

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

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SC Court of Appeals

APPEAL FROM BERKELEY COUNTY
Master In Equity

Honorable Dale E. Van Slambrook

Case No.:2009-CP-08-1708

Valerie Green.....Appellant

v.

The Estate of Jake Green, a/k/a Jacob Green, Margaret Wilder (deceased), Mary Harrell, a/k/a Mary Cromedy (deceased), Henry Green (deceased), Thomas Henry Green, (deceased), Ethel Bengall, Rebecca Alls, (deceased), Rena Mae Green-Calvin, Barbara Green, Linda Cromedy, Walter Harrell, Laverne Green, Kathleen Pinkston, Robert Kinloch, Oliver Alls, Jackie Alls, Norman Alls, Isaac Alls (deceased), Isaac Alls, Jr., Evelyn Alls Terry, Patricia Spratton, Hazel Owens, Suzette Ford, Linda Beauford, Lanny Venning, Thomas Wilder (deceased), Thomas Wilder, Jr., Savona Green, Terrance Green, Nathaniel Green, Henry Green, Jr., Marcella Brown, Valerie Green, John Doe and Mary Roe, fictitious names to designate persons in the military service within the meaning of Title 50, United States Code, commonly referred to as The Service Members Civil Relief Act of 2003, as amended, if any, and the unknown heirs at law, devisees, widows, widowers, executors, personal representatives, successors and assigns firms or corporations of the Estate of Jake Green and any of the defendants who may be deceased, and all other persons claiming any right, title, estate, interest in or lien upon the real estate described in the complaint of the of in the complaint nor any part thereof, Defendants

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

FINAL BRIEF OF APPELLANT

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STATEMENT OF THE ISSUES ON APPEAL

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

STATEMENT OF THE CASE

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

Procedural Background

The action to quiet title to was filed in Berkeley County on May 15, 2009. An Answer to the pleadings was timely filed on behalf of certain Defendants by David Low, Esquire. Amended pleadings being filed on August 15, 2016. A Status Conference was held on December 14, 2016 whereby an Order allowing another amendment to the pleadings to add additional parties. Present at the status conference, this being their first appearance in this action, were the Respondents, Nathaniel Collins and Marcella Greer.

Second Amended Pleadings to quiet title to the real property that is the subject of this action was filed December 29, 2016. The Defendants, Nathaniel Collins and Marcella Greer were served by personal service. A final hearing on the merits, to also determine the respective co-tenants and the heirs of Jake Green, was held before Judge Van Slambrook on October 23, 2017.

BACKGROUND FACTS

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

STANDARD OF REVIEW

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

ARGUMENTS

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

At the call of this case both Nathaniel Collins and Marcella Greer were present and were asked to proffer testimony and evidence to substantiate claims that they were the natural children of Henry Green, Jr. Both parties were represented Pro Se.

Testimony of Nathaniel Collins

The Respondent Nathaniel Collins testified that he was raised by his grandmother, on his mother's side of the family, and that he first became aware by that Henry Green, Jr., a/k/a, Henry Green, was his father after being told by his grandmother when he was in the 5th or 6th grade in school that he was Jake Green's son (R. pp. 35-37).

He also proffered an obituary of Henry Green, Jr. in which he is named as a child of the deceased. He did not produce a birth certificate after being asked at the status conference to bring a copy to this hearing but testified that Henry Green, Jr. was not named as his father on his birth certificate (R. p. 44).

He produced a burial insurance policy that he stated the Appellant, Valerie Green, had him sign to bury her father was also offered as evidence of his paternity (R. p. 39;). His mother is deceased and was never married to Henry Green, Jr. His initial testimony was that his grandmother told him that Henry Green, Jr. was his father. He later added that his mother told also told him that Henry Green was his father (R. p. 43).

Testimony of Marcella Greer

The Respondent Marcella Greer testified that she was raised by her grandmother on her mother's side of the family and that she first became aware by that Henry Green, Jr. was her father after being told so by her grandmother when she was about two years old (R. p. 64). The witness also had no knowledge of the Appellant, Valerie Green before the funeral (R. p.70).

She also proffered a obituary that was prepared by the local funeral home indicating that she and Nathaniel Collins were children of Henry Green (R. pp. 57-58).

She also indicated that the obituary of Henry Green named her as a child of the deceased but could not produce a birth certificate that indicated Henry Green was her father (R. pp. 60-61). She also testified that she signed a burial insurance policy that she alleged the Appellant Valerie Green had her sign to bury her father (R. pp. 67-68).

In contrast to the above testimony, the testimony of the Appellant was never contested nor challenged that she is indeed the natural child of Henry Green, Jr. She also proffered a birth certificate indicating that Henry Green, Jr. was her father and the close relationship they enjoyed during his lifetime (R. p. 17). She also testified that her relationship with her father's family has been strained since his death and the fact that she is a resident of the State of Florida hinders her oversight of her father's affairs (R. pp. 30, 31, 33).

CONCLUSION

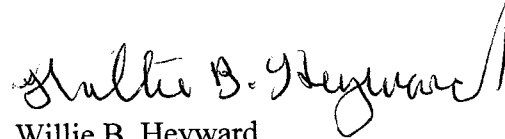
The testimony given by the Respondents is questionable in that their knowledge of the deceased Henry Green, Jr. is limited and their contacts with him do not indicate an effort on the part of Henry Green, Jr. to establish a parent-child relationship with the Respondents. It is also curious that they never attempted to develop a personal relationship with him until this action was brought to determine who would share financially in his estate.

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

claims. If the bar is set this low, the door is open for anyone to verbally assert paternity and divest the lawful heirs of their lawful share of property inherited from their ancestors.

Respectfully submitted,

January 23, 2019



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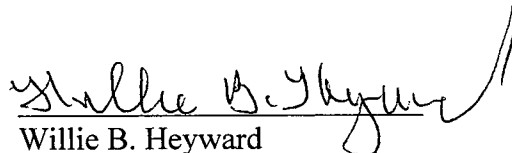
Valarie Green.....Appellant

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The Estate of Jake Green, a/k/a Jacob Green, Margaret Wilder (deceased), Mary Harrell a/k/a Mary Cromedy (deceased); Henry Green (deceased), Thomas Henry Green, (deceased), Ethel Bengall, Rebecca Alls, Rena Mae Green-Calvin, Barbara Green, Linda Cromedy, Walter Harrell, Laverne Green, Kathleen Pinkston, Robert Kinloch, John Doe and Mary Roe, fictitious names used to designate persons in the military service within the meaning of title 50, united states code, commonly referred to as the service members civil relief act of 2003 as amended, if any, and the unknown heirs at law, devisees, widows, widowers, executors, administrators, personal representatives, successors and assigns firms or corporations of the estate of jake green and any of the defendants who may be deceased, and all other persons claiming any right, title, estate, interest in or lien upon the real estate described in the complaint or in the complaint or any part thereof,
Defendants

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Final Brief filed herewith complies with Rule 211(b), SCACR.



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January 24, 2019