the law. The factual findings of the Master-in-Equity as trial judge in an action at law, tried without a jury, must be affirmed absent a finding that no evidence reasonably supported his findings. In the Master's Decree and the Transcript of Hearing it shows that evidence was presented to the Court in the form of Exhibits that included published obituaries naming the children of Henry Green, Jr. as Nathaniel Collins, Martha Greer and Valerie Green, as well as other evidence that included testimony from Nathaniel Collins, Martha Greer and Mildred Johnson that showed that Nathaniel Collins, Martha Greer and Valerie Green were the children of Henry Green, Jr. The findings of the Master-in-Equity were reasonably supported by the evidence presented. "Moreover, we will not disturb the trial judge's finding of fact that depend on the credibility of witnesses." Daisy Outdoor Advertising, Co. Inc. v. Dean Abbott, 317 S.C. 14, 16, 451S.E.2d 394, 395 (Ct. App. 1994), affirmed in part, and reversed in part, 322 S.C. 489, 473 S.E.2d 47 (1996). Here the Court determined as trier of fact that the testimony offered was credible to establish the children and heirs at law of Henry Green, Jr.

CONCLUSION

For the reasons stated above, Respondents respectfully request this Court to affirm that the findings of the Master-in-Equity regarding the children and heirs at law of Henry Green, Jr. were proper and not a legal error. Accordingly, the Master's Decree of January 23, 2018 was proper and should be affirmed by this Court.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "D. M. Low", is written over a horizontal line.

David M. Low (SC Bar #70381)

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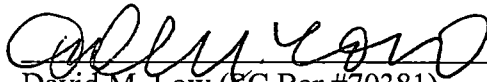
PROOF OF SERVICE
(Initial Brief of Respondents)

I certify that I have served Respondents' Initial Brief of Respondents upon the Appellants by way of U.S. Mail, stamped First Class Delivery, on July 18, 2018 addressed to Appellant's attorney of record as follows:

Willie B. Heyward
27 Gamecock Avenue
Suite 200
Charleston, SC 29407

Attorney for Appellant, Valerie Green

July 18, 2018



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