

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

IN THE CIRCUIT COURT
(Appeal from Probate Court for
Kershaw County: 2017-ES-28-00106)

IN THE MATTER OF:)
Almeter B. Robinson)
(Decedent))

CASE NO.: 2019-CP-28-00463

Laverne Robinson,)
)
)
Appellant,)

ORDER AFFIRMING PROBATE
COURT ORDER

vs.)

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Martha Ann Robinson Aiken, Martha Ann)
Robinson as Trustee, Ronnie Randolph Robinson,)
Almeter Robinson Harrison and Mary Alice)
Robinson Green,)

NOV 20 2019

Respondents.)

SC Court of Appeals

This matter came before me on the Notice of Intent to Appeal to Circuit Court filed on April 26, 2019. A hearing was held on September 23, 2019, attended by William L. Pyatt, Attorney for Appellant, Leonard R. Jordan, Jr., Attorney for Respondents, Martha Ann Robinson Aiken and Martha Ann Robinson Aiken as Trustee; and Moultrie B. Burns, Attorney for Respondents, Ronnie Randolph Robinson, Almeter Patricia Robinson Harrison and Mary Alice Robinson Green.

This appeal is from an Amended Order Granting Motion for Summary Judgment issued by the Honorable Debra B. Branham, Kershaw County Probate Judge, which was filed on April 24, 2019. The said Order granted Respondents' Motion for Summary Judgment and dismissed this suit with prejudice.

Judge Branham only made two findings in said Order, to wit: (1) "no Affidavit in opposition of the Motion was filed by or on behalf of Plaintiff;" and (2) "there are no genuine

issues of material fact, which would compel the court to deny the Motion.”

The Order made no specific findings of fact, and there was no Motion under Rule 59(e) of the South Carolina Rules of Civil Procedure (SCRPC) to preserve any such matters for appeal. *Shirley's Iron Works, Inc. v. City of Union*, 397 S.C. 584, 598, 726 S.E.2d 208, 215 (Ct.App. 2010); affirmed in part, reversed in part, and remanded at 403 S.C. 560 (2013) (“Error preservation requirements are intended to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments . . . It is axiomatic that for an issue to be preserved for appeal, it must be raised to and ruled upon by the trial court . . . When an issue or argument has been raised to but not ruled upon by the trial court, a party must file a Rule 59(e), SCRPC, motion to preserve the issue for appeal.”)

Due to Appellant’s failure to defend against Respondents’ Motion by serving an Affidavit, with specific facts showing there is a genuine issue for trial, the lower court had no information before it with which to conclude that the Motion should not be granted. In that regard, Appellant failed to comply with Rule 56(c), SCRPC. *Regions Bank v. Schmauch*, 354 S.C. 648, 660, 582 S.E.2d 432, 438 (Ct.App 2003) (“Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent’s case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial.”)

Based upon the foregoing, I find that the appealed Order should be affirmed.

WHEREFORE, it is

ORDERED that the Amended Order Granting Motion for Summary Judgment, filed on April 26, 2016, be and it is hereby affirmed.

AND IT IS SO ORDERED.



Kershaw Common Pleas

Case Caption: Laverne Robinson VS Martha Ann Robinson Aiken , defendant, et al
Case Number: 2019CP2800463
Type: Order/Other

So Ordered

s/ R.E. Hood #2164