THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

On Appeal from the Court of Common Pleas

For Abbeville County

Honorable Frank R. Addy, Jr., Judge

Case No. 2018-CP-01-00069

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SC Court of Appeals

CASE NO. 2018-001067

DANIEL D. HAWK,

Plaintiff-Appellant,

v.

KENNETH H. KUROWSKI,

Defendant-Appellee.

Opening Brief of Plaintiff-Appellant

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INTRODUCTION

This Brief is tenet to Kenneth H. Kurowski's *de novo* probate. There are several flaws in the law and judiciary logic that ought to demand this Court Order probate *de novo* and are discussed *infra*.

STATEMENT OF THE ISSUES ON APPEAL

1. The Transcript Record[1] (Transcript) indicates no exhibits were introduced on p. 3 yet the Transcript clearing indicates documents were provided to the judge. For example, the Death Certificate on p.4, line 25, & p.5, line 1, *inter alia*.
2. The Defendant, on p.6, lines 10-12 admit Kenneth H. Kurowski's official [and legally] surviving spouse is Arletta Kurowski yet, on p.5 the Defendant, Norma (Schoonober) Kurowski conspired to deprive (Plaintiff) with her son Brian Kurowski by ensuring the death certificate showed Norma Schoonober (Brian's mother) as the legal surviving spouse, when in fact they both knew Arletta Kurowski was the legal surviving spouse see 42 U.S.C. 1985. In other words, did the coconspirators (Brian Kurowski and his mother) knowingly falsified a vital record; Kenneth H. Kurowski's Death Certificate see p.5, lines 8-10?

[1] Transcript Record of 2018-CP-01-00069 dated May 8, 2018.

3. The Defendant admits that Kenneth H. Kurowski was married to Arletta Kurowski four years prior to the unlawful Illinois marriage (p.5, lines 18-19), and, there were children involved, "possibly three" see p.6, line 1. Did the Defendant Norma Schoonober make any attempts to correct the false marriage vital record? Did the Defendant Norma Schoonober ensure that legal child support was paid to Arletta Kurowski's children?
4. The Defendant, Norma Schoonober admits there was no divorce between Kenneth H. Kurowski and Arletta Kurowski see p.6, lines 7-8. Did the Defendant Norma Schoonober ensure that Kenneth H. Kurowski obtained a legally divorced from Arletta, his legal spouse?
5. Even though the Defendant knew Kenneth H. Kurowski was married to Arletta Kurowski and they had children together, the Defendant, at [her] own peril, contrived to live-out the bigamist Illinois-sham-marriage with Kenneth H. Kurowski concomitant depriving the lawful wife (Arletta) and [her] three children of marital and child support see p.6, lines 8-9. What is the degree of the Defendants' moral turpitude that would allow [her] to continue a sham-marriage while knowingly harming the children of the lawful marriage?
6. There are questions regarding the construction of the purported will see p.7, line 3. For example, Kenneth H. Kurowski's, four Oneida Indian

sisters, conspired and created [Kenneths'] will on the Oneida Indian Reservation in Wisconsin see p.7, lines 7-8. These are the same four sisters that conspired to harbor their brother [Kenneth], when [he] was wanted by law enforcement in the State of Wisconsin for failing to pay child support for [his] three children, *supra* at 5. It is noted in the transcript, that Oneida Indians and the Oneida Indian Reservation with its own set of laws, has been implicated, notwithstanding, deliberate constitutional deprivations under 42 U.S.C. 1985. What might be the questions, differences, degradation, and implications of a will prepared by a bunch of Indians, on the Oneida Nation Indian Reservation, in a different state, and transported to, and purportedly executed in the State of South Carolina? What could go wrong? See, p.7, lines 10-11.

7. There are also questions of purported will execution. The four Oneida sisters conspired on the Oneida Indian Reservation to coerce their brother [Kenneth] to sign the will when in South Carolina or in the alternative [Kenneth] did not sign the will at all. Considering, the four Oneida sisters conspired and harbored their brother [Kenneth] to keep him from paying legally-obligated child support is it probable that these same four Oneida sisters continue to conspire to deprive the Plaintiff of estate property?

8. Similarly, the South Carolina notary only signed his name to the document because the notary did not witness Kenneths' signature. In other words, the notary deliberately failed to affix and affirm the required notary ink stamp, seal, identification by satisfactory evidence, commission, and date of expiration, or in the alternative the notary's official title as required by South Carolina Law see S.C. Code of Laws, 26-1-60. What are the implications of the notarys' failure to legally affix his hand to the purported will?
9. The Defendant admits, and the Plaintiff agrees that Kenneth H. Kurowski was terminal, [he] was very weak and vulnerable and thus [his] incapacitated disabled state is conceded by both the Plaintiff and the Defendant. Plaintiff asserts Kenneth H. Kurowski was not capable of understanding the implications of any will and specifically regarding the financial implications of being a bigamist. What was Kenneths' capacity to review and understand and execute any legal document? See p.7, line 11.
10. What disability protections are provided for a person who is terminally ill? To reframe this question, the Social Security Administration recognizes those who are terminally ill as being disabled i.e. disability benefits are provided to the terminally ill. Plaintiff asserts, under South Carolina Code,

62-5-101 that Kenneth was incapacitated and not sufficiently capable of making complicated decisions such as executing a will. In other words, at the minimum his Oneida sisters coerced him to sign the will, and if in fact he did sign the will, Kenneth did so in an incapacitated condition. What protections are provided to the terminally ill in the State of South Carolina regarding the legal execution of a document? See p.7, line 11.

11. The Defendant, Norma Schoonober had known [she] was not lawfully married to Kenneth H. Kurowski and Norma Schoonober also conspired with Brian Kurowski (her son) to falsify the South Carolina Death Certificate vital record to show [she] was the legal surviving spouse when in fact [she] was not, yet made an oath, affirmation, and testified in court hearing that the vital record and statements of marriage were true[2]. How is it that the Defendant can assume to proceed with the estate "on the basis that Ms. Kurowski was going to receive everything" when proof, findings, and testimony are known not to be true? See 62-3-303(a)(2) and transcript p.8, lines 4-5.

12. The Defendant attempts to explain why the estate is problematic suggesting the small estate was highly encumbered when there is not proof

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[2] Kenneth Howard Kurowski, 2009 ES 01 00196 Amended Order recorded on October 25, 2012, Journal #12 Page 84 scanned October 25, 2012.

of that given or provided. Further, the Defendant, Kenneth H. Kurowski received an inheritance for his parents' farm on the Oneida Indian Reservation of more than $100,000 yet, the Defendant states the estate assets were "highly encumbered"? Considering the inheritance, how can this purportedly small estate be so highly encumbered? See p.8, line 8.

13. The Defendant states the estate is "worth only about $60,000". How can the Defendants' estate only be worth $60,000 when Kenneth H. Kurowski received more than $100,000 for the sale of his parents' farm? See p.8, line 9.

14. The Defendant states that Norma Schoonober Kurowski, since the time of Kenneths' death had "advance over $80,000 to pay on [liens]". Considering, Kenneth H. Kurowski, had not even a penny to his name i.e. no watch, no wallet, no bank account, no pants, and not even a shirt when he died, where did the purported $80,000 advance come from? Is it probable the $80,000 advance arises from the $100,000 from Kenneths' parents' farm?

15. There is no proof of the value of the estate or any advancement. How is it possible or how prudent is it to "conclude" any net worth when the estate assets and liabilities are not true and accurate? See p.8, line 15. This Court ought to conclude there is probable cause to believe that the Defendant

misrepresented material facts in the [probate] proceedings, see 62-3-611(b).

16. The Defendant states the Plaintiff has been "alleging all kinds of various things" see p.8, line 24. What kinds of things? As it turns out, the Defendant, Norma Schoonober Kurowski stated she had nothing to do with the Oneida Nation, yet [she] unlawfully obtained Kenneths' $5,000 Oneida Nation burial benefit reserved for the legal Oneida Nation surviving spouse Arlettta Kurowski. Defendant admits Kenneth owed child support and thus child support arrearages are being litigated. Indian religious freedoms are being litigated, in Illinois where the unlawful and continuing sham-marriage vital record between Norma Schoonober and Kenneth H. Kurowski is in the process of being invalidated because it is unlawful, at least in Wisconsin and Illinois to be married to two people, see p.9, lines 2-3. Why did the Defendant pass on elucidating the Trial Court on the most current set of litigation arising from the unlawful bigamist marriage concomitant falsified South Carolina vital record Death Certificate? What could go wrong? Does not South Carolina have a law against falsifying a death certificate? Does not South Carolina have a law against bigamy? Does not South Carolina have a law against people who knowingly lie in a court hearing? What is wrong with the lower courts' thinking?

17. At 13 *supra*, consider, the words on p.9, line 6 that says, "balance due on the funeral bill". What the Defendant means is that after the application of the unlawfully obtained $5,000 Oneida Nation tribal death benefit there was only $407 remaining as the balance. Why should this Court believe the real costs and the real advancement is what the Defendant says it is? The Defendant would have this Court believe that if [she] had not advanced the $80,000 of the $100,000 of Kenneths' money the "creditors would have taken [all] the assets of the estate" see p.9, lines 9-10.

18. The Defendants admit the estate lingered on for nine years on what the Defendant says is a $60,000 estate see p.9, lines 24-25. Is it not the duty of the personal representative to be prudent in attempting to close the estate because it is in the best interest of the estate? See 62-3-611(c).

19. Similarly, the Defendant suggests a specific reason is necessary to ask the Trial Court to move the probate court to another county, see p.9, lines 18-19. In other words, the Defendant suggests, just because Norma Schoonober testified as a legal wife when [she] knowingly was not, is not a specific enough reason, nor is the fact that Norma Schoonober is listed on Kenneths' falsified Death Certificate, after all [she] did not give the information to the coroner, [her] son, Brian did. Are these not misrepresentations of material fact? Is lying in probate court, stating

"Kenneth is her husband[3]", a misrepresentation of material fact? Is the representation of the unlawful bigamist marriage in the best interest of the estate? Are the constitutional deprivations of the Plaintiff in the best interest of the estate? See 62-3-611(a).

20. It is interesting that the Defendant chooses to cite convictions when bigamy is felony crime, see p.10, lines 1-3. Indeed, in South Carolina, 16-15-10 is an Offense Against Morality and Decency. Who would have thought that? Most certainly not the Defendant.

21. Following morality, the Defendant argues that the Probate Court has no authority over Kenneth H. Kurowski's fraudulent Death Certificate, see p.10, lines 7-8. Is not the legal surviving spouse, Norma Schoonober listed on the Death Certificate (a South Carolina vital record) that is used in the probate process as a material fact even though it is fraudulent and misrepresented? See 62-3-611(b). Does this Court really believe that Kenneths' fraudulent Death Certificate has no influence in Kenneths' estate? See p.10, line 10.

22. Does this Court really believe a probate court has to accept a knowingly false vital record simply because the Defendant states that South Carolina

[3] Kenneth Howard Kurowski, 2009 ES 01 00196 Amended Order recorded on October 25, 2012, Journal #12 Page 84 scanned October 25, 2012.

probate courts have no jurisdiction over South Carolina vital records? This line of thinking is insane see p.10, lines 15-17.

23. The Defendant stops short of discussing other allegations, *supra* at 13, yet on p.10, lines 17-19 the Defendant straight out lies to the Tribal Court by, "denying that Ms. Norma Kurowski has received any benefits, particularly in tribal benefits". What a web of lies, consider, 1) on September 11, 2009 the Oneida Nation addressed a letter and enclosed a check for $5,000 to Chandler-Jackson Funeral Home and Cremation Services, P.O. Box 1158, Abbeville, SC 29620, "for the funeral expenses for KENNETH KUROWSKI, check no. 1513689 dated 9/10/2009, signed Jodie Skenandore, Burial Fund Coordinator, 2) Affidavit of Steve A. Jackson, State of South Carolina, County of Greenwood, dated September 9, 2018 affirms that the "Oneida Tribe of Oneida, WI, mailed a check directly to Chandler-Jackson Funeral Home and Cremation Services, in the amount of $5,000 which was applied directly to Kenneth Kurowski's services on September 17, 2009, leaving a balance of $407; that was paid by Norma Kurowski from her personal funds, which paid the balance in full", 3) Chandler-Jackson invoice of Kenneth H. Kurowski dated September 17, 2009 shows payment received of $5,000 with balance due of $407, 4) on undated, Chandler-Jackson letterhead the Defendant asked Chandler-

Jackson to write a statement that states, "This is to certify that the Oneida Tribe of Oneida, WI paid direct check to Chandler-Jackson Funeral Home in the amount of $5,000 for burial invoice of Ken Kurowski whom died on August 22, 2009", *inter alia.*

Did Norma Schoonober Kurowski benefit from the $5,000 Oneida Nation death benefit? If Norma Schoonober Kurowski only had to pay $407 of the $5,407 funeral expenses did [she] benefit from the $5,000 payment, regardless of where the payment came from? This Court ought to agree that Norma Schoonober Kurowski cannot deny receiving any benefits and especially Oneida Nation tribal benefits, *supra* and therefore, p.10, lines 17-19 are patently false.

24. The Defendant states, "the only federal benefits [Norma Schoonober] received are widow benefits, or spousal benefits, due to the time they were married", see p.10, lines 19-20. Plaintiff asserts those federal benefits are obtained unlawfully, and is defrauding the United States, and taxpayers because the Illinois marriage was void in *ab initio* and is a deliberate constitutional deprivation of Arletta Kurowski the legal surviving spouse, see 42 U.S.C. 1983. At the Defendants' own peril, will this Court recognize the federal fraud in this Case?

25. The Defendant states there is no basis for this-or-that Court to grant authority to move the probate to another county *de novo*, see p.11, lines 1-3. However, the petition to Trial Court was timely and show-of-cause can be at any time. See 62-3-611(a). Since, proper filings and notices, "the personal representative shall not act except to account, to correct maladministration, or preserve the estate", *id*, at (a). If this Court finds some material misrepresentation of fact in the proceedings, will this Court Order the probate moved to another county[4] *de novo*?

26. The Defendant states an affidavit of default was filed the morning of the hearing, see p.11, lines 8-9. Plaintiff asserts all answers have been filed when required. Nonetheless, Plaintiff has the right to contest any affidavit of default, see *Melton v. Tippecanoe Cty.*, 838 F.3d 814, 818 (7th Cir. 2016). How is it possible for the nonmoving party to contest anything filed on the morning of? On the face, it is unethical.

27. The Defendant and the Trial Court make fun of the Oneida Nations' judiciary abilities and mocks Full Faith and Credit of Indians in general by requesting the Trial Court dissolve lis pendens of the Oneida Nation, see p.12, lines 10-11. Subsequently, the Trial Court suggests the Oneida

[4] Moved to another county except Greenwood because Travis Moore had previously represented Arletta Kurowski and is now the probate judge in Greenwood County, see p.7, lines 21-24.

Nation laws are so limited that their laws are "probably non-existent", see p.12, lines 18-19. Indeed, Defendant believes the Oneida Nation has no jurisdiction at all in this matter or regarding Norma Schoonober, see p.12, lines 14-16. The Defendant is using the "belt and suspenders" inferring the Trial Court has jurisdiction where the lis pendens are filed i.e. Abbeville County and therefore can arbitrarily void Oneida Judiciary lis pendens contrary to Full Faith and Credit, p.12, lines 8-13, see also, U.S. Constitution, Article 1, Section 1

28. The Trial Court erred in its calculation of time because misrepresentation of material fact can be challenged at any time, see 62-3-611(a). Further notices and the proper filings have been timely, for otherwise, this Case would not be, before the Appellate Court today. Why did the Court of Common Pleas err when failing to provide the times when Plaintiffs' action was supposedly barred, p.12, line 17?

29. The Court erred by stating "it is clear in this Case that Mr. Kurowski passed away testate". Why is this so? Because as pointed out in *In re Estate of Bozenna Michalak v. Robert and Jolanta Kaleta,* App. Cir. Ct. Cook County, 2010. The idea of testate is circular, inferring the misrepresentation of material facts are the evidence used to validate the will, such that the "will" must be valid and is exactly the question at issue.

If the misrepresentation of material fact invalidates the will, did Kenneth H. Kurowski pass away intestate?

30. Similarly, as 29 *supra*, the finality of been probated is not a given or a known, known, because that is at issue, and the reason for the Appeal, see *id* at 29. If there is a material misrepresentation of fact(s), what is the likelihood that probate is null?

31. The Trial Court erred when stating, "as you correctly point out, she has invested more in the estate than, in all likelihood, the assets were worth" because there is no evidence to make this statement true, see p14, lines 24-25 and p.15, line 1. How can this Court determine something to be true from Trial Court conclusory statements without facts as supporting evidence in support of the truth? In doing so the Court of Common Pleas shows bias and loses credibility.

32. Because of the reasons above the Court of Common Pleas erred in dismissing Plaintiff request to have probate moved to another county and begin anew; *de novo*. See p. 15, line 3. Because of the plethora of falsification's, and misrepresentations of fact in this Case, is it unreasonable to ask for probate *de novo*?

33. Shockingly, the Trial Court goes out of its way to harm the Plaintiff, Indians in general, and specifically, the Oneida Nation Judiciary by

devising a "special directive" to prevent Plaintiff from equal protections of the law such that the "Chief Admin Judge… review [further actions], see p.15, lines 13-14, also U.S. Constitution 14th Amendment. Subsequently, the Trial Court includes with their Order, "that should Mr. Hawk bring another action in this Court (Trial Court) that prior to that action being received and officially filed, the Chief Admin Judge for Civil purposes, whoever that must be – whoever that may be, must review it and make a decision on whether that particular cause of action should in fact, be received by the Court", p.16, lines 14-20. It is suggested by the Trial Court that questioning the unlawful bigamist marriage contracts in the State of South Carolina is frivolous. If bigamy is unlawful, at least in the State of Illinois and Wisconsin bigamy is unlawful, how is possible that any filing, any question of contracts under the guise of bigamy, be frivolous? In short, the Court of Common Pleas knew that Norma Kurowski is not the legal surviving spouse, yet, ignored the bigamist, unlawful implications upon the estate. In other words, the Court of Common Pleas *sua sponte*, arbitrarily decided to protect the unlawful practices of the South Carolina family concomitant harming the Plaintiff by depriving [him] of equal protections of the law i.e. 14th Amendment. For example, "So the Clerk

will need to refrain from filing any future lis pendens", inter alia, p.18, lines 2-3.

34. And if, things are not satisfactory to the liking of the Defendant, the Court of Common Pleas suggests that the Defendant "repetition the Court and we'll take it from there", p.18, 11-12.

35. Even more shockingly, the probate judge was in the Court of Common Pleas hearing. See p.18, lines 17-19. A blatant equal protections violation? Based on this judicial calamity alone, the Appellate Court should immediately move Kenneth H. Kurowski's Case out of Abbeville County and probate should start anew, *de novo*.

STATEMENT OF THE CASE

This is Case is timely, it is properly before the Appellate Court. The Defendant made an application for Settlement, and Proposal for Distribution and Notice of Right to Demand Hearing for which the Trial Court appropriately arises per the Captioned heading and appears to be dated, January 22, 2018 with commencement of action filed within 30 days. None of the enclosed items listed *supra* were valid, they are mismanaged, and failures of duties are omnipotent, therefore, a request to move probate, to another county *de novo*, is proper and justified see 62-3-611(a) and 62-3-611(b).

The Trial Court held this matter on May 8, 2018 for which the Trial Court, Court of Common Pleas erred in Dismissing this request to move probate and begin anew as questioned in the Statement of Issues and Arguments *infra*. No other elucidations or changes are made in the parties or otherwise. And the Plaintiff, agrees that any matters stated or alleged in Appellants' statements are binding.

STANDARD OF REVIEW

The Plaintiff states the standard of review is that the pro se Plaintiff requests, statements, assertions, and facts are to be liberally construed as true, see *Anderson v. Hardman*, 241 F.3d 544, 545 (7th Cir. 2001) see also, *Benders v. Bellows & Bellows*, 515 F.3d 757 (7th Cir. 2008), *Smart v. Local 702 Int'l Broth. of Elec. Workers*, 562 F.3d 798 (7th Cir. 2009). Further, this Appellate Case does not have to be technically correct, albeit the Plaintiff asserts, as *pro se* to be as technically correct as possible see *Burrell v. Armijo*, 456 F.3d 1159 (10th Cir. 2006), thus, *Anderson* and *Burrell* set the applicable standard of review; for the Appellate Court to liberally construe the Plaintiffs' facts and arguments as true and correct while understanding this brief is not perfectly, technically correct.

SUMMARY OF THE ARGUMENT

The Defendant has intentionally made misrepresentations of material fact as listed and outlined in the Statement of Issues and in the Arguments infra while

seeking personal appointment, in representing, and managing the estate of Kenneth H. Kurowski, Plaintiff's father. The maladministration, the falsification and use of false documents and vital records, and false testimony in the court of law, to deliberately harm and deprive the decedents, heirs, and Plaintiff to protected constitutional property as provided under the 14th Amendment. Simply, the Defendants' bigamist marriage has provided a probate-estate foundation built on quicksand that is cause of a plethora of unlawful and immoral administration activities under the guise of the state as being lawful acts.

ARGUMENT

I. THE COURT OF COMMON PLEAS APPLIED ERRONEOUS STATE AND FEDERAL LEGAL STANDARDS THAT IS CAUSE FOR DISMISSING PLAINTIFFS' REQUEST

A. **The Legal Standard,** two people cannot be married to the same person, see 16-15-10 also, Morrill Anti-Bigamy Act of 1862, Pub.L. 37-126, 12 Stat. 501. Therefore, it is impossible for two wives to give testimony at the same time. There can be one, and only one wife of Kenneth H. Kurowski and the Court of Common Pleas ought to know this a fact of law. The Defendant admits, and concedes, in the Court of Common Pleas, as provided in the transcript and as outlined in the Statement of Issues, that "Mr. Kurowski was first married to Arletta Kurowski" and further admits, Defendant "cannot find a divorce on record" for Kenneth

and Arletta. Therefore, the testimony of Norma Schoonober in the Amended Order of October 25, 2012 must be invalidated.

B. The Court of Common Pleas was provided Kenneths' Death Certificate showing that Norma Schoonober was the legal surviving spouse but erred in failing to ask why Norma was listed, and still listed as the legal surviving spouse on a South Carolina vital record used in the estate and probate processes. The Court of Common Pleas knows it is unlawful under 44-63-161 for a person to obtain and possess a falsified vital record that is used for deception, with the intent to commit fraud, to constitutionally deprive Plaintiff under color of South Carolina State Law see 44-63-161(4) and 42 U.S.C. 1983 respectively.

C. Instead of making an Order for correcting the vital record to show that Arletta Kurowski is the legal surviving spouse the Court of Common Pleas ignored the law in the same way the bigamist laws were ignored.

D. Why would the Court of Common Pleas ignore the state and federal laws and to go out of the Courts' way to deprive the Plaintiff, to deprive the lawful wife? The Plaintiff asserts no less than six causes here, 1) the Plaintiff is Indian, 2) the Defendant Norma is white, 3) Norma now lives in the South, 4) the Plaintiff lives in the North, 5) amazingly, the Probate Judge was in the court room during the May 8, 2018 hearing, and 6) the Court of Common Pleas does not believe the Oneida Nation Judiciary is credible under the Full Faith and Credit Clause see U.S. Constitution, Article 1, Section 1. In the latter, if the Oneida Nation Judiciary does not find in the Defendants' favor the Court

of Common Pleas will fix the woes of the Defendant. What kind of justice is this? Apparently, it does not matter what the South Carolina Appellate Court decides in this case, because, as-long-as probate is in Abbeville County… 'you just come on back here, and I'll make it all nicey-nice for you' see transcript p.18, lines 11-12.

E. The Court of Common Pleas use conclusory judgements based on Defendants' unverifiable and feeble arguments that the estate was such a small amount being approximately $60,000 but somehow the Defendant had paid what the estate was supposedly worth, and more by an additional $20,000. This is highly suspect and infers estate maladministration 62-3-611. Indeed, Kenneth H. Kurowski was purported to have died without a penny to his name, yet, the Defendant has miraculously paid $80,000 from [her] own pocket. Why did the Court of Common Pleas err in failing to request to see a full accounting as is required and necessary for the Application of Settlement and Proposal of Estate Disposal?

F. Plaintiff asserts that without a full accounting the estate cannot be closed and, it is irresponsible to state a full accounting only exists within 2016 and 2017. The Court of Common Pleas erred when the Court failed to question why a full accounting was not completed. The Application for Settlement and Disposal requires Court approval and thus ought to have a full accounting and be free of fraud.

G. The length of time as the Defendant claims, nine years (p.9, lines 24-25), infers mismanagement because the Defendant has failed

to perform the required basic estate accounting. With the red flag raised and waving, the Court of Common Pleas simply is not able to connect the mismanaged fiduciary dots. The Appellate Court should ask, "What did the Defendant do for nine years with a $60,000 estate?" Where is the accounting of Kenneths' accounts i.e. where did the $100,000 tribal payment go? Where, is the accounting from the divestment period to Appointment and thereafter, to Application of Settlement and beyond?

H. A full accounting of the record if requested by the Court of Common Pleas would have answered the question, of whether Norma Kurowski received any benefits, "particularly in tribal benefits", see p.10, lines 17-19. A full accounting would have demonstrated to the Court that the Defendants' denial of receiving $5,000 in Oneida Nation death benefits was a clear misrepresentation of material fact to the Court of Common Pleas.

I. The Probate Court has allowed the weaving of an amoral bigamist [5]web that has caught the Defendant in magnitudes of lies that requires more coverups and more lies to continue the degradation of what should have been a very simple estate administration. The Defendant is a self-proclaimed and is conceded, and is not disputed, a bigamist[6], and is not capable of discharging [her] duties of the Appointment Office, albeit obtained unlawfully i.e. lying to court[7], falsifying and holding Kenneths' Death Certificate to be true when testimony[8] and the

[5] South Carolina Code of Laws, 16-15-10.
[6] South Carolina Code of Laws, 16-15-10.
[7] Amended Order of October 25, 2012.
[8] Amended Order of October 25, 2012.

vital record is knowingly false see 44-63-161(4) see also, 62-3-611(b). The Court of Common Pleas erred when allowing illogical, immoral, and unlawful use under the color of South Carolina State Law to deprive the Plaintiff (and his mother) of 14th Amendment rights, see also, 42 U.S.C. 1983 and 42 U.S.C. 1985. A bigamist Appointed to administer an estate, using an invalid marriage and falsified Death Certificate? The Appellate Court should ask, "What could go wrong?"

II. THE COURT OF COMMON PLEAS HAD THE AUTHORITY TO GRANT PLAINTIFFS' RELIEF, I.E. MOVE PROBATE TO ANOTHER COUNTY *DE NOVO*.

A. Contrary to the Defendants' insistence that the Court of Common Pleas has no jurisdiction to move the probate to another county is false, see transcript p.11, lines 1-3. Indeed, 62-1-303(c), Venue, states, "If a Court (perhaps the Appellate Court) finds that, in the interest of justice, a proceeding or a file should be located in another court of probate in South Carolina, the Court making the finding may transfer the proceeding or file to the other Court."

B. Similarly, "the Court may restrain a personal representative from performing specified acts of administration, disbursement or distribution, or exercise of any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the Court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest the of the applicant or of some other interested person", See 62-3-607(a). With the

Court of Common Pleas help and support is inferring the Abbeville County probate court can "take care of his end of things in a fair and reasonable way", see transcript p.19, line 5. In this direction from the Court of Common Pleas it shows the Defendant will "take some action which would jeopardize unreasonably the interest the of the applicant or of some other interested person".

C. Only one question arises in this section, *supra* II(A)&(B), "In the name of justice, what is in the best interest of Kenneth H. Kurowski's estate?". In the interest of justice, *supra* at A, the Appellate Court could Order probate anew, *de novo*, in another county as described throughout.

III. IN THE INTEREST OF JUSTICE

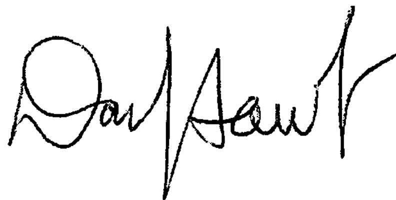
A. The Court of Common Pleas' analysis, even with evidence-in-hand, refuses to act in the best interest of justice and move this Case to a seemingly unbiased South Carolina county is severely flawed and biased and demonstrates flaws in both State of South Carolina and federal laws. Every person in the United States knows, because it is common knowledge, that a person cannot have two wives. The Court of Common Pleas knowing that two wives testified under oath to be the wife of Kenneth H. Kurowski immediately infers one of the two testifying had lied under oath and affirmation. Which wife? The one who admits to the Court of Common Pleas that Kenneth was first married to Arletta Kurowski. The Defendant, Norma Schoonober Kurowski lied in court, and through deception, fraud, and under the color of South Carolina State Law, the falsified Death Certificate vital record is

used to constitutionally deprive Plaintiff, his mother Arletta, and his sisters, Donna and Debra. The latter is necessary to put a "human" face to whom the fraud negatively impacts. And, of course bigamy as fraud is a complete mystery to the Court of Common Pleas but ought not to be a mystery to the Appellate Court.

CONCLUSION

For the forgoing reasons, Plaintiff-Appellant respectfully requests the Appellate Court overturn the Court of Common Pleas' flawed, arbitrary, and capricious decision to Dismiss this Case and change the probate venue of Kenneth H. Kurowski to a county of this Courts' choosing with exception of Abbeville or Greenwood Counties, to being anew; *de novo*.

Dated; September 21, 2018



Daniel D. Hawk, Pro Se.

STATEMENT OF RELATED CASES

To the best of Plaintiff-Appellants' knowledge the cases listed here and otherwise addressed in the transcript such as 18-LP-01-005, inter alia, case 18-TC-004, 005, 007, and corresponding Appellate Case Nos., and Illinois Case no. 2018MR47 notwithstanding, future and imminent 42 U.S.C. 1983 and 42 U.S.C. 1985 federal cases, most likely held in both Wisconsin and South Carolina. As the Court of Common Pleas points out, the Plaintiff, "may become overly litigious when they don't get what they want", see transcript p.15, lines 6-7, or in the alternative if it pleases this Court, when it is clear there are serious problems in law, the court system, the immorality of the Defendant and so on, infers litigation is absolutely necessary, and thus it is absolutely necessary, in this case.

CERTIFICATE OF COMPLIANCE

Plaintiff-Appellant that the Opening Brief has the proper content i.e. TOC, TOA, statement of issues, statement of the case, standard of review, argument, and short conclusion and is less than 50 pages being approximately 26 total and contains reference to the record with intelligible abbreviations and footnotes and as otherwise complies with Rule 267 captioning, etc.

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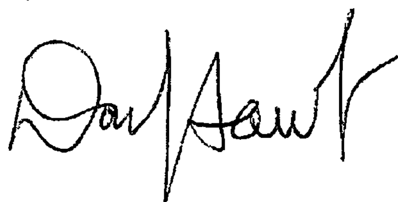

Daniel D. Hawk, Pro Se.

C: South Carolina, Clerk of Appellate Court, 1220 Senate Street, Columbia, SC 29201

Also,

C: Attorney's for the Defendant, C. Rauch Wise, 305 Main Street, Greenwood, SC 29646 and, Curtis Clark, 414 Monument Street, Suite A, Greenwood, SC 29646.

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Daniel D. Hawk,
Plaintiff-Appellant
v.
Kenneth H. Kurowski
Defendant-Appellee.

CERTIFICATE OF MAILING

The undersigned certifies that on September 21, 2018, a copy of the foregoing documents, **Opening Brief of the Plaintiff-Appellant**, and this Certificate of Mailing, was served via guaranteed Express first class mail, postage prepaid upon both of the Defendant's attorneys, 1) Curtis Clark, Esquire, 414 Monument St., Suite A, Greenwood, SC 29646, and, 2) C. Rauch Wise, Esquire, 305 Main St., Greenwood, SC 29646.

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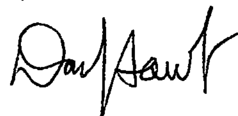

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