

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas
Honorable Frank R. Addy, Jr., Judge

Case No. 2018-001067

Kenneth H. Kurowski,

Respondent,

v.

Daniel D. Hawk,

Appellant.

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SC Court of Appeals

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IN THE COURT OF APPEALS

On Appeal from the Court of Common Pleas

For Abbeville County

Honorable Frank R. Addy, Jr., Judge

Case No. 2018-CP-01-00069

CASE NO. 2018-001067

KENNETH H. KUROWSKI,

Respondent,

v.

DANIEL D. HAWK,

Appellant.

Reply Brief of Plaintiff-Appellant

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INTRODUCTION

This Reply Brief is tenet to the Brief of the Respondent. This Reply Brief follows Rule 208, in 10 days or less, proof of service on the parties with one copy filed with the clerk concomitant proof of service.

STATEMENT OF THE ISSUES OF THE BRIEF OF THE RESPONDENT

1. The Defendant-Appellee argues in the first question S.C. Code § 62-1-302(d) but failed to address S.C. § 62-1-611(a). As the Opening Brief points out, there are several material misrepresentations of fact, thus this Court ought to Order the probate moved to another County because due process of law requires two things, 1) a Lower Court of competent jurisdiction, and 2) the proceedings must be fair. See respectively, *Burrell v. Armijo*, 456 F.3d 1159 (2006), and *Kremer v. Chem. Constr. Corp.* 456 U.S. 461. With all the misrepresentations of fact in this Case, will this Court find some amount of incompetency in the Lower Courts' decisions? Is this case fair?
2. The Defendant-Appellee is misleading this Court in who is the real party of interest. The Court *sua sponte* looks to see who the real party of interest is, see *Lewis v. Clarke*, 137 S.Ct. 1285 (2017). This argument or question is a *red herring* and is otherwise mute.
3. Regarding relief in the Defendant-Appellee' third question, that ought to be determined upon the outcome of probate *de novo*, this Court *sua sponte*, or in the alternative for the best interest of the Estate, see S.C. § 62-1-611(b). See also S.C. § 62-1-611(a). Is it not, in the best interest of this Estate to ensure the closing of it, when the misrepresentations of fact

have been disclosed and addressed? Is not, bigamy is a crime? Is not, using vital records to deceive and defraud a crime? Does due process of law require the proceedings to be fair?

4. As stated in 1 *supra*, S.C. § 62-1-611(a) was not addressed and for this reason the Defendant-Appellees somehow believe any time, does not really mean any time, but means a time and tolling method that meets their agenda to continue probate with a foundation laid with unlawful acts such as bigamy S.C. § 16-15-10, obtaining, possessing, and using invalid vital records as if they were true S.C. § 44-63-161(4).

STATEMENT ON THE RESPONDENTS BRIEF

The Defendant-Appellee suggest that Arletta Kurowski is the former wife of Kenneth H. Kurowski, but through smoke and mirrors fails to elucidate the fact that Arletta Kurowski is the only wife of Kenneth H. Kurowski, there can be no other. The fact there is no monetary relief suggests only fairness because the U.S. Constitution guarantees individuals the right to due process of law which this Court knows has two elements, 1) court competency, and 2) fairness. It is not unreasonable to have the probate transferred to another county *de novo* because it is a simple matter of fairness and is a requirement of constitutional due process of law.

SUMMARY OF THE ARGUMENT

The Defendant-Appellees rightfully argues, as this Court has said, “A dispute over conversion of estate property would be for Probate Court to decide.” See S.C. § 62-1-611(a) also, *Brown v. Brown*, 402 S.C. 202, (Ct. App. 2013). Further, the personal representative must be credible, *id* at 207. Unfortunately, the representative’ unlawful acts are the foundation for an appeal. Nothing good can

come from closing this Estate under a blanket of suspicion; unlawful acts such as bigamy, invalid Death Certificate, invalid Illinois marriage. As a matter of constitutional right, there must be fairness, such that unlawful acts must be addressed and thus is one of the underlying reasons for the request for probate *de novo* in another county.

ARGUMENT

I. EXCLUSIVE JURISDICTION OF PROBATE COURT CAN BE OBTAINED *DE NOVO* IN ANOTHER COUNTY

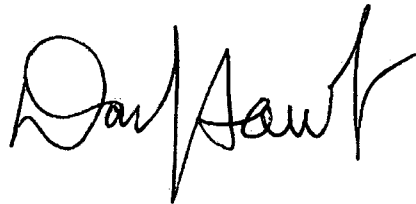
- A. We know from history that problems with outcomes are often questionable when the foundations of the outcomes are questionable. If this is so, questions and problems ought to arise, as this Case is evidence, from probate in this Case because of an unlawful, bigamist marriage, an invalid Death Certificate, and unlawful use of vital records. As stated in the Opening Brief, a prudent and reasonable person might ask, “What could go wrong?” This infers, this Court might ask the same question.
- B. Similarly, a reasonable and prudent person who recognizes the foundation has been built near a sinkhole will not build a house there. Thus inferring, to close probate without fixing the probate, by moving the house to an area without any sinkholes is best for the home owner and is best for the Estate generally.
- C. For this Court to continue down the probate path as the Defendant-Appellant wishes this Court to allow would be analogous to building a house on a sinkhole while knowing the house is destined to collapse.

D. The only real solution is for this Court, *sua sponte*, is to determine what is in the best interest of the Estate, such that, “the personal representative... intentionally misrepresented material facts” and therefore, it “would be in the best interests of the estate” to move the probate, and offer exclusive probate jurisdiction in another county, *de novo*. See S.C. § 62-1-611(b).

CONCLUSION

This Court, *sua sponte*, must determine what is in the best interest of the Estate S.C. § 62-1-611(b). Should this Court continue down the path that the Defendant-Appellee is suggesting is magically valid and legal notwithstanding unlawful acts or should this Court find that the Lower Court erred in its determination of legal material facts when they were intentionally misrepresented material facts, in this Case under S.C. § 62-1-611? The Plaintiff-Appellant has shown there is enough cause for this Court to Order probate moved to another county, *de novo*.

Dated; October 30, 2018

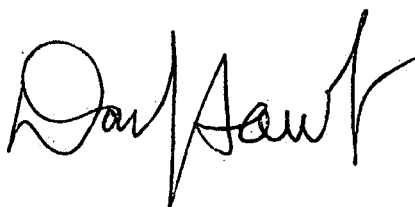
A handwritten signature in black ink, appearing to read "Dan Hawk". The signature is written in a cursive, somewhat stylized font.

Daniel D. Hawk, Pro Se.

CERTIFICATE OF COMPLIANCE

Plaintiff-Appellant that the Reply Brief has the proper content, and, as otherwise complies with Rule 267 captioning, etc.

Dated: October 30, 2018

A handwritten signature in black ink, appearing to read "Dan Hawk". The signature is written in a cursive, somewhat stylized font.

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