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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Greenwood County
Hon. Curtis Clark, Special Referee
Pursuant to a Final Order issued in 2014-CP-35-10

Appellate Case No. 2016-002549

Catherine Lyons.....Appellant,

Versus

Gregory Lyons, Maxine B. Parker and Jeanette B. Gilchrist, Defendants,

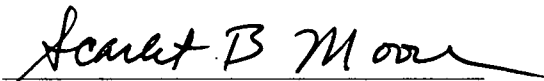
Of whom Gregory Lyons is the..... Respondent.

MEMORANDUM OF APPELLANT

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NOV 06 2018

SC Court of Appeals



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November 4, 2018.

NOW INTO COURT, comes the Appellant Catherine Lyons, who submits the following Memorandum, pursuant to the direction of the S.C. Court of Appeals in a letter dated October 24, 2018, to wit:

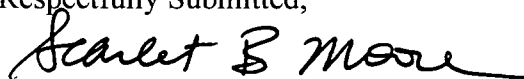
All parties stipulate that the reconstructed record that has been prepared in this matter does not afford the parties the opportunity for meaningful appellate review. Counsel for the Respondent informed Appellant's counsel of such in a conversation held on November 2, 2018. It is the information and belief of Appellant that the Respondent will not file a Memorandum, but rather stipulates that the reconstructed record does not provide to the parties the opportunity for meaningful appellate review pursuant to *State v. Ladson*, 373 S.C. 320, 325, 644 S.E.2d 271, 273-74 (Ct. App. 2007).

As the Appellant has submitted to the Special Referee, and pursuant to a review of the reconstructed record in this case, key portions of the trial testimony are missing including the Appellant's cross examination of the Defendant and cross examination of the Defendant's witness, Attorney John Erick Sward, that prepared the deed. The transcript ends at the point when counsel for Respondent begins asking the Defendant the logistics of how he got the deed prepared while living in Florida, while the Appellant was in Chicago, and the attorney was located in McCormick. (Tr. Transcript p. 45, et seq.) The Defendant can be heard on the recording stating that they had a three-way call, and then the tape cuts off. The testimony doesn't resume until Mr. Sward takes the stand. (Tr. Transcript p. 65.) The Respondent's direct examination is on the tape, however the Appellant's entire cross examination, with the exception of two questions, is missing. (Tr. Transcript pp. 45-56.) The recording does not pick up again until the Appellant's cross of the defense witness David Anderson --- with the Respondent's direct examination entirely missing. (Tr. Transcript pp. 65-68.) This is a matter wherein the

Appellant filed an action to set aside a deed based on a fraudulent procurement. A majority of the testimony regarding the procurement of the deed is missing. Closing arguments are also missing from the recording. Therefore, based on the fact that a majority of the testimony regarding the procurement of the deed is missing, and the other deficiencies as noted by the Special Referee in his Order, the reconstructed record does not allow for meaningful appellate review of this matter.

The missing excerpts are vital and necessary for appellate review. All parties stipulate that there cannot be meaningful appellate review with the reconstructed record. Therefore, this matter should be remanded to the Special Referee for a new trial.

Respectfully Submitted,



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November 4, 2018.

STATE OF SOUTH CAROLINA)
)
COUNTY OF MCCORMICK)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

Catherine Lyons,)
)
Plaintiff,)
)
v.)
)
Gregory Lyons, Maxine B.)
Parker, and Jeanette B.)
Gilchrist,)
)
Defendants.)
_____)

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SC Court of Appeals
ORDER

C.A. NO: 2014-CP-35-10
(App. Case No. 2016-002549)

This matter comes before the Court on a hearing to reconstruct the record after the device used to record the proceedings at trial malfunctioned, resulting in an incomplete transcript. Pursuant to instructions from the Court of Appeals, a special hearing was held at the office of the undersigned on Thursday, May 31, 2018. Attorney Anne Marie Hempy appeared on behalf of the Plaintiff, and Attorneys Wm. Thurmond Bishop and John Andrew Bishop appeared via teleconference on behalf of Defendant Gregory Lyons. Defendants Maxine B. Parker and Jeanette B. Gilchrist were not present.¹

The undersigned presented very detailed handwritten notes taken during the trial. Together with counsel, the notes were reviewed in order along with the portions of the testimony that were not missing from the transcript. The undersigned located the original trial exhibits and these were reviewed as well. The original exhibits have been sent to McCormick County Clerk of Court for filing.

¹ These Defendants have never answered or appeared in any of the proceedings related to this case.

Ultimately, the parties could not agree on a reconstruction of the record. Counsel for Plaintiff was concerned that critical portions of her case, including the entire cross-examination of the Defendant and the majority of the cross-examination of the Defendant's key witness, Attorney John Erick Sward, were missing from the transcript and not completely captured by the Court's notes.

The parties agreed that the handwritten notes of the undersigned would be transcribed and forwarded to the Court of Appeals, along with the incomplete transcript and trial exhibits. The undersigned is unable to provide a completely reconstructed record or any conclusion to the questions before the Court of Appeals.

AND IT IS SO ORDERED.

The Honorable Curtis G. Clark
Special Referee

Greenwood, South Carolina
July __, 2018

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1 PROCEEDINGS

2 SPECIAL REFEREE CURTIS G. CLARK: We are on the
3 record. This is the matter of Catherine Lyons versus
4 Gregory Lyons, L-y-o-n-s; Maxine B. Parker and Jeanette
5 Lee Gilchrist. This is a McCormick County action, Case
6 No. 2014-CP-35-10. It's being heard in Greenwood in
7 the Family Court by consent of the parties. This is
8 Curtis Clark, and I've been appointed special referee
9 pursuant to an Order of Reference that was signed by
10 the McCormick County Clerk of Court, Honorable
11 Gwendolyn Chiles. I think it's dated May the 15th,
12 2015, and my authority is the same as the Circuit Judge
13 under that Order of Reference in here.

14 This is, in general, an action to set aside a
15 deed. Ms. Catherine Lyons is the plaintiff. She is
16 present, I believe, and is represented by Ms. Anne
17 Marie Hempy of the Hite and Stone law firm. We also
18 have present Mr. Gregory Lyons, and he's represented by
19 Attorney Thurmond Bishop, of the Abbeville Bar. Ms.
20 Hempy is also in the Abbeville Bar.

21 Is there anything else that we need to put on the
22 record for either party before we get started into the
23 case on the merits?

24 MS. HEMPY: None from the Plaintiff, Your Honor.

25 MR. BISHOP: None.

1 REFEREE CLARK: Hearing nothing, I'll turn it over
2 to Ms. Hemy on behalf of the Plaintiff.

3 MS. HEMPY: Your Honor, may we present opening and
4 closing statements?

5 REFEREE CLARK: That would be fine.

6 MS. HEMPY: May it please the Court. Your Honor,
7 I'm here today representing Catherine Lyons. Ms. Lyons
8 is seated here to my left. This is an action to set
9 aside a deed, and an action for conversion filed in
10 McCormick County.

11 We're here today, Your Honor, in regard to
12 approximately 36 acres of property located in McCormick
13 County. My client, Catherine Lyons, inherited this
14 property from her uncle, McNeill Luchie, pursuant to
15 his will. Ms. Lyons has valued this property as family
16 property. She intended to convey this property
17 pursuant to her will to her four children, until she
18 learned that it had already been conveyed without her
19 knowledge.

20 The evidence will show that the deed on record in
21 McCormick County does not contain Ms. Lyons' signature.
22 It was never signed by her, never acknowledged by her.
23 She never intended to convey any acreage to her son,
24 Gregory, in McCormick County.

25 Your Honor, the evidence will also show that this

1 transfer of personal property affidavit that's on file
2 with McCormick County was not signed by my client. She
3 had no knowledge of it, had never seen it until 2013,
4 when she learned of the deed that is at issue in this
5 litigation today.

6 Your Honor, Ms. Lyons loves her children. This
7 has been a very hurtful and difficult thing for her to
8 encounter, and she's here today just to try to make
9 right what has wrongfully been done to her.

10 REFEREE CLARK: Thank you.

11 MR. BISHOP: Your Honor, on the record is a deed
12 that goes back until 2006. We feel that the deed
13 speaks for itself. Our testimony will show Mrs. Lyons
14 was well aware of what was taking place. This evidence
15 will come not only from the Defendant, but from Mr.
16 Sward, who had personal communication with her. Our
17 position is that my client was the one that looked
18 after his uncle, or great-uncle, and really looked
19 after his mama, and did more for her than anyone else.

20 We feel the evidence will show that she is the one
21 that indicated to him her willingness to convey this
22 property, and that everything was done in accordance
23 with the law.

24 REFEREE CLARK: Thank you, sir. Anything else?

25 (No response.)

1 REFEREE CLARK: Call your first witness, please,
2 ma'am.

3 MS. HEMPY: At this time, Your Honor, the
4 Plaintiffs would like to call the Plaintiff, Ms.
5 Catherine Lyons.

6 REFEREE CLARK: Ms. Lyons, can you come up here
7 for me, please, ma'am? If not, we might can just bring
8 that down, and she can testify from there, if
9 everybody's okay.

10 MR. BISHOP: Yeah, we can do that.

11 MS. HEMPY: Is that okay? Any objection?

12 MR. BISHOP: No. Oh, no. Sure.

13 REFEREE CLARK: All right. You may need to scoot
14 up just a little bit so you can be a little closer to
15 that.

16 MS. HEMPY: Your Honor, if I may, may I stand over
17 by the witness box.

18 REFEREE CLARK: Absolutely.

19 MS. HEMPY: So I can see her?

20 REFEREE CLARK: Absolutely. Stand wherever you
21 desire.

22 All right. Ms. Lyons, if you'll raise your right
23 hand for me.

24 CATHERINE LYONS,
25 after having been duly sworn, was examined and did testify

1 as follows:

2 REFEREE CLARK: All right. If you will state your
3 name and your address for me, please, ma'am.

4 THE WITNESS: Catherine Lyons.

5 REFEREE CLARK: Catherine, officially with a "C",
6 C-a-t-h-e-r-i-n-e?

7 THE WITNESS: Yes.

8 REFEREE CLARK: All right. And Lyons with a "Y",
9 right? L-y-o-n-s?

10 THE WITNESS: Yes.

11 REFEREE CLARK: Thank you, ma'am. Ms. Hempy.

12 MS. HEMPY: Yes, sir.

13 DIRECT EXAMINATION

14 BY MS. HEMPY:

15 Q Ms. Lyons, where do you live?

16 A 1117 (inaudible), Evanston, Illinois.

17 Q How long have you lived in Evanston?

18 A Fifty-two years.

19 Q And do you have family in McCormick County in South
20 Carolina?

21 A Yes.

22 Q Who lives there?

23 A Maxine and Jeanette. Maxine Parker and Jeanette
24 Gilchrist.

25 Q Who are Maxine and ---

1 REFEREE CLARK: Can you speak up just a tad, Ms.
2 Lyons? I'm sorry. This air is kind of ---

3 THE WITNESS: Yeah. McNeill Luchie's daughters.

4 BY MS. HEMPY:

5 Q What is their relationship to you?

6 A My cousins.

7 Q And do you own any ---

8 MS. HEMPY: Well, strike that, Your Honor.

9 BY MS. HEMPY:

10 Q Did you own any property in McCormick County that you
11 inherited from McNeill Luchie?

12 A Yes.

13 Q How many acres, if you can remember?

14 A I think it was just 17.

15 Q Okay.

16 MR. BISHOP: I didn't hear what she said.

17 REFEREE CLARK: Could you repeat that, please,
18 ma'am?

19 BY MS. HEMPY:

20 Q Can you repeat your answer?

21 A I think it was 17 acres.

22 Q Ms. Lyons, how did you receive the acreage that is the
23 subject of the litigation today?

24 A I received it from McNeill.

25 Q Okay. Did he leave it to you in his will?

1 A Yes, he did.

2 Q Okay. Did you have any plans for the property?

3 A Yes. I planned to leave it to my both kids and my
4 grandkids, and I planned to build a summer home down --
5 a winter home down here for the winter.

6 Q Have you been able to build your winter home down
7 there?

8 A No.

9 Q Ms. Lyons, where did you first become aware that the
10 property was not in your name any longer?

11 A 2013, when I was making out my will for all my kids,
12 and I found out that the land was not in my name
13 anymore, that Greg had it.

14 Q Were you surprised to find this out?

15 A Yes.

16 Q Ms. Lyons, what did you do once you learned that the
17 property was no longer in your name?

18 A I filed -- I filed a -- I filed a (inaudible).

19 Q Did you report it to the police?

20 A Yes.

21 Q In the town where you live?

22 A Yes.

23 Q Did you also make a report to the law enforcement in
24 McCormick County?

25 A Yes.

1 Q Did you talk to Gregory about this, once you discovered
2 the land was no longer in your name?

3 A Yes.

4 Q And what -- what did your conversation with Gregory
5 consist of?

6 A Just that why did he do this and would he sign my land
7 back over to me.

8 Q What did he say when you asked him to give you your
9 land back?

10 A He said -- I told him I was going to get my land back,
11 and he said he was going to go after me with everything
12 he (inaudible) go after my children.

13 Q Did you feel like he was threatening you?

14 A Yes.

15 Q Ms. Lyons, were you surprised to find out that your
16 name was no longer associated with the property and was
17 forged on this deed?

18 A Yes.

19 Q Had Gregory ever caused you financial harm in the past?

20 A Yes.

21 Q And what did he do to you?

22 A He ran up my credit cards and set me back into
23 bankruptcy, and Social Security people wanted me to
24 press charges against him, but I didn't.

25 Q So you did not press charges over that?

1 A No.

2 Q Do you wish now that you had?

3 A Yes.

4 Q Ms. Lyons, when he ran up your credit card bill, was
5 that without your consent?

6 A Yes.

7 Q And what happened to your house then?

8 A I had to put it in (inaudible).

9 MS. HEMPY: Your Honor, at this time, I'd like to
10 enter into evidence Exhibit 1, that was previously
11 marked by the parties.

12 REFEREE CLARK: I believe without objection
13 (inaudible). And for the record, Exhibit 1 is a
14 Special Warranty Deed dated on its face, August 31,
15 2006, that was filed in the McCormick County Clerk of
16 Court's Office on September 29th or September 30th --
17 I'm not sure which; it's got two dates on it -- of
18 2006, and appears to be Deed Book 207 at Page 161, but
19 you can elicit further details as you desire, Ms.
20 Hemy.

21 MS. HEMPY: Thank you, Judge.

22 BY MS. HEMPY:

23 Q Ms. Lyons, what is this document?

24 A Special Warranty Deed.

25 Q Is that the document that is at issue in this case

1 today?

2 A Yes.

3 Q Ms. Lyons, if you'll flip over to Page 2, is this your
4 signature, Ms. Lyons?

5 A No, that's not my signature.

6 Q Had you ever seen this deed before 2013, when you
7 learned that the property was no longer in your name?

8 A No.

9 Q Did you ever sign any paperwork conveying the property
10 that you owned in McCormick to your son, Gregory?

11 A No.

12 Q Did you ever talk to your son or your lawyer -- or his
13 lawyer about signing a deed conveying property you
14 owned in McCormick?

15 A No.

16 Q Did you ever have any knowledge of this deed prior to
17 2013?

18 A No.

19 Q Ms. Lyons, who is Dorothy Floyd?

20 A I don't know, but I understand that she's never been to
21 my house.

22 Q Have you ever met Ms. Floyd?

23 A No.

24 Q And is it true that Ms. Floyd has never been to your
25 house?

1 A No, not to my knowledge.
2 Q If Ms. Floyd were to walk in this courtroom today,
3 would you know her?
4 A No.
5 Q Who is William Giles?
6 A He's a friend of the family. He's a friend of my boys.
7 Q Have you ever asked Mr. Giles to witness your signature
8 on any type of legal paperwork?
9 A No.
10 Q Did Mr. Giles witness your signature on this deed?
11 A No.
12 Q Is that your signature on the deed?
13 A No.
14 Q Did you ever acknowledge to Mr. Giles that that was
15 your signature on this deed?
16 A No.
17 Q Did you ever sign any legal paperwork at all in front
18 of Mr. Giles?
19 A No.
20 Q In August of 2006, on approximately August 31st of
21 2006, did Dorothy Floyd come to your home?
22 A No.
23 Q Has Dorothy Floyd ever come to your home?
24 A No.
25 Q Did William Giles come to your home on August 31, 2006?

1 A No.

2 Q Ms. Lyons ---

3 MS. HEMPY: At this time, Your Honor, I'd like to
4 admit into evidence Exhibit No. 2, the transfer of
5 personal property.

6 REFEREE CLARK: All right. And this has been pre-
7 marked, I believe, without objection, a single page
8 document, captioned Transfer of Personal Property,
9 Plaintiff's Exhibit No. 2.

10 BY MS. HEMPY:

11 Q Ms. Lyons, what is that document?

12 A That's for the personal property.

13 Q Had you ever seen that document prior to 2013?

14 A No.

15 Q And did you ever intend to convey any personal property
16 that you inherited from McNeill to your son, Gregory?

17 A No.

18 Q Ms. Lyons, is that your signature on this document?

19 A No. No, that's not my signature.

20 Q Did you ever sign any sort of paperwork intending to
21 convey personal property to your son, Gregory?

22 A No.

23 Q Did you ever sign any paperwork about personal property
24 in front of Dorothy Floyd?

25 A No.

1 Q Ms. Lyons, did you even know that there was any
2 personal property that had any value out of the estate
3 of McNeill Luchie?

4 A No; none whatsoever.

5 MS. HEMPY: At this time, Your Honor -- well, hang
6 on just a second. Strike that.

7 BY MS. HEMPY:

8 Q Ms. Lyons, what is the card that I have put in front of
9 you?

10 A That's my I.D. card.

11 Q Is that an accurate and true copy of your I.D. card
12 issued by the State of Illinois?

13 A Yes, it is. Yes, it is.

14 Q Do you carry that card with you?

15 A Yes.

16 Q Is that your signature on the card?

17 A Yes.

18 MS. HEMPY: Your Honor, at this time, I'd like to
19 move as an exhibit -- it would be Plaintiff's --
20 Plaintiff's Exhibit 6, the government-issued I.D. card
21 of Ms. Catherine Lyons.

22 REFEREE CLARK: Mr. Bishop, any objection?

23 MR. BISHOP: I don't have any objection to this.

24 REFEREE CLARK: I'm going to return the original,
25 and we'll mark the photocopy as Plaintiff's Exhibit No.

1 6.

2 BY MS. HEMPY:

3 Q Ms. Lyons.

4 A Yes.

5 Q Do you also go by the name, Corrie?

6 A Yes.

7 Q And what is the address listed on this I.D. card?

8 A 1117 Stiler (phonetic) Avenue, Evanston, Illinois,
9 60202.

10 Q Is that the address where you live?

11 A Yes.

12 Q And, Ms. Lyons, is that your signature on this I.D.
13 card?

14 A Yes, it is.

15 Q Is that how you sign any kind of documents that require
16 your signature?

17 A Yes.

18 Q Is that the signature that you use on your checks?

19 A Yes.

20 Q Is that the signature that you use on any sort of
21 important legal paperwork?

22 A Yes.

23 Q So that's the signature -- is that the signature you
24 use at doctors' offices?

25 A Yes.

- 1 Q Ms. Lyons, I'd like to show you, again, Exhibit 1,
2 which is the deed. Flip to Page 2. Is the signature
3 on your I.D. card and the signature on the deed the
4 same?
- 5 A No.
- 6 Q Is the signature on the I.D. card your accurate
7 signature?
- 8 A Yes.
- 9 Q Is the signature on the deed your signature?
- 10 A No.
- 11 Q And, Ms. Lyons, what's different about those
12 signatures?
- 13 A The "O" and "S".
- 14 Q The "L", the "O", the "N" and the "S" -- they look
15 different to you, don't they?
- 16 A Yes.
- 17 Q Ms. Lyons ---
- 18 A Yes.
- 19 Q Back to the deed a minute. The day that you
20 purportedly gave this property to Gregory -- did he
21 ever pay you any money for property in McCormick?
- 22 A No.
- 23 Q Did you ever agree to give him ownership to property in
24 McCormick for no consideration, other than his love and
25 affection?

- 1 A No.
- 2 Q Ms. Lyons, do you feel like Gregory has given you love
3 and affection over these past few years?
- 4 A No.
- 5 Q When is the last time that Gregory has been to your
6 house for a visit?
- 7 A About two years ago.
- 8 Q So, until today, you haven't seen Mr. Lyons for two
9 years?
- 10 A (Inaudible.)
- 11 Q Okay. When was that?
- 12 A That was about two years ago.
- 13 Q Okay. How would you describe your relationship with
14 Gregory?
- 15 A It's (inaudible).
- 16 Q Okay. Ms. Lyons, do you feel like Gregory has stolen
17 this property from you?
- 18 A Yes.
- 19 Q How does that make you feel?
- 20 A Not good.
- 21 Q Can you say that again a little bit louder?
- 22 A Not good.
- 23 Q And, Ms. Lyons, we mentioned William Giles. Did you
24 say William Giles is a family friend?
- 25 A Yes.

- 1 Q And what is Mr. Giles not here today?
- 2 A He has a job, and he couldn't get off his job.
- 3 Q Okay. Ms. Lyons, sometime over the past year, did you
4 receive paperwork in the mail from your mortgage
5 company?
- 6 A Yes.
- 7 Q And what did that paperwork say?
- 8 A It said Greg asked for a power of attorney.
- 9 Q Did you ever name Greg Lyons as a power of attorney on
10 your mortgage?
- 11 A No.
- 12 Q Did you ever give Greg any authorization to sign
13 anything or conduct any business on your behalf related
14 to your mortgage?
- 15 A No.
- 16 Q Were you surprised to receive this letter in the mail?
- 17 A Yes.
- 18 Q Did you feel like Gregory had once again forged your
19 name on documents?
- 20 A Yes.
- 21 Q Did you feel like Gregory had once again tried to take
22 something from you?
- 23 A Yes.
- 24 MS. HEMPY: Your Honor, I don't have any more
25 questions at this time.

1 REFEREE CLARK: All right. Thank you. Ms. Lyons,
2 if you'll answer any questions that Mr. Bishop may
3 have, please.

4 MR. BISHOP: (Inaudible)

5 MS. HEMPY: Sure.

6 CROSS-EXAMINATION

7 BY MR. BISHOP:

8 Q Ms. Lyons, are you sure that you're talking about the
9 right son?

10 A Yes, I am.

11 Q Let's -- let's look at that a minute. Well, first, let
12 me ask you this. When did you have your stroke?

13 A In '07.

14 Q '07. Okay. Now, let's look at what Gregory may or may
15 not have done. This property was owned by McNeill
16 Luchie?

17 A Yes.

18 Q And Gregory was very close to him, was he not?

19 A At first, he was because (inaudible).

20 Q Yeah. Well, ever since he was in the third grade, he
21 would go to McCormick in the summertime, and stay with
22 McNeill?

23 A (Inaudible.)

24 Q But he went and McNeill Luchie showed him a special
25 interest, did he not?

1 A At first, he did.

2 Q Well, what -- what caused him to change?

3 A Greg did.

4 Q What did Greg do to cause this uncle or great-uncle to
5 change?

6 A After Greg went to the service, he changed. Greg
7 changed.

8 Q Well, now, let's look. When McNeill died, wasn't Greg
9 very helpful in trying to handle the ---

10 A No.

11 Q Let me finish the question. Wasn't he helpful in
12 trying to handle a lot of the probate work there in
13 McCormick, probating the estate?

14 A He was trying to see if I had to (inaudible).

15 Q And weren't you having problems with your two sisters
16 who had a one-third interest too?

17 A No, I wasn't having problems.

18 Q You weren't having problems in the probate court with
19 them?

20 A No.

21 Q Now, let me -- let me ask you this with regard to
22 Gregory. He left Phoenix to come -- he left Phoenix
23 where he was working to come and live with you and to
24 help look after you and your husband. Did he not?

25 A No.

1 Q He did not?

2 A No.

3 Q Gregory never came to live in the house with you and
4 your husband?

5 A (Inaudible.)

6 Q Okay. Now, so you would deny that he helped you with
7 your medications and all of that sort?

8 A (Inaudible.)

9 Q You would say he did not help you with that?

10 A (Inaudible.)

11 Q Did not?

12 A No.

13 Q Okay. Now, in or around 2007, or before that, Gregory
14 left and moved to Florida, didn't he?

15 A Greg was already gone in 2005, when my husband died.

16 Q Was he down in Florida? I think he was in Florida
17 before your husband died.

18 A In the summer (inaudible).

19 Q Well, you subsequently moved down to Florida to stay
20 with him?

21 A (Inaudible.)

22 Q And you were in very bad physical shape, weren't you?

23 A (Inaudible.)

24 Q Your medications were all screwed up.

25 A No. That's what he said. He said I was on too many

- 1 things and (inaudible).
- 2 Q Well, he got you off of pain pills, didn't he?
- 3 A Yes.
- 4 Q And you improved; your health improved while you were
5 down there?
- 6 A No, it didn't.
- 7 Q You say it did not improve?
- 8 A No.
- 9 Q And then you came back up to -- you came back to ---
10 A Evanston.
- 11 Q Evanston, where you are living now.
- 12 A Yes.
- 13 Q Now, you're talking about Gregory not being good to
14 you, and that's why I ask you are you getting your
15 children mixed up.
- 16 A No.
- 17 Q Now Wendell is the one who has been -- who has --
18 you've had to support. Is it not?
- 19 A No, I'm not supporting him. He has taken care of me.
20 My husband (inaudible) and told Wendell to take care of
21 me.
- 22 Q You co-signed a note for Wendell to get a truck?
- 23 A No, I did not.
- 24 Q A motorcycle?
- 25 A No.

1 MS. HEMPY: Your Honor, I'm going to object to
2 this line of questioning as irrelevant. I think ---

3 REFEREE CLARK: Go ahead. Finish your statement.
4 That's all right. The objection is to relevancy.

5 MS. HEMPY: As to relevancy. I think that it has
6 nothing to do with the issue today, which is the deed.
7 Mr. Wendell is not a party to this action.

8 REFEREE CLARK: I understand.

9 MR. BISHOP: I think it's relevant to show where
10 pressure may have been coming for her to disavow this
11 deed after some ten years.

12 REFEREE CLARK: I understand. I'm going to allow
13 it, at least (inaudible).

14 BY MR. BISHOP:

15 Q Wendell has physically abused you in the past, has he
16 not?

17 A No, he hasn't. He hasn't had a chance to do none of
18 that (inaudible).

19 Q So Wendell, you say, is living with you now?

20 A Yes, he's taking care of me.

21 Q Yes, but are you not fronting all of his bills and all?

22 A No. No.

23 Q Where is he working?

24 A He's working at Nutra. He's been there for -- I think
25 he's going to retire in five years.

1 Q Yeah. When did he get out of jail?

2 A (Inaudible)

3 MS. HEMPY: Your Honor, I'm going to object to
4 that.

5 REFEREE CLARK: I'm going to sustain that.

6 MR. BISHOP: Okay. All right.

7 BY MR. BISHOP:

8 Q Now, this -- this idea of deeding this property was
9 your idea, wasn't it?

10 A No.

11 Q And you wanted to deed this property to your son
12 because of all he had done for McNeill Luchie ---

13 A No.

14 Q --- and for you?

15 A No, he hasn't did nothing for McNeill. He didn't take
16 care of McNeill (inaudible).

17 Q Then do you recall before the date of this deed
18 engaging in a phone conversation, a three-way phone
19 conversation, between your son, Gregory, between an
20 attorney in McCormick, and yourself?

21 A No.

22 Q You never -- you never talked on a -- on a conference
23 call or a three-way call?

24 A No.

25 Q You did not?

1 A No.

2 Q So you would deny that Wendell is putting pressure on
3 you ---

4 A Yes.

5 Q --- to bring this action?

6 A No, we (inaudible) deny anything. He was just asking
7 (inaudible).

8 Q You say you -- you never knew Ms. Floyd?

9 A No, I never knew her. I've never seen her.

10 Q So Ms. Floyd was never a friend of the family?

11 A No. She was a friend of Greg's.

12 Q Well, Greg -- Greg used to work with her some, didn't
13 he?

14 A I don't know.

15 Q But you say that she wasn't a friend of the family?

16 A No.

17 Q About the time that your husband died, if not before,
18 you started -- you changed your name and started going
19 by Carrie, did you not?

20 A No, ever since two-oh-two.

21 Q You've always gone by -- Catherine is the name that you
22 ---

23 A Yeah, but after -- after my husband died, and my credit
24 was so bad, and people were trying to sue me because of
25 Greg, I started using Corrie.

1 Q All right. I'll show you what has been marked as an
2 exhibit. Look at that document, if you will. And let
3 me ask you this. Did you prepare an affidavit for Ms.
4 Hempy?

5 A Who's Ms. Hempy?

6 Q You don't know who Ms. Hempy is?

7 A (Inaudible.)

8 Q All right. Is that your signature down below?

9 A No.

10 Q That's not your signature?

11 A No.

12 Q So you didn't prepare that affidavit? I mean, you
13 didn't sign that affidavit?

14 A No, that's not my signature.

15 Q All right. Fair enough.

16 MR. BISHOP: No further questions.

17 MS. HEMPY: Your Honor, I just have a few.

18 REFEREE CLARK: Thank you.

19 REDIRECT EXAMINATION

20 BY MS. HEMPY:

21 Q Ms. Lyons, do you call me Anne Marie?

22 A Yeah.

23 Q Do you realize my last name is Hempy?

24 A (Inaudible.)

25 Q You didn't know that my last name was Hempy, did you?

- 1 A No.
- 2 Q When we talk, you refer to me as Anne Marie. Isn't
3 that correct?
- 4 A Yes.
- 5 Q Ms. Lyons, when your husband died, did he ask for
6 Wendell to take care of you?
- 7 A Yes, he did.
- 8 Q What year did your husband die?
- 9 A Twenty-oh-five.
- 10 Q Okay. And has Wendell taken good care of you since
11 then?
- 12 A Yes.
- 13 Q Ms. Lyons, does Wendell have a job?
- 14 A Yes, he's been on the job (inaudible).
- 15 Q Okay. Ms. Lyons, did Wendell threaten you or push you
16 to pursue this action about the deed?
- 17 A No, he did not.
- 18 Q Is this something that you wanted to do?
- 19 A Yes.
- 20 Q Do you feel like Gregory has taken this property away
21 from you, and that is wrong?
- 22 A Yes.
- 23 Q And you're trying to make it right. Isn't that
24 correct?
- 25 A Correct.

1 Q Ms. Lyons, I'm going to show back to you the statement
2 that Mr. Bishop showed to you. It was marked as
3 Exhibit 4. And I'm going to have you read it; not out
4 loud, just to yourself. Is that a statement that you
5 and I worked to prepare back in September or October of
6 2014?

7 A Yes.

8 Q Did you forget about that statement until today?

9 A Yes.

10 Q And when Mr. Bishop was asking you about it, were you
11 unsure of what it was?

12 A Yes.

13 Q And now that you've had the opportunity to read it and
14 review it, do you remember it?

15 A Yes.

16 Q Ms. Lyons, did you sign that statement?

17 A Yes.

18 Q So that is your signature?

19 A Yes.

20 Q Okay. And, Ms. Lyons, Mr. Bishop asked you about you
21 changing your name, going by Corrie, which is listed on
22 your I.D. When did you make that change?

23 A I had to change it (inaudible).

24 Q Did you have to make that change?

25 A Yes, I did, because of my credit cards. And Greg had

1 ran my bills up so bad, I had to change my name. I
2 don't have no credit cards now.

3 Q And McNeill Luchie -- did all of your family go to
4 visit McNeill?

5 A Yes.

6 Q And would you consider that all of your sons had a
7 relationship with McNeill?

8 A Yes, all of them had a relationship with McNeill,
9 because we used to go down there every summer. And I
10 named Greg (inaudible).

11 Q Did Gregory have any sort of more special relationship
12 with McNeill than any of the other children?

13 A At first he did, before he went into the service. Then
14 Wendell was the one that (inaudible).

15 Q So, toward the end of McNeill's life, who was closer to
16 McNeill? Wendell or Gregory?

17 A Wendell, yeah.

18 Q And, Ms. Lyons, do Wendell and Gregory get along?

19 A No, they never got along.

20 Q So they have never gotten along?

21 A No, they have never gotten along.

22 MS. HEMPY: I don't have any further questions,
23 Your Honor.

24 MR. BISHOP: Just one thing on rebuttal.

25 REFEREE CLARK: All right.

REXCROSS-EXAMINATION

1
2 BY MR. BISHOP:

3 Q So this is your signature on this document?

4 A Yes, sir.

5 Q And you signed it ---

6 REFEREE CLARK: Mr. Bishop, if you just could kind
7 of, for the record, identify what the document is, just
8 to make sure (inaudible crosstalk).

9 BY MR. BISHOP:

10 Q On this affidavit, this is your signature?

11 A Yes.

12 Q And you signed it "Catherine"?

13 A Yes.

14 Q Look at that signature, Ms. Lyons, on that affidavit.
15 Look at this signature on the deed. Does that not look
16 like the same signature to you?

17 A No.

18 Q Well, it's certainly a lot different than that
19 signature on your license over there, isn't it?

20 A These two are closer to my signature. That's not my
21 signature.

22 Q You think that this signature on the affidavit looks
23 like the signature on your license?

24 A Yes.

25 Q You don't -- you don't think that this signature on the

1 affidavit looks more like the signature on the deed?

2 A No.

3 Q Okay. All right. Thank you.

4 MR. BISHOP: I don't have any further questions.

5 REFEREE CLARK: Okay.

6 MS. HEMPY: At this time, Your Honor, we'd like to
7 call Eugene Lyons.

8 REFEREE CLARK: All right.

9 MR. BISHOP: He's out in the lobby.

10 REFEREE CLARK: Will you, Bailiff, get Mr. Lyons?

11 BAILIFF: Eugene Lyons.

12 REFEREE CLARK: Mr. Lyons, if you will have a seat
13 up here in the witness box, please.

14 Mr. Smith, could you turn that back around for us,
15 please.

16 REFEREE CLARK: Thank you, sir.

17 Mr. Lyons, if you'll raise your right hand and put
18 your left hand on the Bible for me, please.

19 EUGENE LYONS,

20 after having been duly sworn, was examined and did testify
21 as follows:

22 REFEREE CLARK: Ms. Hemy.

23 DIRECT EXAMINATION

24 BY MS. HEMPY:

25 Q Eugene, what is your relation to the Plaintiff, Ms.

1 Catherine Lyons?

2 A I'm her son.

3 Q And what is your relationship to the Defendant, Mr.
4 Gregory Lyons?

5 A I'm his brother.

6 Q Eugene, where do you live?

7 A In Virginia.

8 Q Why are you here today?

9 A I'm here to support my mother.

10 Q Eugene, did you talk to Gregory before this trial today
11 about your presence here?

12 A Not by voice. We did communicate by text.

13 Q And what was Gregory's response when you told him you
14 were going to come here today to support your mother?

15 A I believe it was, "So now you have an interest in the
16 land, too."

17 Q And what did you think he meant by that?

18 A That I guess that I was coming here to try to get a
19 piece of the land.

20 Q And, Eugene, do Gregory and Wendell get along?

21 A No, they do not.

22 Q Have they ever gotten along?

23 A Not really, no.

24 Q Eugene, when did you first learn about the deed that is
25 the subject of this case today?

1 A My mother called me, I guess, when she found out that
2 the deed was no longer in her name; probably a couple
3 of years ago.

4 Q Was your mother upset?

5 A Oh, yes, I believe she was.

6 Q Were you shocked or surprised to learn that Gregory had
7 conveyed this property to himself?

8 A I was.

9 Q Did you have an understanding as to what your mother
10 intended to do with this property in McCormick that she
11 owned?

12 A I believe she was going to will it to all of her
13 children, divided up upon her death.

14 Q And how many brothers do you have?

15 A Well, there's a total of four of us, me and three
16 others.

17 Q Eugene, as we sit here today, do you feel like your
18 mother is of sound mind and mentally capable to give
19 testimony today?

20 A Yes.

21 Q And do you feel like, in 2006, that she was of sound
22 mind and mentally capable to make decisions regarding
23 her property?

24 A Yes.

25 Q If your mother had signed a deed to the property that

1 she inherited in McCormick over to your brother,
2 Gregory, would she have remembered that?

3 A Yes.

4 Q Would she have discussed that with you and your other
5 brothers?

6 A I believe so, yes.

7 Q Eugene, to your knowledge, does Greg have a habit of
8 manipulating situations?

9 A He can be manipulative at times.

10 Q Does he have a habit of taking things from family
11 members without their consent?

12 A I wouldn't say it's a habit; I don't think so.

13 Q Have you heard of it being done in an instance other
14 than this deed?

15 MR. BISHOP: I object to that. That would be
16 hearsay.

17 REFEREE CLARK: If he can acquaint it to a
18 specific circumstance, then I'll allow him to answer.

19 THE WITNESS: No.

20 BY MS. HEMPY:

21 Q Have you heard of an instance regarding some Social
22 Security checks belonging to your nephew?

23 A I was told that by my other brother, yes.

24 MR. BISHOP: Objection.

25 REFEREE CLARK: All right. Sustained.

1 BY MS. HEMPHY:

2 Q Were you aware that Gregory tried to get his name on
3 your mother's mortgage?

4 A Within the past month or so, she did call me and say
5 she got a letter from the reverse -- from the mortgage
6 company, which she holds a reverse mortgage. And they
7 said that there were ---

8 MR. BISHOP: Objection to what they said; not what
9 he said.

10 THE WITNESS: The mortgage company; a letter from
11 the mortgage company.

12 MR. BISHOP: I object to that as hearsay.

13 REFEREE CLARK: All right. I understand. Did you
14 see this letter?

15 THE WITNESS: I have not physically seen it, no.

16 REFEREE CLARK: Okay. How'd you find out about
17 the letter?

18 THE WITNESS: She called me.

19 REFEREE CLARK: Your mother?

20 THE WITNESS: Yes.

21 REFEREE CLARK: Okay.

22 BY MS. HEMPHY:

23 Q So your mother called you and told you about a letter
24 she received from the mortgage company. Is that
25 correct?

1 A Yes.

2 Q Did she tell you that Gregory had attempted to put his
3 name as a power of attorney on her mortgage?

4 A Yes.

5 Q Did she tell you that she wanted him to have his name
6 on her mortgage?

7 A No.

8 Q Did she tell you that she didn't have any idea that his
9 name was associated with her mortgage?

10 A She did tell me that, yes.

11 MS. HEMPY: I don't have any other questions of
12 Eugene at this time.

13 REFEREE CLARK: If you'll answer any questions
14 that Mr. Bishop may have.

15 CROSS-EXAMINATION

16 BY MR. BISHOP:

17 Q Why would you be surprised to see a deed in Gregory's
18 name when he's the one that looked after the family for
19 most all of -- all of his life?

20 A Looked after what family?

21 Q His mama and his father.

22 A I wouldn't say that's a true statement.

23 REFEREE CLARK: Just answer the question.

24 BY MR. BISHOP:

25 Q He didn't -- well, you probably don't know. You were

1 nowhere around. You never did anything around the
2 house. You moved to another state; right?

3 A I was there for support whenever she needed it.

4 Q Yeah, but you did very little physically, as far as
5 keeping up the house or doing anything else. Is that
6 right?

7 A Yes, that's true.

8 Q Yeah. And then you know that Gregory and Wendell -- is
9 that his name?

10 A Are you referring to my other brother?

11 Q Well, they don't get along; don't get along, do they?

12 A Gregory and Wendell? Is that who you're referring to?

13 Q Right.

14 A No, they do not get along.

15 Q They don't get along?

16 A Right.

17 Q And you know what a freeloader Wendell has been on your
18 mama, don't you?

19 A No, I wouldn't say that's a true statement.

20 Q Are you aware that she cosigned for him to get a truck,
21 a motorcycle, cell phone?

22 A No.

23 MS. HEMPY: Your Honor, objection, again, as to
24 relevancy, and there's no note or anything to
25 authenticate what's being said here. I'd say hearsay,

1 too.

2 REFEREE CLARK: All right. I'm going to sustain
3 that.

4 MR. BISHOP: All right. I don't have any other
5 questions.

6 REFEREE CLARK: Thank you, sir. Anything on
7 redirect?

8 MS. HEMPY: Just a couple of questions.

9 REFEREE CLARK: All right.

10 REDIRECT EXAMINATION

11 BY MS. HEMPY:

12 Q Eugene, is it fair to say that you have been there to
13 support your mother, despite your living so far away in
14 Virginia?

15 A Yes, I would return home -- home on a regular basis to
16 visit my mother.

17 Q And you care about and love your mother, don't you,
18 Eugene?

19 A Yes.

20 Q Eugene, the action here today, to your understanding,
21 doesn't have anything to do with you or any of your
22 brothers' affection towards your mother, does it?

23 A No.

24 Q And, Eugene, did Gregory have some sort of special
25 relationship with McNeill, other than sharing a name?

1 A Well, I believe he was stationed close in proximity
2 when he was in the Air Force, so he did visit on a
3 regular basis.

4 Q When he was -- I don't know if he was discharged or if
5 he -- however, whenever he got out of the Air Force,
6 did he continue to visit McNeill regularly, to your
7 knowledge?

8 A I wouldn't say regularly, but he would visit.

9 Q Did Wendell visit McNeill regularly?

10 A Yes.

11 Q Did other members of your family visit McNeill
12 regularly?

13 A Other than my mother, no.

14 Q So your mother, Wendell, and Gregory all had a
15 relationship with McNeill. Isn't that true?

16 A Yes.

17 Q And does Wendell take good care of your mother, in your
18 opinion?

19 A Yes.

20 MS. HEMPY: No other questions, Your Honor.

21 MR. BISHOP: I don't have any redirect.

22 REFEREE CLARK: Thank you, sir.

23 MS. HEMPY: At this time, the Plaintiff rests.

24 MR. BISHOP: I just have a matter for the Court.

25 REFEREE CLARK: All right.

1 MR. BISHOP: Your Honor, I respectfully ask you to
2 dismiss the case, taking the evidence into light, in
3 the light most favorable to the Plaintiff. This
4 Complaint alleges fraud, and a more specific fraud.
5 This alleges that he forged her name on the deed. The
6 language in the Complaint says, "Defendant Lyons forged
7 Plaintiff's name on the deed, as though it were the
8 signature of the Plaintiff, without Plaintiff's
9 permission or consent."

10 Fraud is one of those causes of action that's a
11 little close to guilt beyond a reasonable doubt. It's
12 much more than tipping the scale. You have to prove
13 fraud by evidence that's clear and convincing. And I
14 don't think the evidence shows that he forged her name
15 on that deed. And I submit that the Plaintiff has
16 failed to meet that burden of proof.

17 REFEREE CLARK: Thank you. Ms. Hempy?

18 MS. HEMPY: Your Honor, this is not -- the cause
19 of action asserted here was not fraud. There are two
20 causes of action in the complaint: an action to set
21 aside the deed based on a fraudulent procurement and an
22 action for conversion.

23 I believe that the evidence that was presented to
24 you today showed that the signature on the deed is not
25 that of Ms. Lyons. She testified to that. She showed

1 her signature on her government-issued I.D. Those
2 signatures don't match, Your Honor. She testified that
3 she believes Gregory forged her name on the deed. Your
4 Honor, we haven't had the opportunity to question
5 Gregory, and I believe the evidence will show on his
6 testimony that it wasn't Ms. Lyons' signature on the
7 deed.

8 So I would ask that you deny Mr. Bishop's motion.

9 MR. BISHOP: Well, just looking at what's been
10 presented so far, there's nothing to show that he
11 forged her name on the deed. There's been no
12 testimony. She says it's not her signature. Okay.
13 But she's got to go further than that. She's got to
14 show that he forged her name on the deed, and there's
15 nothing that I've heard in the evidence which would
16 support that.

17 MS. HEMPY: Your Honor, the case law would support
18 that, in an action to set aside a deed, you have to
19 show that it either was obtained by fraudulent means,
20 it was obtained by undue influence. In my Complaint,
21 the procured deed -- that Defendant Lyons procured the
22 deed by fraud. It doesn't say by forgery. And that
23 due to this fraudulent procurement, Plaintiff asked the
24 Court to rescind the deed and declare it void and vest
25 title in the Plaintiff.

1 REFEREE CLARK: It is -- the one I'm seeing Mr.
2 Bishop referring to is the sentence in Paragraph 7 of
3 the Complaint that says, "Plaintiff's informed belief
4 that Defendant Lyons forged Plaintiff's name on the
5 deed as though it were the signature of the Plaintiff."
6 I don't read that quite as restrictively as Mr. Bishop
7 is arguing it.

8 MS. HEMPY: That's just ---

9 REFEREE CLARK: And based on that, I'm going to
10 deny the motion. Ms. Lyons has testified that it's not
11 her signature, and I'm not going to interpret the
12 Complaint so narrowly to say that it had to be -- her
13 signature had to be prepared by Mr. Gregory Lyons. I
14 don't -- based on what's been said, he was not present.
15 I think this needs some more testimony, and I
16 appreciate your motion at this time, but, respectfully,
17 no. If you want to present your case.

18 MR. BISHOP: Thank you, Your Honor. Defendant
19 calls Gregory Lyons.

20 REFEREE CLARK: All right.

21 MR. BISHOP: Come right on up.

22 REFEREE CLARK: You can have a seat right up here.
23 Put your left hand on the Bible, and raise your right
24 hand.

25 GREGORY LYONS,

1 after having been duly sworn, was examined and did testify
2 as follows:

3 DIRECT EXAMINATION

4 BY MR. BISHOP:

5 Q Okay, Mr. Lyons. I'm going to ask you some questions,
6 and I'm reminding you that you're under oath, just as
7 the other witnesses have been under oath.

8 State your name.

9 A Gregory Lyons.

10 Q Where do you live?

11 A Florida. 230 Tide Way, West Palm Beach, Florida.

12 Q What's your relationship to McNeill Luchie?

13 A We had a closeness. I was ---

14 Q No. I mean ---

15 A He's my uncle; my great-uncle.

16 Q Great-uncle. And Catherine Lyons is your mother?

17 A Mother.

18 Q Where did you grow up?

19 A In Evanston.

20 Q What education have you had?

21 A I've got my master's in human services, mental health
22 and substance abuse.

23 Q And you've got your undergraduate?

24 A In aviation; aeronautic aviation.

25 Q And you were in the service for a period of time?

- 1 A Yes, five years. I got out in two for -- on a
2 scholarship to go to (inaudible) University.
- 3 Q And tell me then about your physical relationship with
4 your great-uncle.
- 5 A I was sent down there in the summer, every summer,
6 since the third grade. At first, I thought it was
7 punishment, but then when I started liking going there,
8 me and my uncle became very close, and I started going
9 on my own every summer, and asked to go.
- 10 Q Did you go any more often than any of your other
11 brothers?
- 12 A I went -- I went more than anyone in the family. I
13 happened to be -- after I got out of the service -- I
14 was stationed at Sumter, at an Air Force base, so it
15 was like a two-hour ride. So I was there every weekend
16 ---
- 17 Q Okay.
- 18 A --- when I was stationed in Sumter for almost two
19 years.
- 20 Q And to the best of your knowledge, do you feel like
21 your uncle had a liking to you?
- 22 A I was his favorite. Me and his grandkids, we grew up
23 together.
- 24 Q And do you think that your mother knew that?
- 25 A Yes, she knew that.

1 Q And so when you would come down when you got older, you
2 would help him?

3 A Yes. I'd come down, help him with his legal issues,
4 handle his bank affairs, help him with his insurance.
5 I even helped him do my aunt's services, to arrange for
6 her services.

7 Q And about when did he die?

8 A He died -- I found him on my birthday, December 5,
9 1995. I went there, went to visit him. He wouldn't
10 open the door. I went in town, told his son, Marvin,
11 that Uncle Mac ain't answering the door; something
12 ain't right. They said, "You know, that happens" ---

13 MS. HEMPY: Objection.

14 MR. BISHOP: Okay.

15 MS. HEMPY: Hearsay.

16 THE WITNESS: Okay. That happens where he
17 wouldn't answer the door. So I went back, and then I
18 got a call saying that they found him on the bathroom
19 floor.

20 MS. HEMPY: Objection; hearsay.

21 REFEREE CLARK: Sustained.

22 MR. BISHOP: I can withdraw it for that matter.

23 BY MR. BISHOP:

24 Q Did you get involved in any way with his estate in
25 helping your mama?

- 1 A Yes. When he died, he had a lot of liens on it, so in
2 probate court, I paid money to help to get it out of
3 probate. I sent letters to Judge Kidd to help to find
4 whatever debt he owed so we could pay the debt off, so
5 the land could be free and clear.
- 6 Q Okay. All right. And, now, your mother just had a
7 one-third undivided interest in it.
- 8 A Right.
- 9 Q Is that right?
- 10 A Yes.
- 11 Q Did you have problems with -- who was the personal
12 representative?
- 13 A The executor of the will was Maxine Kearns (phonetic).
- 14 Q And that's a sister to your mother?
- 15 A No, that's mother's cousins; my uncle's kids.
- 16 Q Oh, okay. I'm sorry. And did you have problems that
17 you had to address with them?
- 18 A Well, in the beginning, with the one-third, everything
19 that came from the estate was supposed to be divided
20 amongst the three. She wasn't doing that. There was
21 so much -- 3,000 worth of wood sold off the land. He
22 had vehicles. He had a boat, and she felt that she
23 could -- was supposed to get some of that money or
24 whatever was of the land. So she had me try to get her
25 removed from the estate, because she wasn't

1 distributing whatever the one-third or her third to
2 her.

3 Q Your mother tried to ---

4 A Had me write letters to ---

5 Q Had you to try to get her removed?

6 A Yeah, from the estate because she felt she wasn't
7 getting a third, or we wasn't getting a third.

8 MS. HEMPY: Objection. He can't testify how his
9 mother felt.

10 THE WITNESS: Well, I've got the letters
11 (inaudible).

12 REFEREE CLARK: Since he said he received a
13 letter, I'm going to allow it.

14 MR. BISHOP: Okay.

15 BY MR. BISHOP:

16 Q Now, let's talk about your relationship with your
17 mother and father, as opposed to the relationship her
18 other children had with her. Okay. Now, did -- when
19 you got out of the service, where did you go?

20 A When I got out of the service, I went to college.

21 Q Okay.

22 A At the aeronautical school program.

23 Q Well, did you ever live for a period of time in
24 Phoenix?

25 A Yes, I was in Phoenix. My mother came to visit me in

1 Phoenix several times.

2 Q And did you leave Phoenix to come back to Chicago?

3 A When my father got terminally ill, my dad and my mom --
4 made arrangements for me to come back and help her with
5 my father. I did that on one account, because my
6 brother was there and he had an issue, and I said I
7 wasn't coming home if he was in the house. So he went
8 where he agreed to go. And then maybe 30 days or 60
9 days or three months later, he came back and didn't
10 finish what he was supposed to do.

11 Q Now, which brother is that?

12 A Anthony.

13 Q Okay. All right. All right. And then so did Anthony
14 show a lot of attention to the needs of your parents?

15 A No, Anthony had his own issues; so ---

16 Q Has what?

17 A He had his own issues.

18 Q Okay. All right.

19 A So he wasn't staying with us (indiscernible crosstalk).

20 Q Did you -- did you do anything to enhance the property
21 there in ---

22 A Well, before my father passed, he asked me to help him
23 pay off the debt so my mother wouldn't have any
24 problems with credit cards. She was to have all the
25 credit cards, get a new roof on, rewire the kitchen and

1 the bathroom. So he had me, him and I took out a
2 mortgage of 8,000 to get the roof done, the kitchen
3 done, and the bathroom done. I also went to the City
4 of Evanston, where I met -- where Ms. Dorothy
5 (inaudible) worked, and she helped me get services into
6 the house for senior citizens to redo the inside, to
7 fix a leak. So, yes, I did a lot of work on it. As
8 far as my other brothers was helping me do it, no.
9 They may have complained about what I was doing and how
10 I was doing it, but they didn't take any steps to help
11 me do it.

12 Q Okay. Now, what was your mama's health at that time?
13 Fairly stable?

14 A Mentally, she was there. Her health wasn't good.
15 Equilibrium-wise, she would fall constantly. She
16 probably wasn't eating right, so I would have to bring
17 her meals or have my friends drop food off to her until
18 we could get Meals on Wheels services put in there for
19 her.

20 Q Thereafter, did you move to Florida?

21 A From there, when my brother came back in the house,
22 just to keep our conflict down, I moved to Florida,
23 yes.

24 Q Why do you think there's this conflict so much between
25 you and your brother?

- 1 A Which one? Wendell?
- 2 Q Wendell.
- 3 A I don't know. I -- I -- I don't know what his issues
4 with me are. I don't have any issues with him. When I
5 got out of the service ---
- 6 Q Do they claim you are not legitimate?
- 7 A I'm not who?
- 8 Q Not a legitimate son of your father?
- 9 A Yeah. Well, when I was 48, my mother finally came out
10 and got clean after he had died, because they called to
11 ask me to put my name on his obituary as a son, and
12 told me that I had a different father. So, at one
13 point when that was being said, I came home, and I
14 guess Wendell had pushed my mother down and said that,
15 "You cheated on my father."
- 16 Q Okay.
- 17 A So, yes, there was always conflicts there ever since he
18 found out, or assumed that I had a different father.
19 We ain't never been -- that he made (inaudible).
- 20 Q Did that in any way affect your relationship with your
21 mother, that you might not be your father's child?
- 22 A We really didn't -- I really didn't discuss it with
23 her. I mean, when he first came to me and told me, I
24 looked at her and asked her, and she said, "Did he give
25 you any money?" And I was like, "No." She said,

1 "Well, there's your answer." So at 48 is when he just.
2 died, and then she finally admitted that and said that
3 he was, so she paid my ticket to go to the funeral.
4 So, but that's how it ended.

5 Q All right. Now, when you went to Florida, what
6 happened to your mother?

7 A Well, my mother ---

8 Q What happened to your mother's health?

9 A Her health was going down. She was on all kind pills,
10 all kind of medication. Her equilibrium was off. She
11 was falling. Nobody was there. I used to have to have
12 friends come by and take her food. Wendell had got
13 evicted from his apartment, and so he had to move back
14 home. He still wasn't really attending to her, so I
15 brought her to Florida with me. No one else offered to
16 just go live -- she would only come visit me. I got
17 her off all the medications down to two prescription
18 pills, her blood pressure and her sugar.

19 And she was so worried about those people in her
20 house; she wanted to go to get in her house. So I
21 said, "Mom, once you get well and can take care of
22 yourself, I'll let you go back home." So she had a
23 therapist there. She was on a little -- two
24 medications versus sixteen. She got well enough once
25 she could feed herself, cook, so I let her go home, and

1 that's when Wendell was there, and that's when all this
2 confrontation began.

3 Q Now, what things has she done for Wendell?

4 A Well, Wendell lives there rent-free, doesn't pay rent.
5 For instance, she has a yard that Wendell can
6 physically get out there and cut on his own, but he
7 used to let my mother use her money to pay a
8 landscaper, when he can out there and cut the grass
9 himself. He doesn't pay rent. He buys all kinds of
10 high-tech electronics with his paycheck. So I think he
11 takes -- abuse of her.

12 When I came home for the class reunion, she told
13 me I couldn't stay there because me and Wendell
14 conflicting; could I stay at a friend's house. So the
15 next morning when I went to my friend's house to stay,
16 and that's why I just stayed there, because I didn't
17 want her to get up in the middle of the night when I
18 came in to shuffle to the door to let me in. So I just
19 went on and stayed at my friend's house. He rode down
20 there with her on the motorcycle, no helmet, nothing.
21 And I said, "Wendell, you know -- you know mom's
22 equilibrium. What you doing with her at 83 years old
23 on the back of your Harley-Davidson?" And his comments
24 was -- I said, "Whenever she falls off that bike, your
25 ass is mine." And he said, "Don't worry about it. You

1 ain't the beneficiary." So who's -- the mother whose
2 house we was at told me to go in the house. So I
3 wouldn't -- we wouldn't get into a conflict.

4 Q Do you feel like that she's afraid of you?

5 A I feel that she feels that, if he's not there, then she
6 would have to leave her house. So she's kind of
7 subject to whatever he wants to endure.

8 Q All right. Now, let's look into this deed that she
9 claims she knew nothing about, and that the signature
10 on the deed is not hers. Whose idea was it to deed
11 this property to you?

12 A Hers. She said, "Greg, I'm going to turn it over to
13 you." We had discussed how my uncle wanted me to have
14 it along with his two grandkids, and I have one out in
15 the hallway to testify to that. So she finally did it,
16 but she didn't -- I thought it was up to her to tell
17 everybody else, that I wasn't going to tell them.

18 Q Okay. All right. So she expressed to you that she
19 wanted to deed this property to you?

20 A Yes. She wanted to turn it over to me because I was
21 taking care of it. I was paying the taxes on it. I
22 helped to get it out of probate. He wanted me to have
23 it eventually, keep it in the family with his
24 grandkids.

25 Q And you had looked after it, too?

1 A Yes. I went down there, made sure the pasture was cut
2 back. Whenever the roof was off the house, I flew down
3 there to make sure the animals and stuff wasn't getting
4 in there and to clean it up.

5 Q Right.

6 A To keep it cut back around the house.

7 Q But you had looked after her, too?

8 A Yes.

9 Q Okay. All right. So tell me of the mechanics of
10 having a deed done when you're not in Chicago, and you
11 were down in Florida, wherever.

12 A Well, when we started first talking, when she was in
13 Arizona, about it, I tried to find a lawyer who
14 wouldn't charge too much. By that time, my father had
15 got ill and I had to move to Tampa. She started to
16 talk about it. I called Sward, told him, you know, my
17 mother wanted to do it. He said he ---

18 MS. HEMPY: Objection to what he said.

19 MR. BISHOP: Okay. Okay. All right. He's a
20 witness, but never mind.

21 BY MR. BISHOP:

22 Q All right. So you called Sward?

23 A Yeah, he did a three-way to see if that's what she
24 wanted to do, and how she wanted to pursue it.

25 Q All right. So were you a party to a three-way call

1 with your mother and the lawyer?

2 A Yes.

3 Q And so was your mother then aware of the deed that she
4 could expect ---

5 [END OF AUDIO RECORDING]

6 (OFF THE RECORD)

7 REFEREE CLARK: We'll go back on the record here.

8 Mr. Sward, you've taken the witness stand. If you
9 will raise your right hand, and put your left hand on
10 the Bible for me, please.

11 JOHN ERICK SWARD,

12 after having been duly sworn, was examined and did testify
13 as follows:

14 REFEREE CLARK: Mr. Bishop.

15 DIRECT EXAMINATION

16 BY MR. BISHOP:

17 Q State your name.

18 A John Erick Sward.

19 Q Where do you live, Mr. Sward?

20 A McCormick, South Carolina.

21 Q And what do you do in McCormick?

22 A I'm an attorney.

23 Q For how long have you been an attorney in McCormick?

24 A Probably since Memorial Day, 1999.

25 Q Like any attorney in a small town, is your practice

1 pretty much general?

2 A I would say so; probably gravitating more in the area
3 of real estate.

4 Q Before August of 2006, did you enter into an attorney-
5 client relationship with Gregory Lyons?

6 A Yes, I did, probably around 2004.

7 Q What was the -- what was it you were to do for him?

8 A Mr. Lyons stated that he had had a relationship with a
9 fellow named McNeill Luchie, who was a relative of his,
10 and that property had been devised by Mr. Luchie to his
11 mother, with the intention that she hold onto the
12 property, and then convey it to Mr. Lyons.

13 Q Did he tell you she wanted to deed it to him?

14 A Yes, she did. Yes, he did.

15 Q All right. In furtherance of that, what did you do to
16 help carry out that desire?

17 A Well, I questioned him about it, asked him why he
18 wanted to -- what he wanted to do with the property.
19 He mentioned that he wanted to set it up so that, I
20 believe, that three beneficiaries, which would have
21 been -- one name was Maxine; I forgot the other name.
22 And that he would then go ahead and be able to
23 subdivide it into three parcels. And in order to do
24 that, they had to have the property conveyed from his
25 mother to him.

1 Q And before you did a deed or prepared a deed, did you
2 do a title exam?

3 A I did a cursory title exam, and I think I did another
4 one afterwards. The main goal was to go ahead and get
5 the property deeded into Mr. Lyons, and then after that
6 to make sure that, in fact, the property that was
7 conveyed to him was in the name of Mr. Luchie without
8 any impediments on the -- on the title.

9 Q Okay. And did you ever have any communication directly
10 with Ms. Lyons?

11 A Yes, I did.

12 Q You, only?

13 A No. The telephone -- I had a number of conversations
14 with Mr. Lyons when he was living in Phoenix, Arizona.
15 Then he had moved to Tampa. I talked with him there.
16 Then he moved to Miami, and I talked with him there.
17 And as we did that, we were trying to determine exactly
18 what we needed to do. And the other thing, of course,
19 was we had to correspond and talk with his mother to
20 let her know what was going to be happening, and make
21 an arrangement to get a deed up for her signature.

22 So, sometime, probably around August of 2006, and
23 I don't remember the exact date, we had a three-way
24 telephone conference with Gregory Lyons and with Mrs.
25 -- Mrs. Lyons regarding the conveyance of the property

1 to her son, why it was being conveyed, reconfirmed the
2 fact that there was a relationship between Mr. Lyons
3 and Mr. Luchie, and that the goal was to go ahead and
4 cause the property to be titled into Mr. Lyons' name.
5 And the other thing was how we were going to get the
6 deed up there, how we were going to handle it.

7 Q So, to the best of your knowledge and satisfaction, did
8 you feel that she knew what she was doing?

9 A I had no doubt that she knew what she was doing.

10 Q Okay. All right. So the mechanics of getting it
11 executed, how did that come about?

12 A Well, we needed to have a person who would be able to
13 receive a copy of the deed, and that was with David
14 Anderson, who had access to a fax machine, and then fax
15 it up to him. He would then get the deed over to Mrs.
16 -- Mrs. Lyons, and then have it properly executed. We
17 discussed on the phone that we needed to have two
18 witnesses; that the notary can be one of the witnesses;
19 that the notary would have to sign twice on the
20 document, once as a witness, and once as a notary; and
21 then have it returned to me for -- for recording.

22 Q Did you know at that time the witnesses and the notary
23 that Gregory was suggesting to use?

24 A I did not know. I think the witness was William ---

25 Q Giles.

1 A Giles.

2 Q Excuse me for interrupting you.

3 A Oh, yeah. I believe it would be William Giles and, of
4 course, then the notary was going to be the other
5 witness, or could have been the other witness. It
6 could have been somebody else.

7 Q So, when the deed went up, it was already known pretty
8 much who the witnesses were going to be?

9 A Well, I didn't know exactly who they were going to be,
10 but I knew that there were going to be two witnesses
11 there, and that David Anderson was going to be involved
12 in probably getting the documents over to Mrs. -- Mrs.
13 Lyons.

14 Q All right. Now, before you sent the deed by fax, did
15 you place any -- did you send any instructions along
16 with the will on how it needed to be executed?

17 A I practiced law in Florida for 23 years, and I would
18 say that close to 40 to 50 percent of my closings were
19 with people who lived out of state. So you had to make
20 sure that the documents would be executed correctly.
21 The difference between Florida and South Carolina in
22 that regard, very little; in fact, almost identical. I
23 can take a deed from Florida and use it in South
24 Carolina and be confident that it would do what it had
25 to do. So I had a form that I'd always used, which I

1 would number on the form the kinds of instructions, the
2 kinds of things that had to be done, and then I would
3 take the same numbers, and transpose them over onto the
4 deed, so that people can follow the bouncing ball and
5 get it done exactly correct.

6 Q All right. And did you get the deed back?

7 A Yes, I did. I believe it was ---

8 Q And you got it back from whom?

9 A I don't recall exactly who it was from, but it was
10 probably Mrs. Lyons, or maybe David Anderson. I don't
11 remember exactly.

12 Q Yeah. Okay. And was the deed properly executed?

13 A Yes, it was absolutely perfect.

14 Q Okay. All right. So then what did you do?

15 A What I did was to go ahead and record the deed, and
16 that was it. The property had been conveyed.

17 Q Why did it take so long to -- once you got it to record
18 it?

19 A I don't recall exactly why, but I was probably dealing
20 with Mr. Lyons on it as it regarded what was going to
21 happen later on. They were talking about getting a
22 survey to have the property subdivided, and then have
23 portions of the property designated to Maxine, her
24 sister, and to Mr. Lyons -- exactly who was going to do
25 it, probably Darryl Moody, who had already done a

1 survey in that area -- and just waited to send it out.
2 And finally we did record it, and then we sent it out
3 to Mr. Lyons.

4 Q And when you mailed the recorded deed to him ---

5 A That's correct.

6 Q --- your work was completed?

7 A Not necessarily, because, the point is, is that if we
8 had gotten further along on it with regards to
9 subdividing the property, I would had to have had
10 contact with Maxine, her sister, and to determine who
11 was going to get what. There were other things.
12 McCormick County is a hilly area, and somebody might
13 get a lot that's got, say, ten acres on it that's like
14 a cliff. People probably wouldn't want to own that
15 property. So, as a matter of fairness, probably there
16 would be some kind of decision to split it in between
17 the, quote, flat land or bottom land, and cliffs, and
18 the rest of that stuff.

19 Q I'm sure you know by experience that real estate is
20 hard to divide up in kind.

21 A Sometimes. If it's flat, it may not be; but, other
22 cases, there's other interests, like who gets the
23 house, who gets the creek.

24 Q Right.

25 A The rest of that stuff.

1 Q But you can always divide the money when it's forced to
2 be sold?

3 A Yeah, that's -- that's a partition, and if people can't
4 agree, then they have a right to partition, and then
5 the money's divided equally among the property holders
6 (inaudible).

7 MR. BISHOP: No further questions.

8 REFEREE CLARK: Ms. Hempy.

9 MS. HEMPY: I just have a few, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. HEMPY:

12 Q Mr. Sward, your attorney-client relationship was with
13 Gregory Lyons; correct?

14 A That's correct.

15 Q It wasn't with my client, Catherine Lyons, was it?

16 A No, it wasn't.

17 Q Mr. Sward ---

18 MS. HEMPY: Your Honor, may I approach the
19 witness?

20 REFEREE CLARK: Sure.

21 BY MS. HEMPY:

22 Q Is this a true and accurate copy of the deed you
23 prepared for Mr. Lyons?

24 A I prepared this for Mrs. Lyons' signature. Yes, it
25 appears to be correct.

1 Q But you prepared it ---

2 REFEREE CLARK: For the record, we're referencing
3 Plaintiff's Exhibit No. 1.

4 BY MS. HEMPY:

5 Q You prepared it at your ---

6 [END OF AUDIO RECORDING]

7 (OFF THE RECORD)

8 REFEREE CLARK: All right.

9 MS. HEMPY: May I approach again, Your Honor?

10 REFEREE CLARK: Yes, ma'am.

11 CROSS-EXAMINATION (David Anderson - Continued)

12 BY MS. HEMPY:

13 Q Mr. Anderson, in what's before you, again, is that your
14 sister's signature? Ms. Dorothy Floyd?

15 A I'm assuming so.

16 Q Does that appear to be her handwriting?

17 A I would say maybe, yes, it is.

18 MS. HEMPY: Your Honor, at this time, I'd like to
19 move -- I believe this would be Plaintiff's 7, to admit
20 this, this questionnaire completed by Ms. Dorothy
21 Floyd.

22 MR. BISHOP: Just the objection I've raised that I
23 set forth for settlement purposes.

24 REFEREE CLARK: Subject -- and we'll note that,
25 but I'm going to allow this to be marked for

1 identification. And it is 7?

2 MS. HEMPY: Yes, sir.

3 REFEREE CLARK: All right.

4 BY MS. HEMPY:

5 Q Mr. Anderson, would you read the Question No. 5 and the
6 answer for the Court?

7 A (As read) "Was he alone when you -- with you when she
8 executed the document and when you notarized same?" It
9 says, "There was no one else around."

10 Q Isn't it true, Mr. Anderson, that there was nobody else
11 there when Ms. Lyons signed that deed in front of your
12 sister, allegedly signed the deed in front of your
13 sister ---

14 A No, ma'am.

15 Q --- Ms. Floyd?

16 A Not true. I actually sat there and watched the whole
17 thing, and took it right back to work the same day, and
18 put it in the -- and gave it to my FedEx guy, and sent
19 it off.

20 Q So are you saying that your sister is lying in this
21 questionnaire to Mr. Bishop?

22 A I'm saying she must be mistaken, or maybe she meant
23 there was no one else around, other than the immediate
24 people that were supposed to be there.

25 Q But she didn't list your name, did she?

1 A No, she did not list (indiscernible crosstalk).

2 Q And she didn't list Mr. Giles' name, did she?

3 A No, she did not.

4 Q So are you not telling the truth, or is your sister not
5 telling the truth?

6 A I believe she's mistaken, because, again, I physically
7 sat there and watched this on the day in question. I
8 can't even remember the exact day, but I watched this
9 happen.

10 MS. HEMPY: No further questions, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. BISHOP:

13 Q Was Mrs. Floyd under oath when she wrote that letter to
14 me?

15 A I don't believe so. I don't know. This is the first
16 time I've even see this; so ---

17 Q But you're under oath now?

18 A Exactly.

19 Q And under oath, you are testifying that your sister is
20 just mistaken, that you were there, and you saw all of
21 the parties execute the document. Is that your
22 testimony?

23 A Yes, it is.

24 Q And you know if you are not telling the truth, you can
25 be guilty of perjury?

1 A Yes.

2 Q And you are happy with your answer?

3 A Yes, I am.

4 Q Thank you.

5 REFEREE CLARK: Any other questions of this
6 witness?

7 MS. HEMPY: No, sir.

8 REFEREE CLARK: Mr. Bishop?

9 MR. BISHOP: No, sir.

10 REFEREE CLARK: You can step down. Thank you,
11 sir. If you want to have a seat in the courtroom now,
12 you're welcome to.

13 MR. BISHOP: I'm not going to call any other
14 witnesses. That's the Defendant's case.

15 REFEREE CLARK: All right. Do you need a brief
16 moment before we -- or do you want to give me some kind
17 of closing statement or ---

18 MR. BISHOP: Uh-huh.

19 MS. HEMPY: I'm prepared to move forward, unless
20 you need a break.

21 MR. BISHOP: I'm ready to go forward.

22 MS. HEMPY: Okay. Your Honor, this case is an
23 action to set aside a deed. My client, Ms. Catherine
24 Lyons, she sat here today and testified to you that she
25 had no knowledge of any deed conveying property that

1 she owned in McCormick County to her son, Gregory
2 Lyons. She didn't learn about this deed until 2013,
3 some seven years after the deed was recorded in
4 McCormick County. She had no knowledge of a transfer
5 of personal property from the Estate of McNeill Luchie
6 to her son, Gregory, until 2013, when she learned of
7 this deed. And, in fact, the reason she learned about
8 this deed is because she had gone to a lawyer in
9 Chicago to prepare her estate plan, to prepare her
10 will, wherein she left the subject property to her four
11 children equally. And when they inquired as to what
12 property she owned in McCormick, she was informed that
13 she didn't own this property, because her son ---

14 [END OF AUDIO RECORDING]
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CERTIFICATE

This is to certify that the foregoing transcript consisting of 69 pages is a true and correct transcript of the digital recording provided by Hite and Stone.

I further certify that I am neither employed by nor related to any of the parties in this matter nor their counsel; nor do I have any interest, financial or otherwise, in the outcome of the same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 10th day of January, 2017.

Jill Bishop Edwards

Jill Bishop Edwards, CVR-CM
Certified Verbatim Reporter

Notary in and for the State of South Carolina

My Commission Expires: July 14, 2020

RECEIVED

NOV 06 2018

FILED

This instrument was prepared by & Return to: SC Court of Appeals
John Erlok Sward, P. A., P. O. Box 1855, Mc Cormick, South Carolina 29835

2006 SEP 29 PM 4: 27

Grantee Name: Gregory N. Lyons

KATHRYNE P. BUTLER
CLERK OF COURT
McCORMICK COUNTY, S.C.

SPECIAL WARRANTY DEED

This Indenture, made this 31st day of August, 2006, Between

Catherine Lyon also known as Cathorinc Lyons

of the County of Cook, State of Illinois, grantor*, and

Gregory N. Lyons

whose post office address is 1117 Fowler Avenue, Evanston, Illinois,
of the County of Cook, State of Illinois, grantee*,

BOOK 207
PAGE 161
DATED 8-31-06
REC: 9-29-06

Witnesseth that said grantor, for and in consideration of the sum of TEN and 00/100 (\$10.00) Dollars, and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released to the said grantee, and grantee's heirs, successors and assigns forever, the following described land, situate, lying and being in Mc Cormick County, South Carolina, to-wit:

All and singular that certain piece, parcel, or tract of land with improvements thereon, situate, lying, and being in Mt. Carmel Township, County of McCormick, State of South Carolina, containing 35.1 acres, more or less, and being known as the Martin Tract and the remainder of Lizzie Jackson tract, and being bounded, now or formerly, as a whole, by lands of George Rogers, et al; by lot of Queen Ester Gullibeaux; by lands of Alex Mc Duffie; by lands of Catherine Thomas; and by lands of J. P. Hester. Said tract lies on both sides of the Hester Ferry Road (South Carolina Road S-33-91, and also subject to the Easement for a County Road, of a ditch to ditch width, said County Road Easement being more particularly described in a deed for Susie Cade to Mets W. Luchey, et ux, dated February 27, 1986, recorded in the Office of the Clerk of Court for McCormick County Deed Book 76 at Page 7. This is the remainder of the two tracts of land, the first being 21.5 acre tract of land by deed conveyed from Mary E. Martin to Susie Cade, said deed being dated January 14, 1956, recorded in the Office of the Clerk of Court for McCormick County in Deed Book 18, at Page 150, and the second being a 17 acre tract of land by deed conveyed from Mrs. Jannle M. Cade to Susie Cade, said deed being dated December 20, 1938 and recorded in the Office of the Clerk of Court for McCormick County in Deed Book 14, at Page 606.

Also Viola Luchey to McNeill Luchey recorded 96E93500004 property, to-wit:

All that piece, parcel, or lot of land situate, lying and being in the County of McCormick, State of South Carolina, containing ONE (1) ACRE, more or less, and being BOUNDED: on three sides by other lands of the Grantor herein, Susie Cade, and on the other side by an unimproved plantation road, upon which said lot fronts seventy (70) yards. Said lot is rectangular in shape, and MEASURES: 70 yards on the front and back sides, and ONE HUNDRED FORTY (140) YARDS on the other sides. The corners of said lot have been staked out on the ground by the parties hereto and they mutually agree as to the location and dimensions thereof. This is a portion of a tract of land containing 17 acres, more or less, conveyed to Mc Neill Luchey by Deed of Distribution from the Estate of Viola Luchey recorded in the Probate Court for McCormick County file # 96E53500004

Derivation: See Deeds of Distribution recorded in Deed Book 150 at Page 76 and Deed Book 138 at Page 114, in the Office of the Clerk of Court for Mc Cormick County, South Carolina.

Tax Map Number: 025-00-00-001

BOOK 207 OF
Deed
PAGE 161
STATE TAX PAID 0
COUNTY TAX PAID 1

807/161

AUDITOR'S OFFICE
McCORMICK-COUNTY
Recorded this 3rd
day of October, 2006
In Book 20, Page 544
Mary M. White

Plaintiff's Exhibit No. 1

08/28/2006 19:16 8644559001

PAGE 03/85

Subject to conditions, easements, restrictions, reservations and limitations of record and taxes for the year 2006 and subsequent years.

Grantor Warrants and Guarantees that Catherine Lyon and Catherine Lyons are one and the same person as set forth in Deed Book 158 at Page 114, Mc Cormick County, South Carolina.

TOGETHER with all tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor herein covenants with said grantees that grantor is lawfully seized of said land in fee simple; that grantor has good right and lawful authority to sell and convey said land; that grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under grantor.

*"Grantor" and "grantee" are used for singular or plural, and references to one gender shall include the other including neuter, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written. Signed, sealed and delivered in our presences:

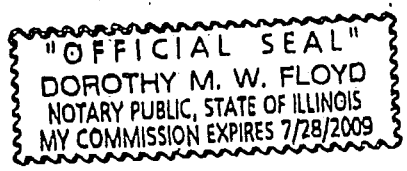
2 Dorothy M. W. Floyd
Witness
Printed Name: Dorothy M. W. Floyd

2 Catherine Lyons
Grantor
Printed Name: Catherine Lyons
Address: 1117 Fowler Ave., Evanston, Ill. 60202

4 William Giles
Witness
Printed Name: WILLIAM GILES

STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK.)

Before me, the undersigned authority, duly authorized to take oaths and acknowledgements, personally appeared Catherine Lyons, who, after having been duly sworn upon her oath, did depose, state and acknowledge that she executed the forgoing instrument for the purposes therein stated. I certify that Catherine Lyons was personally known (____); or produced identification (____) and the type produced was Illinois State ID; on this 31st day of August, 2006.



(Notary Seal)

5 Dorothy M. W. Floyd
NOTARY PUBLIC
Printed Name: 6 Dorothy M. W. Floyd
My Commission Expires: 7 7-28-09

TRANSFER OF PERSONAL PROPERTY

I, CATHERINE LYONS, ALSO KNOWN AS CATHERINE LYON, IN EXCHANGE FOR LOVE AND AFFECTION AND TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGE AND ADMITTED, DO HEREBY SET OVER, TRANSFER, ASSIGN AND RELEASE UNTO MY BELOVED SON, GREGORY N. LYONS, ALL TANGIBLE AND INTANGIBLE PERSONAL PROPERTY TO WHICH I AM OR MAY BE ENTITLED OR DELIVERED ARISING OUT OF DEVICES UNDER THE WILL OF MC NEILL LUCHEY WHO DIED ON DECEMBER 5, 1995, AS MORE FULLY SET FORTH IN THAT ESTATE PROCEEDING KNOWN AS: IN THE MATTER OF MC NEILL LUCHEY, CASE NUMBER 96ES3500005, IN THE PROBATE COURT FOR MC CORMICK COUNTY, STATE OF SOUTH CAROLINA.

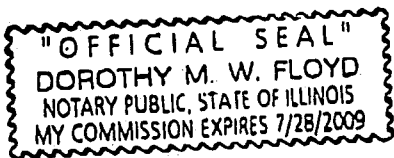
DATED THIS 8-31-06 DAY OF AUGUST, 2006.

Catherine Lyons
CATHERINE LYONS

STATE OF ILLINOIS

COUNTY OF COOK

Before me, the undersigned authority, duly authorized to take oaths and acknowledgements, personally appeared CATHERINE LYONS, who, after having been duly sworn upon her oath, did depose, state and acknowledge that she executed the forgoing instrument for the purposes therein stated, and the matters set forth therein are true and correct to the best of their knowledge and information. I certify that CATHERINE LYONS was personally known (), or produced identification () and the type produced was ILLINOIS STATE ID; on this 31st day of August, 2006.



Dorothy M. W. Floyd
NOTARY PUBLIC
Printed Name: Dorothy M. W. Floyd
My Commission Expires: 7

8

BOOK 6 OF
MISC
PAGE 44

FILED
2006 SEP 29 PM 4:27
KATHLEEN...
CLERK OF COURT
McCORMICK COUNTY, S.C.

Plaintiff's Exhibit No. 2 7-16-2015

COUNTY OF MCCORMICK

Last Will and Testament

OF

MCNEILL LUCHEY

IN THE NAME OF GOD, AMEN!

I, MCNEILL LUCHEY, a resident of the County of McCormick, State of South Carolina, being of sound and disposing mind and memory, do make, ordain, publish, and declare this as and for my Last Will and Testament, hereby revoking any and all wills or instruments of a testamentary nature heretofore by me made.

ITEM I:

I will and direct that my body shall be decently interred and it is my will that all expenses incurred therefor, my funeral expenses, expenses of my last illness, any legal debts not barred at law or in equity, and my outstanding charitable pledges, be paid out of the first money coming into the hands of my Personal Representative, hereinafter named.

ITEM II:

I will, devise, and bequeath all of my property, real, personal, and mixed, of whatsoever kind and nature and wheresoever, situate, in three separate and undivided shares, absolutely and in fee simple, one such share each to my beloved daughter, Maxine B. Parker, one such share to my beloved daughter, Jeannette B. Gilchrist, and one such share to my beloved niece, Catherine L. Lyons. In the event that one of my said beneficiaries here and above named should predecease me or should we die simultaneously, I will and direct that the share of such deceased beneficiary shall lapse and should be divided among the beneficiaries herein named who are surviving as of the date of my death.

ITEM III:

I name, constitute, and appoint my beloved daughter, Maxine B. Parker as Personal Representative of this my Last Will and Testament. In the event that my said daughter shall predecease me, should we die simultaneously, or should she fail or cease to qualify for any reason, I name, constitute, and appoint my beloved niece, Catherine L. Lyons as substitute Personal Representative of this my Last Will and Testament. I grant and give unto my said Personal Representative or my substitute Personal Representative the power to sell, at either public or private sale, any part, or all, of the assets of my estate for the purpose of paying estate debts or distribution. I will and direct that my said Personal Representative or substitute Personal Representative shall serve shall without being required to give bond or security for the proper discharge of their duties herein.

McNeill Luchey

RECORDED
INDEXED
MCCORMICK COUNTY
SOUTH CAROLINA
APR 1 1949

Plaintiff's Exhibit No. 1

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this my Last Will and Testament on this the 3rd day of October, 1994.

McNeill Luchey (LS)
MCNEILL LUCHEY

Signed, sealed and delivered to me by said MCNEILL LUCHEY as and for his Last Will and Testament, in the presence of us, three (3) competent witnesses, who in his presence and in the presence of each other, at his request, have subscribed our names as witnesses this the 3rd day of October, 1994.

Ann D. Seymour ADDRESS:

McCormick St.

Nancy Lindahl ADDRESS:

MODOC HOMES, MODOC SC

Frank E. Reed ADDRESS:

Edgefield, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF MCCORMICK) CASE NO.: 2014-CP-35-10
)
CATHERINE LYONS.) **FILED**
) **GWENDOLYN D. CHILES**

2015 JUN -4 A 9:54

PLAINTIFF.)

Clerk of Court
McCORMICK COUNTY, SC

VS.)

AFFIDAVIT OF CATHERINE LYONS

GREGORY LYONS, MAXINE B.)
PARKER, and JEANETTE B.)
GILCHRIST.)

DEFENDANTS.)

Personally appeared before me, Catherine Lyons, who states as follows:

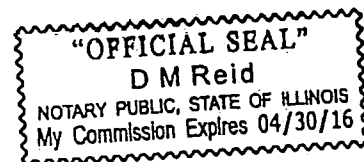
- (1) I am of the age of majority and possess the requisite mental acuity to provide the following testimony.
- (2) I have personal knowledge of the facts stated in this affidavit and believe the facts to be true.
- (3) I have reviewed the deed from 2006 that is the subject of this action.
- (4) I never gave the property at issue in the subject deed to my son, Gregory Lyons.
- (5) I never signed the 2006 deed, and the signature contained on the deed is not my own.
- (6) I never gave the personal property that I inherited from McNeill Luchey to my son, Gregory Lyons.
- (7) I have reviewed the Transfer of Personal Property filed with the McCormick County Clerk of Court, and the signature contained in this document is not my own.

FURTHER AFFIANT SAYETH NOT:

Catherine Lyons
CATHERINE LYONS
JUN 4 2015

SWORN TO AND SUBSCRIBED BEFORE ME
this 9th day of June, 2014.

D M Reid
Notary Public for the State of Illinois
My Commission Expires: 4/30/16



Plaintiff's Affidavit

STATE OF SOUTH CAROLINA)
)
COUNTY OF MCCORMICK)
)
CATHERINE LYONS,)
)
Plaintiff,)
)
Vs.)
)
GREGORY LYONS, MAXINE B.)
PARKER, and JEANETTE B.)
GILCHRIST,)
)
Defendants.)
)
_____)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-35-10

AFFIDAVIT OF DAVID ANDERSON

Personally appeared before me the undersigned who being duly sworn states as follows:

My name is David Anderson and I live near Evanston, Illinois. I have been a friend of Gregory Lyons and the Lyons family for many years. I knew for a long time from Gregory that he had been helping his mother to handle property in McCormick, South Carolina.

Prior to August 31, 2006, I received a phone call from Gregory that his mother wanted to deed him her interest in property in McCormick, South Carolina, because Gregory was the one who took care of his uncle and came to see him when no one else did and he asked if I would help to coordinate the execution of a deed to make sure that the notary and witness came to the house of Catherine Lyons, his mother, to execute a deed. He indicated to me that his lawyer in McCormick, South Carolina, had already discussed this in a conference call with Mrs. Lyons, Gregory, and the attorney and the deed was being sent directly to the fax number for Adler's Foreign Books where I worked at the time in shipping and receiving. It is my understanding that Gregory had already set the time for the notary and another witness, namely William Giles (Billy), also a friend of the Lyons

DAVID ANDERSON
NOTARY PUBLIC
ILLINOIS
08/16/2015 10:49 AM

Plaintiff's Exhibit No 5 CGC 7-16-2015 2 pages

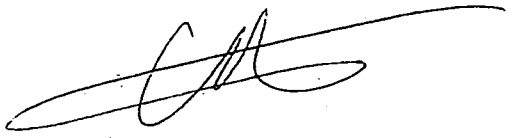
family to come to Mrs. Lyons' home. I do not remember exactly what time of the day this was. One of the reasons I believe he called me is that the notary he planned to use was my sister Dorothy Floyd, now deceased, who also was a friend of the Lyons family. Gregory had indicated to me that he had already called my sister to see if she would notarize the deed and I called my sister to confirm the time she was to come to Mrs. Lyons' house and I informed Mrs. Lyons of the time. My sister lived in the city of Evanston, Illinois, which is close to where I live and where Mrs. Lyons lived.

I was present on August 31, 2006, at Mrs. Lyons' home when my sister came. I saw Mrs. Lyons sign the document. Billy Giles was not there when my sister first came, but arrived before she left and signed the deed in the presence of Mrs. Lyons, my sister, and myself. After Mrs. Lyons executed the deed my sister witnessed and notarized it.

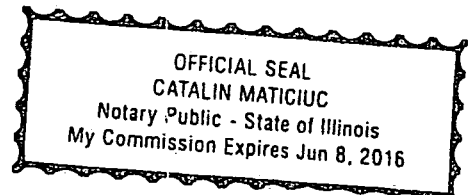
After the deed was executed, I took it back to Adler's Foreign Books and faxed it back to the attorney in McCormick, South Carolina.


David Anderson

Sworn before me this 29
day of June, 2015.



Notary Public for Illinois
My commission Expires: 06-08-16



Illinois

Jesse White - Secretary of State

NUMBER ISSUED
5201-0334-681L 03-23-01

EXPIRES
99-99-99

ID CARD

CORRIE C LYONS
1117 FOWLER
EVANSTON IL 60202

Birthdate 03-19-34 SS#
Female 5'10" 170 lbs BRN Eyes
Type Class
LIFETIME

Carrie Lynn





Ms. Dorothy M. Floyd
1224 Dewey Ave.
Evanston, IL 60202-1123

**WM. THURMOND BISH
ATTORNEY AT LAW**

200 E. PINCKNEY STREET
ABBEVILLE, SOUTH CAROLINA 296

*I hope my writing
is clear.*

Dorothy Floyd

Please see accompanying CD Document 1

Email: bishoplaw@wctel.net

October 13, 2014

Dorothy M. W. Floyd
1224 Dewey Street
Evanston, IL 60202

RE: Catherine Lyons vs. Gregory Lyons et. al.
C.A. No: 2014-CP-35-10

Dear Ms. Floyd:

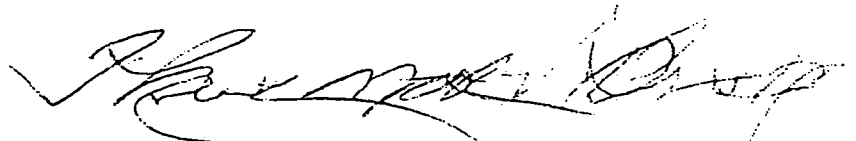
Again, I want to thank you for speaking with me the other day on the telephone and I am seeking to confirm or reconfirm some of the facts regarding the above.

1. Is it true that Gregory Lyons got you to notarize the signature of his mother and you did so without a charge because he is a friend of yours with whom you formally worked? *Yes that is correct, Gregory requested that I Notarize a document for his that she had to sign. There was no charge. I never worked with Gregory he is a friend.*
2. Who called you to come to Mrs. Lyons' home? *- Gregory asked me to go to his mom's home.*
3. Were the papers there when you got there? *Mrs. Lyons had the document for me. She never went into detail about the document. I verified her and signature.*
4. Did she tell you about the documents and what she was to sign? *She handed me the document and I pointed to where she should sign then I notarized it.*
5. Was she alone with you when she executed the documents and when you notarized same? *Yes. There was no one else around.*
6. Had the other witness already signed or was this line blank on the deed? *There was other signature on the document, I don't Notarize Pre Signed documents. I.D required Notary*
7. Did you leave the executed documents with Mrs. Lyons? *Yes I did.*
8. Do you know whether or not your brother, David Anderson, played any role in this transaction? *I have no idea. My brother has been a close friend of the Lyons family for years.*

If you could and would, please write the answers to these questions at the end of each question and return them in the enclosed self-addressed and stamped envelope. Just from my conversation with you, you seem to be honest and possess a great deal of integrity and I appreciate this. I try to have and display these same traits.

Thanking you in advance, I am

Very truly yours,

A handwritten signature in cursive script, appearing to read "Wm. Thurmond Bishop". The signature is written in dark ink and is somewhat stylized, with a large initial "W" and a long, sweeping underline.

Wm. Thurmond Bishop

WTB:pmt
enclosure

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Greenwood County
Hon. Curtis Clark, Special Referee
Pursuant to a Final Order issued in 2014-CP-35-10

Appellate Case No. 2016-002549

Catherine Lyons.....Appellant,

Versus

Gregory Lyons, Maxine B. Parker and Jeanette B. Gilchrist, Defendants,

Of whom Gregory Lyons is the..... Respondent

RECEIVED

NOV 06 2018

SC Court of Appeals

CERTIFICATE OF SERVICE

I certify that on this date, November 5, 2018, I served a copy of the Memorandum of Appellant, and the Certificate of Service on counsel of record by mailing it to them to their addresses and by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed.



Scarlet B. Moore, #72534
Attorney for Appellant Catherine Lyons
P.O. Box 17615
Greenville, S.C. 29606
(864) 214-5805
(864) 752-0930 (FAX)

November 5, 2018.

SCARLET B. MOORE

Attorney at Law

P.O. BOX 17615
GREENVILLE, SC 29606
(864) 214-5805
(864) 752-0930 (FAX)

November 5, 2018

Jenny Abbott Kitchings
Clerk, The South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

RECEIVED
NOV 06 2018
SC Court of Appeals

**RE: Catherine Lyons v. Gregory Lyons
Appellate Case No. 2016-002549**

Dear Madam Clerk,

Pursuant to your most recent correspondence, please find enclosed a Memorandum of Appellant, the trial transcript, and trial exhibits.

The Appellant spoke to Mr. Bishop regarding the request of this Court, and he informed the Appellant that he is in agreement that the reconstructed record does not afford the parties meaningful appellate review.

If the Court requires further information, please do not hesitate to contact me. With kind regards, I remain

Very Truly Yours,



Scarlet B. Moore, Esq.
Counsel for Appellant

SBM/s

Cc: Anne Marie Hemy
Wm. Thurmond Bishop
The Honorable Curtis G. Clark