

IN THE COURT OF COMMON PLEAS THE STATE
SOUTH CAROLINA

FRANCES REANAY WILLIAMS

Appellant

Vs

Appellate case

NO. _____

SHIRELLE JUNIOUS

Appellee

RECEIVED
AUG 01 2019
SC Court of Appeals

**APPELLANT BRIEF AND ENUMERATION OF ERRORS FOR
MOTION FOR TRIAL AND REVERSE REMAND BACK TO
PROBATE COURT:**

STATEMENT OF FACTS:

The appellant is the only lawful legal living heir of the decedent born in the marriage of the decedent to the appellant mother. The appellant brother pass March, 2015 and mother May, 2015, within six weeks of each other. The appellant is the only lawful legal heir of the decedent.

The appellee file the a copy of the will on June 8, 2017. The appellant obtain a copy of the will and question the format of the will and the fact that appellant Middle name was misspell, middle name put as her first name in the will, that appellant father knew how to spell her name and would not make the mistake of putting her middle name for appellant first name. The attorney who made the will signed as a witness and the notary and stated the will was signed in his office on April 7, 2018. The decedent was a patient on April 7th was not able to travel to the Attorney office on the day of signing of the will. The appellant question the signature on the will not being the appellant father the decedent signature.

The appellant file the petition on July 10, 2017, contesting the will. The appellant filed a complaint with Supreme Court of South Carolina Office of

Disciplinary Counsel against Attorney Dwight Moore, who drew up the will, Shirelle Junious, and Audrey Walter the witness on the will. The complaint was file with the petition contesting the will as exhibit A. The Supreme Court of South Carolina Office of Disciplinary Counsel, did investigation on Attorney Dwight Moore action on filed in the complaint. The letter from the office stated the complaint was not dismissed, but the disposition is confidential under the provision of the Rules for Lawyer Disciplinary Enforcement, Rule 413 SCACR. The appellant filed a complaint on the Judge and Judge office in handling of this petition challenging the will and the handling of the power of attorney. The office of Supreme Court of South Carolina office of Disciplinary Counsel stated they could not get involved with pending civil actions in court.

Appellant perfected service to appellee on Wednesday July 19, 2017 at 3:29 pm. The appellee filed an answer to the amended petition which acknowledge service. The appellant filed a motion to enter a judgment on the petition, Exhibit M5 the appellant showed the probate court evidence of the post office certified receipts showing service to appellee, Dwight Moore, and Audrey Walter. A fact the probate judge overlook and dismiss the the case with prejudices. The appellee did not file a motion stating the appellee was not properly served. The probate judge took upon the judge the action to bring in an issue of service not being perfected an action the appellee had not pursue with a motion being filed in the petition, and filed an answer to amendment which is a writing. The order dismissing the petition should have never been done and hearing on July 30, 2018 cancel by the probate Judge.

Sufficient documents was submitted in the petition that showed the will submitted by the appellee was a fraud. A fact the probate judge over in dismissing petition with prejudice.

ENUMERATION OF ERRORS

- 1. Pursuant to rule 5(d) of the South Carolina rules of Court RCC the court finds service was not perfected and accordingly, the action is dismissed, sua sponte, with prejudice error by judge dismissing the case.**

2. No motion was filed by appellee stating service was not perfected, an answer was file to the amended petition by appellee which is a writing.showing service was perfected error by judge.
3. Proof of service evidence was submitted with the amended petition showing service perfected error made by probate judge.
4. The behavior and order violates Cannon 3 the order is not impartially and fair, judge bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute this is an error.
5. The order violates Cannon 3 B(2) and (5) a judge shall be faithful to the law, in dismissing the petition overlook the Supreme Court of South Carolina office of Disciplinary Counsel finding of the will being a fraud and the did not meeting statutory requirement this is an error.
6. The judge must explain how the appellee was able to say the petition was being dismiss before the judge signed the order on July 18, 2018 this conduct must be address by this court and this error of conduct address.
7. The order must be overrule and case remand reverse back to probate court, the appellant address the probate office in the complaint filed in the petition in the filing of the will and power of attorney not meeting the statutory requirement of the code for a will and a power of attorney this error must be corrected.

Base on the evidence submitted in the case by the appellant showing the Supreme Court of South Carolina Office of Disciplinary Counsel found the Attorney in who drew up the will being contesting, that will was a fraud, the appellant had shown from the complaint the Notice of Final Disposition by the Supreme that this will is a fraud. The question is why the Probate Judge of Clarendon dismiss the petition on a motion that was not file, overlook an answer was filed by the appellee. The appellee has a copy of the petition showing service was perfected by the appellant evidence, submitted a second time in Motion to enter a final judgment in the petition. The fact that a father knows his child name that he had a hand in naming, a parent would never confuse his child middle and first name. As people did who drew up the fraudulent will, the will has been proven to be fraud by the evidence appellant submitted by going after the attorney who drew up and have the Supreme Court investigate him and enter a final Disposition on

the matter. For this Judge to state no evidence of service has not been perfected the Judge must look to her conduct and office and asked why because the proof was filed by appellant. The appeal Court must look at the evidence presented in this case the Judge action in dismissing the case and reverse the order and remanded the case back to the probate court. The appellee Shirelle Junious, the Attorney Dwight Moore and Judge actions must be look at not just from civil aspect but criminal actions in this case. It is a fact Attorney Dwight Moore plead guilty for his actions of draw up the fraudulent will and seek protection under Rule 413. For both parties to continue to take steps in trying to deny the appellant the appellant rightful inheritance under appellant father estate. Can not be allow this Judge order allows two criminals to get away with a crime. Though this is a Civil matter in contesting the will of the decedent the respondent/appellee actions are criminal a fraud and statement before the probate court stating the will is a valid will when the testimony by Attorney to Supreme Court the will is a fraud the Judge should have proceed with the hearing to obtain the necessary evidence with the court reporter request to obtain sufficient for prosecution in this case. The Judge should have never dismiss this case with the evidence submitted, that will is a fraud with prejudice. The appeal Court must overturn and remand back to probate Court this order.

The errors made must be corrected. The will violates 62-2-502(2)(3) see the complaint the appellant filed and made a part of evidence in the contesting of the will review the evidence and see what Supreme Court investigation found in the Attorney actions in this will. Service was perfected by the appellant and evidence was submitted a second in the motion to enter a judgment and Appellee filed an answer.

Submitted by

Frances Reanay Williams
Appellant