

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS

The Honorable Roger E. Henderson, Circuit Court Judge

Darlington County Docket No: 2019-CP-16-00634

Rodney Brock Hopkins.....Respondent.

v.

Mary Uptagraft on Behalf of Joshua B. Hopkins, Jacob T. Hopkins, Jensen M. Hopkins, &
Johanna S. Hopkins,

.....Appellant.

RECORD ON APPEAL

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October 15, 2020

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF DARLINGTON)
)
 IN THE MATTER OF:)
 ESTATE OF BROCKIE HOPKINS, JR.)
 (Decedent))
)
 MARY UPTAGRAFFT ON BEHALF OF)
 JOSHUA B. HOPKINS, JACOB T.)
 HOPKINS, JENSEN M. HOPKINS &)
 JOHANNA S. HOPKINS,)
)
 Petitioners,)
)
 vs.)
)
 RODNEY BROCK HOPKINS,)
)
 Respondent.)

IN THE PROBATE COURT
 Case No.: 2016-ES-16-00433

ORDER

FILED
 2019 MAY 20 PM 3:16
 MARVIN I. LAWSON
 JUDGE
 DARLINGTON COUNTY, SC


Date of Hearing: December 12, 2018
Presiding Judge: The Honorable Marvin I. Lawson
Petitioner's Attorney: John S. Keffer, Esquire
Guardian *ad Litem*: Richard E. Conner, Esquire
Order Prepared By: John S. Keffer, Esquire

This matter came before the Darlington County Probate Court on December 12, 2018 upon the Respondent's filing of a Motion for Summary Judgment.

Present at the Hearing was the Petitioner, Mary Uptagrafft, along with her attorney, John S. Keffer, Esquire, of Keffer Law Firm in Sumter County. Also present was the Respondent, Rodney Brock Hopkins, along with his attorney, Richard E. Conner, Esquire of the Conner Law Firm in Hartsville, South Carolina. The Respondents were not present. At the call of the Hearing it was determined that proper notice had been given to all interested parties.

This Court has considered all of the testimony, evidence submitted, motions, exhibits, accounting, and arguments of counsel, and makes the following Findings of Fact and

MSL
 1

TRUE COPY

 JUDGE OF PROBATE
 DARLINGTON COUNTY, S.C.

Conclusions of Law:

1. In conclusion as a matter of law, this matter is properly before the Court and that this Court has jurisdiction of the parties and the subject matter hereto.

2. Respondent filed a Motion for Summary Judgment based on pleading previously submitted to this Court on February 9, 2018.

NOW, THEREFORE, based upon the foregoing, it is hereby:

ORDERED, that the Respondents Motion for Summary Judgment is hereby denied.



HONORABLE MARVIN I. LAWSON
JUDGE, PROBATE COURT OF THE
THIRD JUDICIAL CIRCUIT

Darlington
Sumter, South Carolina
May 20, 2019.

FILED
2019 MAY 20 PM 3:16
JUDICIAL PROBATE
DARLINGTON COUNTY, SC

TRUE COPY



JUDGE OF PROBATE
DARLINGTON COUNTY, S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)

IN THE MATTER OF:)
ESTATE OF BROCKIE HOPKINS, JR.)
(Decedent))

RODNEY BROCK HOPKINS,)
Appellant)

vs.)

MARY UPTAGRAFFT ON BEHALF OF)
JOSHUA B. HOPKINS, JACOB T. HOPKINS,)
JENSEN M. HOPKINS, & JOHANNA S.)
HOPKINS,)
Respondent)

IN THE CIRCUIT COURT
CASE NO. 2019-CP-16-00634

ORDER

Attorneys:

Richard E. Conner, Jr. for appellant.
John Keffer for respondent.

Opinion:

The Honorable Roger E. Henderson, Fourth Circuit Court of Common Pleas sitting in Appellate Jurisdiction.

This action results from an appeal by Rodney Hopkins (Appellant) of an Order from the Darlington County Probate Court in favor of Mary Utagrafft (Respondent).

The present hearing follows a motion by Respondent to Extend Time for Initial Brief filed and also Motions submitted by Appellant seeking and Order for Default based on failure to timely submit responsive instruments under §62-1-308 and the South Carolina Appellate Court Rules *et al.*

BACKGROUND

The background in this matter is somewhat tedious given the various irregularities, but a presentation of the events leading to this Order is useful for general comprehension of the matter as well providing support for this Order.

Brockie Hopkins, Jr. passed on 6 September 2016. On 19 October 2016 Appellant, Decedent's only child, was appointed Personal Representative of his intestate estate. Respondent, Appellant's former wife, brought an action for formal testacy of a handwritten document she alleges to be Brockie Hopkins, Jr.'s, Last Will and Testament. Her Petition also seeks her appointment as Personal Representative. This action was filed in the Probate Court for Darlington County on 19 April 2017.

Later, in what appears to be a second, independent action, served 8 January 2018, Respondent filed a Petition for Removal of Personal Representative.

In her Petition, Respondent asserted Appellant should be replaced as Personal Representative because he had:

- “failed to perform a required duty,”
- “mismanaged the estate,” and
- “committed fraud, misrepresentation and misappropriation of assets.”

Within Appellant’s Response were Motions which sought to have the matter decided based upon failure to observe the requirements of the South Carolina Rules of Civil Procedure. These Motions included the following:

1. Judgment on the Pleadings under Rule 12 (SCRCP);
2. Summary Judgment under Rule 56 SCRCP;

Appellant’s Motions explicitly incorporated by reference Rules 8(a)(2) and 12(b)(6) SCRCP in that:

- a. Appellant denied Respondent’s assertions;
- b. That Respondent lacked authority to bind her children in either law or fact and therefore lacked standing to petition on behalf of her children (all of which were, at the time this hearing took place, above the age of 18 years):
 - i. Joshua B. Hopkins;
 - ii. Jacob T. Hopkins
 - iii. Jenson Hopkins; or
 - iv. Johanna S. Hopkins*these children are all children of both Appellant and Respondent.*
- c. The Petition contained only legal conclusions, which conclusions could not be sustained without any allegation of facts as the Rules require “*a short, plain statement of the facts in order to demonstrate entitlement to relief.*”

A hearing on the Motions was conducted in the Probate Court of Darlington County on 12 December 2018, the Order for which was executed by the Probate Judge on 20 May 2019. The Order read:

1. *In conclusion, as a matter of law, this matter is properly before the Court and that this Court has jurisdiction of the parties and the subject matter hereto, and*
2. *Respondent filed a Motion for Summary Judgment based on pleadings previously submitted to this Court on February 9, 2018.*

Now, therefore based upon the foregoing it is hereby Ordered that [Appellant’s] Motion for Summary Judgment is hereby denied.

It is this Order, itself having cited no facts upon which to base findings, from which Appellant appeals.¹

APPEAL

The current action before this Court was initiated by Respondent who seeks an Extension of Time within which to file her brief. The hearing upon this action included oral arguments on behalf of Appellant whose responses included related counter motions. The record demonstrates the following:

FILINGS

1. Appellant's **Notice of Intent to Appeal** was filed (electronically) 10 June 2019. Proof of Delivery was filed with the Darlington County Probate Court on 13 June 2019 indicating service upon Respondent's attorney of record by mail on 11 June 2019. The timing of these filings are consistent with the requirements of the South Carolina Probate Code §62-1-308(a), §62-1-304 and SCRCP 6(a). This is not in dispute.
2. All **intermediate filings** required of Appellant were filed (electronically) in a timely manner consistent with §62-1-308(b-d), §62-1-304 SCACR 208(b)(1) and SCRCP 6(a) *et al* without incident. This is not in dispute.
3. On 14 August 2019 Appellant filed (electronically) his **Designation of Matter on Appeal** and **Initial Brief** consistent with §62-1-308(e), §62-1-304 SCACR 208(b)(1) and SCRCP 6(a)

Based on the above cited timeline and references, Respondent's Brief should have been filed no later than Friday, 13 September, 2019. This is not in dispute.

4. The next filing in the matter occurred on Wednesday, 18 September 2019 when Respondent's counsel filed a **Notice of Appearance**.

On the same day, Appellant filed a **Response to an unfiled, hardcopy document** which appeared to have been a Motion to Extend Time Limit to File Initial Brief stating "*Respondent does not believe Appellant would object to this request.*" This document was not, at the time of the Response, electronically filed. Appellant's Response sought to protest such a request if, in fact, such a request had been then properly submitted.

5. Two days later, on Friday, 20 September 2019, one week following the time limit for filing such, Respondent filed (electronically) her **Motion to Extend Time for Initial Brief** citing SCACR 240 as authority, and alleging counsel's initial effort had been rejected due to clerical error.² On Monday, 23 September 2019, Appellant submitted a **Second Response** noting the deadline for Respondent's Initial Brief was already six days beyond the time limit. This Second Response also indicated Appellant's objection to the Motion as the deadline for filing had passed.

¹ Rule 52(a) SCRCP: "In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58."

² It is noted that no such attempted filing is reflected in Public Index.

6. Two weeks later, on 7 October 2019, Appellant submitted (electronically) an **Affidavit of Default**.³
7. On 14 October 2019 Appellant filed (electronically) his **Notice of Motion and Motion for Default**. Two days later the Clerk of Court entered an **Order for Default** as against Respondent. On the same day, the Clerk of Court withdrew the Order indicating Respondent's Motion to Extend Time must first be heard before an Order of Default could be considered.

The hearing on the parties' Motions was held on 14 November 2019, The Honorable Roger Henderson presiding.

On 25 November 2019, 102 days following Appellant's Initial Brief, and 72 days following Respondent's deadline, the Clerk of Court accepted for filing Respondent's Initial Brief.

DISCUSSION

Several issues were presented for the Court's determination. A discussion of each is provided below.

I. Whether Respondent's Motion to Extend Time for Initial Brief Should Be Granted.

In support of his position seeking an expansion of time Respondent cites SCACR 240.

The rules governing appeals from a Probate Court are established by *The South Carolina Probate Code §62-1-308*. Relating in particular to a Responding party's filing of his Initial Brief, subsection (e) of the referenced code indicates the Brief shall be filed within 30 days following Appellant's filing his Statement of Issues on Appeal and Initial Brief. The undisputed deadline then, was 13 September 2019.

However, §62-1-308 references the South Carolina Rules of Appellate Court which could serve to validate Respondent's reliance on *Rule 240*. Subsection (a) of this Rule makes it clear that a Motion for Expansion is contemplated within the Rules. However, subsection (b) of this Rule informs, "the time limits imposed by these Rules shall not be stayed by the filing of a motion or petition." *Rule 240(b) SCACR*.

When asked why neither the Motion nor the Brief were timely filed, counsel responded that he had been suffering under a heavy workload and was not aware Darlington County was an E-file county. That an attorney is straining under his own workload and is unfamiliar with the State's E-file requirements seems insufficient for granting an expansion if such were within the Court's authority, but as the Motion was filed six days after the deadline for having filed the Brief, and because the Rule's time limits are so firmly set, the Motion cannot be granted. It is also noted that the time limit, as of the date of this hearing, was 60 days past.

³ The record does not indicate Appellant's Affidavit of Default was removed as was the Order for Default.

Following Respondent's Motion, Appellant filed Motions seeking to deny Respondent the ability to file an Initial Brief and for Respondent's case to be deemed by this Court as abandoned as a result of her default.

II. Whether Appellant's Motion that the Court Deny Respondent the Filing of his Initial Brief.

Appellant seeks to have Respondent denied reception of any brief which was to then be forthcoming based on her failure to file within the time limit established by the Rules.

Though the time limit for Respondent having submitted his Brief may be exceptional, the Rules indicate the time limits established are firmly fixed without prior Order of this Court. The Code and Rules already cited direct that while parties may move for an expansion of time, there will be no stay during the pendency of the decision. Here, Respondent neither filed her Motion or Brief within the time limit established by the cited Code and Rules. Thus, the deadline had passed.

"Upon failure of a respondent to timely file a brief, the appellate court may take such action as it deems proper." *Rule 208(a)(4) SCACR*. Where a party fails to timely file a brief, the failure allows the Court to, "take such action as it deems proper and such failure alone would justify reversal of Order." *Turner v. Santee Cement Carriers, Inc.*, 277 S.C. 91, 96, 282 S.E.2d 858, 860 (1981). A court sitting in appeals may, "address issues as presented in Appellant's brief in case in which respondent's did not file brief with appellate court." *Durham v. United Cos. Fin. Corp.*, 326 S.C. 403, 404, 483 S.E.2d 786 (Ct.App.1997).

The Respondent failed to timely file her brief in this appeal which sees the Court having all authority necessary to take such action as it deems proper. Eleven days following the hearing on this matter, Respondent filed his Statement of Issues on Appeal and Initial Brief. As these documents were submitted beyond the time limit established by the Rules, this Court exercises its authority so as to disregard the filing of those instruments and direct the Clerk of Court to withdraw its filing of said instruments in an appropriate manner. In addition, the Clerk's original Order of Default should be reinstated.

III. Whether the Court Should Consider Respondent as Having Abandoned the Matter.

Appellant urges the Court to treat Respondent as though she has abandoned her defense. Appellant's primary argument is that Respondent has disregarded the Rules and, as of this hearing, done nothing to demonstrate a defense against this appeal other than be present at the hearing. In further support, Appellant ask, rhetorically: *Why do the Rules exist if they are not to be followed?*

Based on the above referenced citations, it is clear this Court has authority to reverse the Order of the lower court, but doing so is not justified in every case. *Turner v Santee Cement Carries, Inc.* Here Respondent disregarded her duties to timely file either a Motion for Expansion or her Initial Brief. The undisputed timeline of the case illustrates Respondent did not file her Initial Brief until 72 days after her time limit had passed. Not only, but her Motion included her assertion of confident assumption that Appellant would be prepared to consent to the requested expansion. The Appellant Court Rules, however, do not permit the parties to agree to an expansion. *Rule 263(b)*. Even if the

Rules did permit such, Appellant had twice indicated, in instruments properly filed, his protest of the proposed expansion.

The Brief, though eventually filed, was not available to the Court at the hearing. It is noteworthy that the hearing was sought by Respondent as such Motions are generally decided without oral arguments. Rule 240(b) SCACR. Submission of the Brief prior to the hearing might have been received as a good faith gesture on behalf of Respondent. This gesture would not have permitted the Court to accept the instrument as such is precluded by the Rules, but it would have demonstrated a commitment by Respondent to defend her Order. The Brief, however, did not appear until the eleventh day following the hearing.

Not only was the Brief not filed prior to the hearing, but in oral arguments, Respondent's counsel argued that there existed in the transcript omissions of significance. Though the very short transcript was reviewed during the hearing, Respondent's counsel could not identify with verifiable specificity the shortcomings to which he was referring.⁴ These factors indicate a lack of knowledge or application of the facts, and applicable code and Rules through insufficient filings and a lack of preparation for hearings. These factors are also apparent in the record which led to the Order which is appealed.

The Petition which led to the Order being appealed included no allegation of fact demonstrating Respondent was entitled to relief; and as to this reasonable minds cannot differ. Rule 8(a), SCRPC. Additionally, the file fails to demonstrate any foundation for Respondent's standing. There exists no allegation of fact, no foundation of an agency relationship, nor any other indication of just how Appellant's ex-wife has standing to seek his replacement as Personal Representative. Such elements are necessary to establish a party's standing and, therefore, a court's jurisdiction - these too provide no room for reasonable minds to differ. Rule 17(a) SCRPC.

Taken together, Respondent has, from the very start of the action which leads to this Order, Respondent has repeatedly disregarded or violated Rules of procedure and the South Carolina Probate Code. But by some stroke of her good fortune, and nothing founded in law or procedure, Respondent has been permitted to expose the opposing party to unnecessary cost, delays and frustrations as she seeks relief a Court has no authority to grant. In contrast, Appellant appears to have been timely and well-grounded in law and procedure as to all filings.

As a result of all the above listed factors, this Court does rely upon Respondent's failure to timely file his Initial Brief as justification to reverse the lower Court's ruling.

The lower Court's ruling is herewith reversed and remanded with instructions for the Probate Court of Darlington County to enter an Order granting Appellant's Motions and also permitting such post-trial and subsequent actions as Appellant would have a right to promote.

⁴ The transcript was sent to the court and was an element of the file available both to Respondent and the Court prior to the hearing.

_____, 2020
Darlington, SC

Honorable Roger E. Henderson



Darlington Common Pleas

Case Caption: Rodney Brock Hopkins VS Mary Uptagrafft , defendant, et al
Case Number: 2019CP1600634
Type: Order/Other

So Ordered

s/Roger E. Henderson 2754

STATE OF SOUTH CAROLINA

PROBATE COURT

DARLINGTON COUNTY

CASE NO. 2017-ES-16-00433

- - -

IN THE MATTER OF: :
 BROCKIE HOPKINS, JR. :
 (Decedent) :
 :
 MARY UPTAGRAFFT ON BEHALF OF :
 JOSHUA B. HOPKINS, JACOB T. :
 HOPKINS, JENSEN M. HOPKINS, :
 AND JOHANNA S. HOPKINS, :
 :
 Petitioners, :
 :
 vs. :
 :
 RODNEY BROCK HOPKINS, :
 :
 Respondent. :

COPY

HEARING BEFORE MARVIN I. LAWSON, PROBATE JUDGE

DATE TAKEN: Wednesday, December 12, 2018
 TIME BEGAN: 2:50 p.m.
 TIME ENDED: 3:07 p.m.
 LOCATION: Darlington County Courthouse
 Darlington, South Carolina
 REPORTED BY: Laura Chamblee, RPR
 Chamblee Reporting Service
 1117 Pinehurst Street
 Hartsville, South Carolina 29550
 843-917-4777

CHAMBLEE REPORTING SERVICE

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APPEARANCES:

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Sumter, South Carolina 29150
803-774-1004
Representing the Petitioners

THE CONNER LAW FIRM
BY: RICHARD E. CONNER, JR., ESQUIRE
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Representing the Respondent

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P R O C E E D I N G S :

THE COURT: Mr. Conner, be glad to hear from you.

MR. CONNER: Thank you, Your Honor. This is the matter of the Estate of Brockie Hopkins, Mary Uptagrafft, if I may say, et al, Petitioners, versus Rodney Brock Hopkins, Respondent.

Your Honor, Brockie Hopkins died in September of 2016. In October of 2016 Mr. Rodney Hopkins, my client, made application for appointment as personal representative of what he believed to be an intestate estate.

Sometime thereafter, Ms. Uptagrafft, who is the former spouse of Rodney Brock Hopkins, submitted a petition for formal appointment and testacy. Following that, there was submitted on Ms. Uptagrafft's behalf, or by her, a petition for removal of the personal representative.

On the form that was submitted, and this was the 6th of December it was filed, 2017, there is the assertion that the personal representative mismanaged the estate, has failed to perform duties, has committed fraud, misrepresentation, and misappropriation of funds. Within that or outside of that, there are no other facts

1 asserted.

2 The answer that we submitted, Your Honor,
3 stated, first, an assertion that Ms. Uptagrafft
4 did not have standing to sue. And in reliance
5 upon that, we are using Rule 17 of South Carolina
6 Rules of Civil Procedure which says that every
7 action shall be prosecuted in the name of the real
8 party in interest. And there are provisions for a
9 minor. I would assert that Johanna S. Hopkins is
10 a minor. All other children of the two are adults
11 at this point.

12 There's been no power of attorney asserted or
13 provided indicating that Joshua, Jacob, or Jensen
14 Hopkins are formally represented by
15 Ms. Uptagrafft. There's been no effort, since
16 these pleadings, for them to ratify this as far as
17 I'm aware. So apparently Ms. Uptagrafft has said,
18 essentially, this is something she wants to do for
19 these adult children of hers.

20 As it relates to her child, according to the
21 Code 17(C), a fiduciary needs to be appointed.
22 Now whether that be a Guardian ad Litem or whether
23 it be recognized she is their guardian, there
24 would need to be somebody, according to the rules,
25 in a fiduciary capacity. I have a copy of those

1 if the Court would like.

2 THE COURT: Well, that would help me.

3 MR. CONNER: Okay.

4 THE COURT: I won't have to go, as we say, go
5 digging somewhere. Thank you, sir.

6 MR. CONNER: Now, in addition, there was
7 included within the answer and counterclaim and
8 motions that there was a failure in the pleadings.

9 Now, according to Rule 8 of the South
10 Carolina Rules of Civil Procedure, every complaint
11 has got to have a short, plain statement of facts
12 showing that the pleader is entitled to relief.

13 Again, we believe that Ms. Uptagrafft really
14 has no relief to which she deserving, first of
15 all. If I may give the Court a copy --

16 THE COURT: Please.

17 MR. CONNER: -- there were no facts asserted.
18 There were just legal conclusions alleged in this
19 second pleading.

20 In addition to this, and explicitly
21 referenced, is Rule 12(C) where we're seeking a
22 motion on the pleadings based on ruled 12(B)(6),
23 among others. 12(B)(6) asserts there is a failure
24 to state facts sufficient to constitute a cause of
25 action. It's our position that no facts were

1 asserted, simply allegations and legal
2 conclusions. I have these for the court.

3 Finally, Your Honor, we've asked the Court to
4 consider that the Petitioner in this matter,
5 Ms. Uptagrafft, pay the cost of fees, fees
6 associated with this action, as it would seem to
7 be that this has just been an unnecessary expense
8 of the estate.

9 That's it, Your Honor.

10 THE COURT: Thank you, sir. Mr. Keffer.

11 MR. KEFFER: Yes, sir. It's pronounced
12 KEF-FER.

13 THE COURT: I'm sorry.

14 MR. KEFFER: That's all right.

15 THE COURT: It's a wonder I haven't called it
16 worse, knowing me.

17 MR. KEFFER: It's been called worse.

18 Judge, on behalf of my client,
19 Ms. Uptagrafft, we had filed a petition back in
20 March--I believe the Court has a copy of it--March
21 2017. We had provided the Court with what we
22 thought was the original Last Will and Testament.
23 I believe that is filed with the Court. Counsel
24 has a copy of same.

25 That will -- Our position is that will was

1 executed back on June 20, 2006. It does have the
2 requisite two witnesses; it is notarized. We
3 moved in March 21, 2017, to have that will
4 probated.

5 Now, at the time we had filed that, we had
6 provided counsel a copy of that petition. And
7 counsel had filed an answer and counterclaim. We
8 had received an inventory and accounting from
9 counsel. And the Court provided that to my
10 client.

11 But what had occurred was that the personal
12 representative, Mr. Hopkins, was involved in an
13 accident and totaled his truck. It was a 2003
14 Tacoma. What ultimately led my client to come
15 into my office was the fact that she felt that
16 that was the father's truck, possibly inherited
17 property, and here's the will, and let's start
18 looking into this.

19 Well, we filed our petition, hadn't had a
20 court date. I believe the court date was
21 continued at some point. About a year ago, after
22 reviewing the inventory and appraisal, we had
23 filed a petition to have him removed as PR.

24 And, Judge, if we look at what's been filed
25 with this Court as an accounting, which was dated

1 April 2018 of this year, you can see how she would
2 have some concern. If I can approach the bench
3 with this.

4 THE COURT: Yes, sir.

5 MR. KEFFER: Judge, I draw the Court's
6 attention to page two of that accounting where you
7 see within ten days of this father passing away,
8 Mr. Hopkins liquidated \$1200-plus from his
9 father's account. He has, every month, has
10 consistently paid his cell phone, insurance,
11 utilities. And it's all documented on there. In
12 addition, he has provided his attorney with over
13 \$4,000 of fees knowing that this whole estate was
14 contested.

15 There was never a petition to pay fees or
16 anything pursuant to the Probate Court statute
17 when we have a contested estate. He has paid his
18 attorney over \$4,000 in fees. And interestingly
19 enough, \$2500 of those fees came after we
20 petitioned, within a week of us petitioning to
21 have him removed as personal representative.

22 So, Judge, we do have some concerns about how
23 Mr. Hopkins, certainly not counsel, but how
24 Mr. Hopkins is handling this estate, what bills
25 he's paying, and whether or not he's doing what he

1 can to preserve to what we feel is for the benefit
2 of the grandchildren as outlined in the will that
3 we contest -- our position is that we contest is
4 valid.

5 I want to be clear with the Court and I want
6 to be clear with counsel. In no way am I saying
7 counsel did anything wrong or knowingly did any of
8 that. All I'm saying is what we've provided you,
9 what's been filed in this court, in and of itself
10 shows a concern how this estate is being
11 administered when you have a personnel
12 representative, who hasn't even been appointed
13 yet, withdraws \$1,200 from an estate account, from
14 his father's account. We have no idea how that
15 money was spent.

16 Looking at what's been provided to the Court
17 and filed as an accounting, it looks like he's
18 paying his personal expenses every month. So
19 that's kind of the concern that Ms. Uptagrafft
20 has. So we're asking the Court to consider that
21 as our response.

22 As it pertains to the will, we'll have to
23 handle that at a later date, but that would be our
24 response to counselor's petition for summary
25 judgment.

1 THE COURT: All right. Mr. Conner, anything
2 else?

3 MR. CONNER: Yes, sir. With respect to Mr.
4 Keffer, it seems like he's using a bunch of
5 allegations to get into the courtroom and
6 bootstrap in a bunch of concerns that might have
7 been approached in a manner that procedure would
8 embrace a bit more fully.

9 It's true, an accounting had been submitted.
10 It's a matter of public record. I do believe that
11 we sent a copy of that to Mr. Keffer earlier.
12 There are mechanisms by which an interested party
13 can seek more information. That's not what we
14 have here, Your Honor. We've got an assertion of
15 misappropriation of funds. We've got an assertion
16 of fraud. And we've got an assertion that he
17 wasn't doing his duties.

18 Even if that's all true, there's no facts
19 upon which these assertions were based. There's
20 been over a year for these pleadings to be
21 augmented.

22 Not only -- Mr. Keffer was not able to speak
23 to how Ms. Uptagrafft has any standing in this
24 matter. Again, there's been almost to the day a
25 year to augment this. If she's got the legal

1 authority to represent her adult children, or even
2 her minor in child in this, there was a year to
3 provide all this to the court.

4 We had to get all dressed up to come here
5 today based on a bunch of allegations to which
6 there are no facts asserted. For that reason,
7 Your Honor, we believe this was a waste of time.
8 We ask for a judgment on the pleadings. And I
9 will ask the Court to take note of the fact that
10 we ask for judgment on the pleadings. The
11 pleadings themselves speak.

12 Petitioner's pleadings indicated several
13 assertions, several allegations, but no facts.
14 Our response was there were no facts. We believe
15 the law, as a matter of law, should see that those
16 be withdrawn as a matter of summary judgment.

17 THE COURT: Thank you, Mr. Conner.

18 MR. KEFFER: Judge, I'll be as brief as I
19 can. As far as standing, I believe Ms. Uptagrafft
20 does have standing when we're talking about her
21 minor children, which our position is are
22 beneficiaries under the will that we propose is
23 valid.

24 As far as any facts substantiating our
25 claims, we'll let the accounting that was filed by

1 Mr. Hopkins in April of this year speak to the
2 facts we have just laid out, specifically based on
3 documents that he filed, Mr. Hopkins filed.

4 I haven't heard one justification as to why
5 \$1,200 was taken. I haven't heard a justification
6 why his utilities are being paid. I haven't heard
7 a justification as to why his personal expenses --
8 why he's bankrolling his personal expenses.

9 I understand all attorneys need to get paid
10 and whatnot, but I find it ironic that this is the
11 first court date we come to and the estate has
12 paid counselor over \$4,000, \$2,500 of which was
13 paid right after we filed our petition. We filed
14 our petition in January, and two weeks later --

15 (Interruption in proceedings.)

16 THE COURT: You go right ahead. I'm so
17 sorry.

18 MR. KEFFER: I'm going to stop there. I
19 think what's in the record as provided by
20 Mr. Hopkins shows something is not adding up right
21 and is going to cause the Court some concern as to
22 what and how this money is being spent, because,
23 again, that document has been filed, it's
24 certainly been questioned, and there's no
25 justification for Mr. Hopkins as to why those

1 expenses are there.

2 THE COURT: All right. Anything further,
3 Mr. Conner?

4 MR. CONNER: Your Honor, it's a little bit of
5 a rehash and I will try to make it quick. Mr.
6 Keffer asserts he's received no justification for
7 this, that, and the other. It's true. None was
8 ever asked. This was an action based on
9 conclusions of law, no allegations of fact. And
10 that's the foundation of our answer and our motion
11 today.

12 THE COURT: Thank you so much.

13 Gentlemen, I'll try to let you all know
14 something by 12:00 o'clock on Friday. I was about
15 to say tomorrow, but now that might be a little
16 quick for me. Need to look at a few things. I
17 will let you know something by Friday at
18 12:00 o'clock. I appreciate so much your time.

19 How you are going to explain this to your
20 respective clients in the hall is up to you all.
21 And thank you so very much.

22 (Proceedings concluded at 3:07 p.m.)

23

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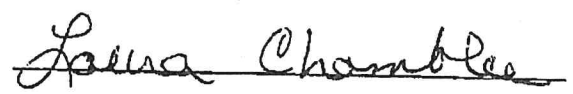
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REPORTER'S CERTIFICATE

SOUTH CAROLINA, DARLINGTON COUNTY:

I, LAURA CHAMBLEE, serving as Certified Court Reporter in the within stated matter, do hereby certify that the foregoing 14 pages of typewritten matter constitute a true, correct, and complete transcript of the evidence as adduced upon the hearing in said case.

This the 15th day of July 2019.



LAURA CHAMBLEE,
Registered Professional Reporter
Notary Public in and for SC
My Commission expires:
September 27, 2028

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 14, 2019

/s/ Richard E. Conner, Jr.
Richard E. Conner, Jr.
The Conner Law Firm
115 Cargill Way, Suite C-2
Hartsville, South Carolina 29550
(843) 332-1678
Attorney for Appellant

State of South Carolina)
)
County of Darlington)

In Circuit Court of the
Fourth Judicial Circuit
2019-CP-16-00634

IN THE MATTER OF:)
ESTATE OF BROCKIE HOPKINS, JR.)
(Decedent))
)
RODNEY BROCK HOPKINS,)
)
Appellant,)
)
vs.)
)
MARY UPTAGRAFFT ON BEHALF OF)
JOSHUA B. HOPKINS, JACOB T.)
HOPKINS, JENSEN M. HOPKINS,)
& JOHANNA S. HOPKINS,)
)
Respondent.)
)
_____)

Transcript of Record

Darlington, South Carolina
November 14, 2019

B E F O R E:

The Honorable Roger E. Henderson

A P P E A R A N C E S:

Mr. Richard E. Conner, Jr. Esquire
Attorney for Plaintiff

Mr. John S. Keffer, Esquire
Attorney for Defendant

Lisa Carter
Circuit Court Reporter

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WITNESSES

PAGE

(NO WITNESSES INTRODUCED DURING HEARING)

(NO EXHIBITS INTRODUCED DURING HEARING)

1 THE COURT: All right. Mr. Conner?

2 MR. CONNER: Yes, Your Honor. May it please, the
3 court? I think the first thing is in speaking with Mr.
4 Keffer, opposing counsel, is to a little bit of confusion
5 as to exactly why we're here, although, we'd admit through
6 the post office we should be here. We understand, and I
7 think was, arriving here this was on his motion for an
8 extension, in fact?

9 MR. KEFFER: And, judge, if I can clarify.

10 THE COURT: Yes, sir.

11 MR. KEFFER: Initially, this motion was heard at the
12 probate court level by Judge Lawson back in December of
13 last year. We did not receive an order from Judge Lawson
14 until May or June of this year. At which time, Mr. Conner
15 had filed an appeal. That appeal, the record on appeal,
16 designation of matter. He had filed his initial brief
17 sometime in the summer. And in response we had filed a
18 motion to extend the time to a file our initial brief.
19 That was filed and it was e-filed, looks like, on September
20 20, 2019 of this year.

21 Now, I will tell the court that initially I was
22 unaware that Darlington was an e-file court and we had
23 mailed those, that motion to the court and they had sent
24 them back to us and we immediately had e-filed it.
25 Subsequent to that motion being filed, I understand Mr.

1 Conner had filed or there was a motion or an entry for a
2 default filed a month later. To my knowledge both of those
3 motions are pending before the court. I'm happy to go into
4 my motion to extend time. I think it would clarify a lot
5 of things.

6 Judge, at the time of this appeal, I had numerous
7 federal court cases. I'm a sole practitioner. I had a lot
8 going on in my office. I was asking for some time. I had
9 expressed to Mr. Conner today in reviewing the record on
10 appeal, his initial brief, designation of matter or whatnot
11 and the transcript, I felt comfortable telling the court
12 today that I could have my initial reply brief to the court
13 filed no later than the end of this month. I'm not asking
14 for 30 days or anything. I really think a week will do it.
15 So that's the substance of my motion. I'm asking the court
16 to grant me another 10 days to get my initial brief in.
17 Then come back in the court's discretion either oral argue
18 those or rely on the briefs or however this court would
19 allow or entertain that appeal. That's the substance of my
20 motion to extend time. And, again judge, I apologize I was
21 not aware that Darlington was like Sumter, an e-filing
22 court, and so we had mailed it in. They sent it back to us
23 and we immediately had e-filed it. And I say that only
24 because I believe the e-filed date is a few days past the
25 30 days to file our initial brief. So I'm informing the

1 court -- that's why I'm telling the court that. So with
2 all due respect I'm asking the court to grant me 10 days to
3 file this initial reply brief and allow this appeal to move
4 forward.

5 THE COURT: Mr. Conner?

6 MR. CONNER: Thank you, Your Honor. I guess, first
7 of all I should say - and I have for Mr. Keffer as well -
8 my interaction with him really have been most pleasant and
9 most professional albeit limited and nothing that I say or
10 do today I would hope would be construed as something that
11 is leveled against him individually.

12 If I may, however, Your Honor, I'd like to go over the
13 timeline I had in regard to the appeal. On 13th of June,
14 2019 the notice of intent of the appeal was filed, it was
15 filed by me, on behalf of my clients. A month later, the
16 15th of July, a statement of issues was filed. A month
17 later on the 14th of August a brief, the brief was filed
18 along with designation of matter, record on appeal,
19 certificate of service, and such all in which we believe
20 were properly filed both electronically as well as
21 chronologically. On the 13th of September, 2019 with our
22 calculation deadline for respondent's time to file this
23 brief. On the 18th, 5 days later a notice of appearance as
24 well as a motion to enlarge time was filed by Mr. Keffer.

25 Now, this motion, as I understand it, was retracted.

1 Also on the 18th, a response was filed by myself. On the
2 20th of September, 2 days later, um, 2 days following the
3 initial effort, a motion to enlarge time was re-filed by
4 Mr. Keffer, and apparently that was accepted by the clerk.
5 On the 23rd of September, 2019, 3 days later, another
6 response was filed by myself. A few days later the 7th of
7 October, an affidavit of default was filed. It was
8 retracted. Seven days later on the 14th of October, an
9 affidavit of default, a default was filed by me. It was
10 approved or accepted. On the 16th of October, an order of
11 default was filed and then retracted with a hearing on the
12 motion before it expires. Here we are on the 14th of
13 November, 2019 which by my calculation is 92 days after the
14 date for the deadline for the response brief to be filed.

15 Now, the probate court or the probate code has its own
16 rules for appeals. This court may be well aware to 62-1-
17 308 and I go and refer to sub (c), excuse me, (e) "which
18 states within 30 days after service of the appellant's
19 brief respondent shall serve one copy of his brief on all
20 parties to the appeal and file with the clerk a copy with
21 proof of service."

22 Now, even though I assume the legislature was trying
23 to help us out, these rules of procedure are rather limited
24 and don't cover everything so also assumed that we have to
25 rely on the rules of appellate procedure to augment

1 whatever depths are created there. And with that
2 assumption I rely on Rule 208 sub (4) "reverts to a failure
3 to file as it relates to respondent upon failure of
4 respondent to timely file a brief the appellate court may
5 take such action as it deem appropriate. I'll add, too,
6 that Rule 240 sub (b), referring to stay of time limits,
7 "Unless otherwise provided by these rules, or ordered by
8 the appellate court, the time limits imposed by these rules
9 shall not be stayed by the filing of a motion or petition.
10 A motion to dismiss an appeal or a motion to relieve
11 counsel shall, however, automatically stay.

12 So, Your Honor, what we have here it seems is that the
13 respondent is seeking to secure for itself an additional
14 100 days rather than 30. And -- well, the truth is that's
15 not good for my client and we would like to have that
16 motion denied, Your Honor. Our first preference is with
17 that the respondent's brief the matter would be stricken.
18 It's a defense it would appear to have been abandoned. But
19 certainly the matter of submission of a brief would appear
20 to have been abandoned which any additional grounds that
21 opposing party may have wanted to include in his defense to
22 have also been stricken by abandonment.

23 MR. KEFFER: Judge, just real briefly. Our
24 contention is, of course, is that our motion to extend the
25 time limit doesn't necessarily stay the course. I don't

1 believe that Rule 240, appellate court level rule, applies
2 here in this case. Certainly, when we file a motion to
3 extend we're advising everyone that we need some additional
4 time which is what we're asking for which is what we here
5 today for.

6 Judge, there's other reasons as well, for example,
7 counsel has submitted that he's filed the record on appeal
8 which we would submit would be quite impossible since there
9 hasn't been a reply brief filed. We have a lot of problems
10 directed on appeal that have been filed and e-filed with
11 the court, omissions and things that are, um, that were
12 spoken about last December in front of Judge Lawson and
13 exhibits that were given to the court that are not made
14 part of the record on appeal.

15 Judge, the practicality of this, it took the court
16 almost 6 months for whatever the reason to issue it's
17 order, I merely asking for 10 days. I told counsel I can
18 get this together and get it to him. I can get the
19 corrections and the additions I want in my record on
20 appeal. I don't think that granting the leave for 10 days
21 is gonna prejudiced, overly, prejudiced either of the
22 parties at this time. This is a probate court case. This
23 has to do with who's been appointed PR and whether or not a
24 will was valid. The motion for summary judgment was
25 denied. No motion for reconsider was made on that motion.

1 That motion for summary judgment it's literally four
2 sentences long, no more. It doesn't say a whole lot other
3 than the motion is denied. And I'm asking the court to
4 allow my client to file that initial reply brief and get
5 this properly before this court on counsel's appeal.

6 THE COURT: What about the fact that your motion
7 wasn't filed within 30 days, though?

8 MR. KEFFER: Well, judge, as counsel noted, and as I
9 previously stated, I do have documents that substantiate
10 that. We did send it to Darlington County initially. We
11 just didn't e-file and I did not know how to e-file. They
12 had processed it. Sent us back email. Sent all of our
13 documents back. And then immediately, I mean, immediately
14 we e-filed that.

15 THE COURT: What you mean you didn't know how to e-
16 file it?

17 MR. KEFFER: I was not aware that Darlington County
18 was an e-file County, judge, and that's my mistake ---

19 THE COURT: Isn't the burden on you to find that
20 out?

21 MR. KEFFER: It is, judge. And immediately I did
22 not look into it. We had mailed it. They sent it back.
23 And we had e-filed it upon immediate notice of that. And,
24 judge, that was just but for a few days. It's not like we
25 sat on that. Once we realized our mistake and that

1 Darlington was e-file county we immediately moved to
2 correct that.

3 MR. CONNER: Your Honor, if I may in quick response?
4 The respondent, the response brief was due on 13th of
5 September. It was after the deadline, as the court has
6 already noticed, that the motion to enlarge time was
7 actually submitted. Even the first effort electronically
8 was after the deadline.

9 Now, I suppose the arguments of opposing counsel leads
10 us to "what if". What if the brief had already been
11 submitted while a motion, a motions hearing was pending? I
12 think that would put my side in a pretty difficult position
13 to say why should the court reject the brief that was
14 submitted albeit late? But here we are 92 days after the
15 deadline and, Your Honor, it strikes me that the rules are
16 there for a reason and because it hasn't been followed, my
17 client would like some relief.

18 THE COURT: Okay.

19 MR. KEFFER: Judge, if I could -- if I could address
20 one comment counsel made? In my hand is the original
21 letter we sent on September 13th, not the 16th, if I can
22 offer this to the court. This is what we had sent out on
23 13th of September which was sent back to us. As soon as we
24 got back we e-filed it. If I can offer that to the court?
25 This is exactly what we had sent up. We did not send it on

1 the 15th or the 16th. It was not rejected on the 15th or
2 16th. We mailed that on the 13th.

3 Judge, again, we did not sit, we did file a motion.
4 And as soon as it was scheduled and I understand counsel
5 had default, affidavits gone back and forth, and there was
6 some confusion with the court, I don't think a week or 10
7 days that I'm asking for is all that much to hear this
8 matter on its merits and hear this appeal. But more
9 importantly to correct the record on appeals we feel has
10 numerous omissions on.

11 THE COURT: Okay. All right. I'm gonna have to
12 think about whether or not to give you leave to file that
13 since it was filed late. Do you want to go ahead and argue
14 your motion, Mr. Conner in the event that I deny his
15 request?

16 MR. CONNER: I'm sorry, what?

17 THE COURT: Do you want to go ahead and argue your
18 motion in the event I deny his request to extend the time?

19 MR. CONNER: Your Honor, the motion that we
20 submitted was a motion to dismiss the matter which would
21 include, lesser included relief from the refusal of the
22 court to accept the brief and any additional elements that
23 Mr. Keffer's client would like to argue from that might
24 otherwise be included in the brief. Your Honor, we've
25 got, as Mr. Keffer has pointed out, a four-line order.

1 Essentially, the order says this will be done because this
2 will be done. If the court has had the opportunity to read
3 through the transcript and read through the motions of this
4 foundations, or the lack of foundations, the law procedure
5 fact are significant and essential element of our appeal.

6 Your Honor, we've got a default with 92 days. It
7 would certainly appear that the matter had been abandoned
8 by the opposing party up to this point and for those
9 reasons we'd asked that the matter be, the defense be
10 stricken and the matter dismissed.

11 THE COURT: Okay. Mr. Keffer?

12 MR. KEFFER: Judge, in the event the court does not
13 grant our relief we would ask the court to, at least, amend
14 the record on appeal to include the entire transcript and
15 important exhibits that were entered into by counsel all of
16 which are omitted from the record. If we look at what's
17 been admitted as designation of matter and record on
18 appeal, bits and pieces of a thirty minute hearing with
19 Judge Lawson it's not the entire transcript. We'd want, of
20 course, we would want the entire transcript to be reviewed.
21 Judge, and more importantly, we would ask the court to
22 consider the inventory and appraisalment and accounting as
23 provided by counsel at that hearing which we believe was
24 the basis for this motion for summary judgment or, at
25 least, denying that motion at that time. Those two things

1 have been omitted for the record on appeal. And should the
2 court not allow us to explore that further in our initial
3 required brief we would ask the court to at least have a
4 clear record on appeal in deciding that.

5 Again, judge, we -- I understand the court's position
6 on e-file and all I can do is tell the court I was not
7 aware of it and tried to correct it as soon as I could. I
8 think the letter from our office and the fact that it was
9 sent back immediately and e-filed surely shows that we were
10 as diligent as we possibly could when we knew about it was
11 e-file. So we would ask the court to at least give an
12 extension to initially reply because this isn't exactly a
13 straight forward appeal and again we have some complaints
14 about what's actually been filed as the record on appeal.
15 We certainly contend that we did not abandon our claims or
16 abandon, I think the fact that we filed our motion
17 indicates that.

18 So again we would ask the court to allow us that time
19 but, if not, we'd ask the court to consider the entire
20 transcript, the inventory and appraisement, and accounting
21 that's provided by counsel which our position would be is
22 the basis for denial of the summary judgment which is not
23 included in the record on appeal.

24 THE COURT: Do you have the entire record?

25 MR. CONNER: Your Honor, my understanding as far as

1 the record on appeal it's, a fair amount of this, went to
2 the probate court, it's supposed to be forwarded to the
3 circuit court, in an appeal now. I have a copy of the
4 transcript -- this is the first instances of my -- I've not
5 heard about an issue with any of this until today. But I
6 do have a copy of the transcript and this is stamped by the
7 court reporter, Ms. Chamblee, who certifies that it's true
8 and accurate and complete but, if some elements - it is
9 relatively brief - if there's some element of that, that
10 somehow didn't make it then I'm certainly happy to -- I've
11 got no objection to it being augmented regardless of
12 whether the matter is dismissed in our favor or not.

13 I would add too, Your Honor, that this is the last,
14 the third page from the last of what we have submitted
15 includes the same statement, a copy of the same statement
16 by Ms. Chamblee, a 14 page transcript. But just briefly
17 running through it, Your Honor, it sure looks like there
18 were no skipped pages or anything on that level. So I'm
19 not entirely certain what omissions may be referred to but,
20 as I say, regardless of how the court might order today I'm
21 happy to augment with whatever seems to be missing.

22 THE COURT: All right, counsel, let me think about
23 this. I'll get back with you in the next couple of days.

24 MR. KEFFER: Okay. Thank you, Your Honor.

25 MR. CONNER: Thank you, Your Honor.

(CONCLUSION OF THE HEARING ON NOVEMBER 14, 2019)

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Keffer Law Firm

10 Law Range Sumter, SC 29150 • (803) 774-1004 • jkeffer@kefferlawfirm.com

September 13, 2019

Darlington County Court of Common Pleas
Clerk Of the Court
1 Public Square, Room B-4
Darlington, South Carolina 29532

RE: *Rodney Brock Hopkins, Jr., vs. Mary Uptagrafft, et al.*
Case No.: 2019-CP-16-00634

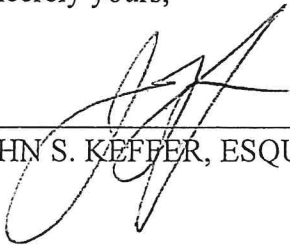
To Whom It May Concern:

Enclosed herewith you will please find a Motion to Extend Time Limit for Initial Brief along with two (2) copies to be filed with this Court, along with a Proof of Service along with two (2) copies, showing service on Appellant's Counsel.

Upon receipt of this letter if you could please return the filed Motion to Extend Time Limit for Initial Brief and Proof of Service in the self-addressed postage pre-paid envelope that I have enclosed, to my office. If you have any questions or concerns, please do not hesitate to contact my office.

With kindest regards, I am

Sincerely yours,



JOHN S. KEFFER, ESQUIRE

JSK/ack
Enclosure

THE STATE OF SOUTH CAROLINA
In The Circuit Court

APPEAL FROM DARLINGTON COUNTY
Probate Court

Honorable Marvin I. Lawson, Probate Court Judge

Case No.: 2019-CP-16-00634
Probate No.: 2017-ES-16-00433


Rodney Brock Hopkins, as
Personal Representative of the
Estate of Brockie Hopkins, Jr.....Appellant.

vs.

Mary Uptagrafft on Behalf of
Joshua B. Hopkins, Jacob T. Hopkins,
Jensen M. Hopkins, & Johanna S. Hopkins.....Respondent.

MOTION TO EXTEND TIME LIMIT TO FILE INITIAL BRIEF

Pursuant to Rule 240, SCACR, Respondent requests an extension of time, in the amount of thirty (30) days, to file the Initial Brief in this matter. Counsel for the Respondent would request this extension to allow more time to properly prepare the brief due to the number of days out of the office for court proceedings this past month. Counsel for the Respondent does not believe that the Appellant would object to this request.



JOHN S. KEEFER, ESQUIRE
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ATTORNEY FOR RESPONDENT

September 13, 2019

THE STATE OF SOUTH CAROLINA
In The Circuit Court

APPEAL FROM DARLINGTON COUNTY
Probate Court

Honorable Marvin I. Lawson, Probate Court Judge

Case No.: 2019-CP-16-00634
Probate No.: 2017-ES-16-00433

Rodney Brock Hopkins, as
Personal Representative of the
Estate of Brockie Hopkins, Jr.....Appellant.

vs.

Mary Uptagrafft on Behalf of
Joshua B. Hopkins, Jacob T. Hopkins,
Jensen M. Hopkins, & Johanna S. Hopkins.....Respondent.

PROOF OF SERVICE

I hereby certify that on the 13th day of September, 2019, I served by placing in the U. S.

Mail, postage prepaid, upon the persons named below at the addresses below a copy of :

Motion to Extend Time Limit of Initial Brief

These documents are pertaining to the above-referenced action.

Richard E. Conner, Jr.
The Conner Law Firm
115 Cargill Way, Suite C-2
Hartsville, South Carolina 29550

September 13, 2019



JOHN S. KEFFER, ESQUIRE
S.C. Bar No.: 67910
10 Law Range
Sumter, South Carolina 29150
Tele: (803) 774-1004

BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In The Circuit Court

APPEAL FROM DARLINGTON COUNTY
Probate Court

Marvin I. Lawson, Probate Judge

Case No. 2019-CP-16-00634
Probate Case No. 2016-ES-16-00433

Rodney Brock Hopkins, as
Personal Representative of the
Estate of Brockie Hopkins, Jr. Appellant,

v.

Mary Uptagrafft on Behalf of
Joshua B. Hopkins, Jacob T.
Hopkins, Jensen M. Hopkins,
& Johanna S. Hopkins Respondents.

INITIAL BRIEF OF APPELLANT

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BY PLEADING OR MOTION--MOTION FOR JUDGMENT ON PLEADINGS9

STATEMENT OF ISSUES ON APPEAL

1. ALL ISSUES ON APPEAL WERE PRESERVED FOR REVIEW BY THIS COURT
2. WHETHER UPTAGRAFFT HAD STANDING TO SUE IN HER INDIVIDUAL CAPACITY WHEN UPTAGRAFFT IS NEITHER AN HEIR OF DECEDENT NOR A BENEFICIARY OF DECEDENT.
3. WHETHER UPTAGRAFFT HAD STANDING TO SUE IN A REPRESENTATIVE CAPACITY WHEN UPTAGRAFFT ALLEGED NO AUTHORITY UPON WHICH TO ACT ON BEHALF OF OTHER NAMED PARTIES.
4. WHETHER UPTAGRAFFT, WITHOUT MAKING ANY STATEMENT OF FACTS, SUBMITTED PLEADINGS SUFFICIENT TO SUPPORT ANY OF HER CAUSES OF ACTION:
 - a. CLAIM OF FRAUD;
 - b. CLAIM OF MISREPRESENTATION; AND
 - c. CLAIM MISAPPROPRIATION OF ASSETS.
5. WHETHER THE TRIAL COURT ERRED IN FAILING TO RULE IN FAVOR OF AND GRANT HOPKINS' REQUEST FOR JUDGMENT ON THE PLEADINGS.
6. WHETHER THE TRIAL COURT ERRED IN FAILING TO RULE IN FAVOR OF AND GRANT HOPKINS'S REQUEST FOR SUMMARY JUDGMENT.

STATEMENT OF THE CASE

On April 19, 2017 a Petition for formal Testacy and Appointment was submitted to Darlington County probate by the Respondent (Uptagraff). Appellant (Hopkins) responded to said Petition on June 28, 2017 with his Answer and Counterclaim. On August 21, 2017, Respondent submitted Reply to Answer and Counterclaim. No hearing has been held for this Petition.

On December 6, 2017, Uptagraff filed an additional Petition (Second Petition)¹. This Petition sought Removal of Personal Representative claiming “fraud, misrepresentation, and misappropriation of assets.”²

On February 8, 2018 Hopkins submitted his Answer, Motion, and Counterclaim, which submissions were amend on February 9, 2018. Hopkins’ Motions and Counterclaims were based on his assertions that Uptagraff lacked standing due to her being not an heir or possible beneficiary of decedent’s estate, was without authority to bind the other listed parties, failure to allege any facts upon which relief might be granted and sought Judgment on the Pleadings or, in the alternative, Summary Judgment. In addition, Hopkins sought award of attorney fees and a finding of Abuse of Process. A bench trial took place December 12, 2018 before the Honorable Marvin I. Lawson, Judge of Probate for Darlington County on Hopkins’ Motions and Counterclaims as to Uptagraff’s second petition. The Court issued its Order on May 31, 2019 denying the entirety of Hopkins’s Motions and Counterclaims without there being any findings of facts.

On June 10, 2019, Hopkins served the Notice of Appeal on Uptagraff.

¹ This petition was not styled as an amended petition and no motion for amending her petition was associated with this filing.

² Uptagraff v. Hopkins, Darlington County Probate Case No. 2016-ES-16-00433, Petition for Removal of Personal Representative, filed 6 December 2017

STANDARD OF REVIEW

The **standard of review** applicable to cases originating in the probate court is controlled by, “whether the underlying cause of action is at **law** or in **equity**. *Howard v. Mutz*, 315 S.C. 356, 361–62, 434 S.E.2d 254, 257–58 (1993) (noting the circuit court may not disturb the probate court's findings of fact on **appeal** in an action at **law** unless there is no evidence to support them as compared to an **equitable** action in which the circuit court may make factual findings according to its own view of the preponderance of evidence).”³ In this matter, the foundation for the Motions was based on law with the Order having included no findings upon which to support the Order.

³ *IN RE THAMES*, 344 S.C. 564, 569, 544 S.E.2d 854 (2001)

ARGUMENTS

I. WHETHER UPTAGRAFFT HAD STANDING TO SUE IN HER INDIVIDUAL CAPACITY WHEN UPTAGRAFFT IS NEITHER AN HEIR OF DECEDENT NOR A BENEFICIARY OF DECEDENT.

Mary Uptagrafft's first petition, a petition for formal testacy and appointment filed 19 April 2017, was styled as "*Mary Uptagrafft on behalf of Joshua B. Hopkins, Jacob T. Hopkins, Jenson M. Hopkins and Johanna S. Hopkins.*"⁴ Within the petition Mary Uptagrafft alleged Joshua B. Hopkins, Jacob T. Hopkins, Jenson M. Hopkins and Johanna S. Hopkins were heirs and beneficiaries of the decedent. As there is nothing in the record which indicates otherwise, Petitioner did not allege she was either an heir or beneficiary of decedent's estate.

Rule 17(a) of the South Carolina Rules of Civil Procedure requires that, every action shall be prosecuted in the name of the real party in interest.

A fundamental prerequisite to institute an action is the requirement that the plaintiff have standing, *Blandon v. Coleman*, 285 S.C. 472, 330 S.E.2d 298 (1985). Standing is defined as "a personal stake in the subject matter of a lawsuit." *Sea Pines Ass'n for the Prot. Of Wildlife, Inc. v. S.C. Dep't of Natural Res.*, 345 S.C. 594, 600, 550 S.E.2d 287, 291 (2001) (citing *Charleston Cnty. Sch. Dist. v. Charleston Cnty. Election Comm'n*, 336 S.C. 174, 519 S.E.2d 567 (1999)). The United States Supreme Court has set forth the "irreducible constitutional minimum of standing," which consists of three elements: (1) the plaintiff must have suffered an "injury in fact;" (2) there must be a causal connection

⁴ Uptagrafft v. Hopkins, Darlington County Probate Case No. 2016-ES-16-00433, Petition for Formal Testacy and Appointment, filed 19 April 2017.

between the injury and the conduct complained of; and (3) it must be likely, as opposed to merely speculative, that the injury will be “redressed by a favorable decision.” *Sea Pines Ass’n for Prot. of Wildlife, Inc.*, 345 S.C. at 601, 550 S.E.2d at 291(internal citations omitted) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559–61, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992)). A party seeking to establish standing carries the burden of demonstrating each element. *Id.* (citing *Lujan*, 504 U.S. at 561, 112 S.Ct. 2130).⁵

By failing to allege she had suffered an injury, that there was a causal connection between an injury and the causes of action asserted (there was not conduct complained of) and because Petitioner did not allege an injury, there is no likelihood that a favorable decision can redress an injury. As a result, Petitioner did not demonstrate she had a personal stake in the subject matter of the action. Therefore, Petitioner did not have standing to sue in her individual capacity.

II. WHETHER UPTAGRAFFT HAD STANDING TO SUE IN A REPRESENTATIVE CAPACITY WHEN UPTAGRAFFT ALLEGED NO AUTHORITY UPON WHICH TO ACT ON BEHALF OF OTHER NAMED PARTIES.

Rule 17(a) of the South Carolina Rules of Civil Procedure holds that: Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action is

⁵ *Joseph v. South Carolina Dept. of Labor, Licensing and Regulation*, 417 S.C. 436, 770, 790 S.E.2d 763 (2016)

brought; and when a statute so provides, an action for the use or benefit of another shall be brought in the name of the State.

In this matter the record does not include any allegation that Petitioner enjoyed any statutory authority for her petitioning the court on behalf of another. In addition to the argument in I, above, with particular reliance upon the burden of proving each element as status as a party in interest, Hopkins also approached the trial court comprehending that unless a party promptly challenges the opposing party's status as a real party in interest, such a challenge is waived. *Bardoon Props., NV v. Eidolon Corp.*, 326 S.C. 166, 169, 485 S.E.2d 371, 373 (1997) (“A challenge to a party's status as real party in interest must be made promptly or the court may conclude the point has been waived.”)⁶

Petitioner offered no evidence of her standing as a party in interest either in her individual capacity or in some statutorily authorized representative capacity. In addition, Hopkins sought to timely challenge Uptagrafft's status.

- III. WHETHER UPTAGRAFFT, WITHOUT MAKING ANY STATEMENT OF FACTS, SUBMITTED PLEADINGS SUFFICIENT TO SUPPORT ANY OF HER CAUSES OF ACTION:
- a. CLAIM OF FRAUD;
 - b. CLAIM OF MISREPRESENTATION; AND
 - c. CLAIM MISAPPROPRIATION OF ASSETS

Rule 8(a) of the South Carolina Rules of Civil Procedure establish that “A pleading which sets forth a cause of action, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds including facts and statutes upon which the court's jurisdiction depends, unless the court already

⁶ *Bryson v. Bryson*, 378 S.C. 502, 510, 662 S.E. 2d 611 (2008)

has jurisdiction to support it, (2) a short and plain statement of the facts showing that the pleader is entitled to relief, and (3) a prayer or demand for judgment for the relief to which he deems himself entitled.”

Here, Uptagrafft submitted her second petition for removal of Hopkins as Personal Representative based on, “fraud, misrepresentations and misappropriation of assets.” Within this argument the question whether Uptagrafft had standing in any capacity is unnecessary. Rule 8(a)(2) requires a short plain statement of the facts showing that the pleader is entitled to relief. Here, Uptagrafft provided no statement of facts. Rather, she simply alleged causes of action and sought remedy.

“It is elementary that the principal purpose of pleadings is to inform the pleader's adversary of legal and factual positions which he will be required to meet on trial.” *S.C. Nat'l Bank v. Joyner*, 289 S.C. 382, 387, 346 S.E.2d 329, 332 (Ct.App.1986); *see also Langston v. Niles*, 265 S.C. 445, 455, 219 S.E.2d 829, 833 (1975) (“The purpose of pleadings is to place the adversary on notice as to what the issues are.”).⁷ By failing to allege any facts, Uptagrafft sought to deny Hopkins the means by which to inform him of her legal and factual position and permit him a reasonable opportunity to defend against them. In addition, Rule 9(b) requires that, “In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.” Again, Uptagrafft provided no allegation of fact upon which her causes of action were based or relief sought might be granted and, therefore, failed to state facts sufficient to

⁷ *Shirley's Iron Works, Inc. v. City of Union*, 403 S.C. 560, 574, 743 S.E.2d 778 (2013)

constitute a cause of action under Rule 12(b)(6).

Because Uptagrafft failed to allege any facts in support of her causes of action or relief south, the trial court erred in denying Appellant's motions.

IV. WHETHER THE TRIAL COURT ERRED IN FAILING TO RULE IN FAVOR OF AND GRANT HOPKINS' REQUEST FOR JUDGMENT ON THE PLEADINGS.

Appellant incorporates by reference all facts and arguments presented heretofore and believes the court erred in refusing Hopkins' motion for judgment on the pleadings under Rules 12(b)(6) and (c) of the South Carolina Rules of Civil Procedure. "Any party may move for a judgment on the pleadings under Rule 12(c), SCRCP. When considering such motion, the court must regard all properly pleaded factual allegations as admitted. *Russell v. City of Columbia*, 305 S.C. 86, 406 S.E.2d 338 (1991). On review of the motion, the court may not consider matters outside the pleadings. *Firemen's Ins. Co. v. Cincinnati Ins. Co.*, 302 S.C. 234, 394 S.E.2d 855 (Ct.App.1990). A judgment on the pleadings against the plaintiff is not proper if there is an issue of fact raised by the complaint which, if resolved in favor of the plaintiff, would entitle him to judgment.... When a fact is well pleaded, any inference of law or conclusions of fact that may properly arise therefrom are to be regarded as embraced in the averment. Moreover, a complaint is sufficient if it states any cause of action or it appears that the plaintiff is entitled to any relief whatsoever. Our courts have held that pleadings in a case should be construed liberally so that substantial justice is done between the parties. *Russell*, 305 S.C. at 89, 406 S.E.2d at

matter of law.” *Sloan v. Dep't of Transp.*, 379 S.C. 160, 167, 666 S.E.2d 236, 239 (2008).

All evidence, and inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Zurcher v. Bilton*, 379 S.C. 132, 135, 666 S.E.2d 224, 226 (2008). “However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” *Rife v. Hitachi Constr. Mach. Ltd.*, 363 S.C. 209, 214, 609 S.E.2d 565, 568 (Ct.App.2005).⁹

In this matter, Uptagrafft failed to plead any facts and her second petition makes this assertion as being plain, palpable and indisputable. While the trial court should, under these circumstances, view any evidence in the light most favorable to Uptagrafft, she provided none upon which a favorable light might be cast. As a result, Hopkins believes the trial court erred by not granting his motion for summary judgment.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the probate court and remand the remaining elements of Hopkins’ Motions and Counterclaims to the Probate Court.

August 14, 2019

Respectfully submitted,
/s/ Richard E. Conner, Jr.
The Conner Law Firm
S.C. Bar No. 69367
115 Cargill Way, Suite C-2
Hartsville, South Carolina 29550
(843) 332-1678
Attorney for Appellant

⁹ *Moore v. Barony*, 382 S.C.35, 41, 674 S.E.2d 500 (2009)

BRIEF OF RESPONDENT

THE STATE OF SOUTH CAROLINA
In the Circuit Court

APPEAL FROM DARLINGTON COUNTY
Probate Court

Marvin I. Lawson, Probate Judge

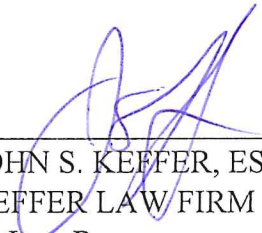
Case Number: 2019-CP-16-00634
Probate Case Number: 2017-ES-16-00433

Rodney Brock Hopkins, as
Personal Representative of the
Estate of Brockie Hopkins, Jr.Appellant,

vs.

Mary Uptagrafft on Behalf of
Joshua B. Hopkins, Jacob T.
Hopkins, Jensen M. Hopkins,
and Johanna S. HopkinsRespondent.

INITIAL BRIEF OF RESPONDENT



JOHN S. KEEFER, ESQUIRE
KEFFER LAW FIRM
10 Law Range
Sumter, South Carolina 29150
Tele: (803) 774-1004
Attorney for Respondent.

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SOUTH CAROLINA RULES OF COURT

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STATEMENT OF THE CASE

On April 19, 2017 a Petition for formal Testacy and Appointment was submitted to Darlington County Probate by the Respondent (Uptagrafft). Appellant (Hopkins) responded to said Petition on June 28, 2017 with his Answer and Counterclaim. On August 21, 2017, Respondent submitted a Reply to the Answer and Counterclaim. No hearing has been held for this Petition.

On December 6, 2017, Respondent filed an additional Petition (Second Petition). This Petition sought Removal of Personal Representative claiming “fraud, misrepresentation, and misappropriation of assets.”

On February 8, 2018, Appellant submitted his Answer, Motion and Counterclaim, which submissions were amended on February 9, 2018. Appellant Motions and Counterclaims were based on his assertions that the Respondent lacked standing due to her not being an heir or possible beneficiary of decedent’s estate, was without authority to bind the other listed parties, failure to allege any facts upon which relief might be granted and sought Judgement on the Pleadings or, in the alternative, Summary Judgement. In addition, the Appellant sought award of attorney fees and a finding of Abuse of Process. Appellant’s Motion for Summary Judgment was heard on December 12, 2018 before the Honorable Marvin I. Lawson, Judge of Probate for Darlington County. The Court issued its Order on May 31, 2019 denying the entirety of Appellant’s Motion.

On June 10, 2019, Appellant served the Notice of Appeal on the Respondent.

ARGUMENT

THE TRIAL COURT DID NOT ERR IN DENYING THE APPELLANTS MOTION FOR SUMMARY JUDGMENT.

“Motion to dismiss for failure to state cause of action, as filed by the Appellant, was converted to a motion for summary judgment where the respondent submitted an exhibit and the appellant did not object to the inclusion of these documents and the trial court specifically mentioned it relied on the documents submitted.” Gilbert v. Miller, 356 S.C. 25, 586 S.E.2d 861, S.C. Court of App 2003. Moreover, our Court’s have specifically stated that a motion to dismiss would be converted to a motion for summary judgment if the court relied upon and looks beyond the pleadings in making its ruling. In Pitts. v. Jackson Nat. Life Ins. Co., the court specifically converted motions to dismiss for failure to state a cause of action into summary judgment motions by considering matters outside the pleadings, and by issuing an order of dismissal six months after the evidence of outside matters was filed. 352 S.C. 319, 574 S.E.2d 502. (2002). In the present case, the Appellant filed a Motion to Dismiss under S.R.C.P. 12(B)(6), as well as a motion for summary judgment under S.C.R.C.P. 56 (C). In the present case, Respondent filed a Petition to remove the personal representative based upon fraud and misrepresentation. At the hearing, the court specifically heard matters outside of the pleadings, i.e. the Inventory and Appraisal, Accounting and Disbursement sheets. The Appellant did not object to the introduction of said documents and moreover, the Court order did specifically state that the court did consider all “ all testimony, evidence, motions, exhibits, *accounting* and arguments of counsel in its ruling. Appellant did not file a motion for

reconsideration or motion to clarify the court's ruling, and therefore, the Respondent would request that this Court affirm the trial court's decision and have this matter immediately placed on the Probate Court's Docket for a proper hearing on the merits.

CONCLUSION

This Court should affirm the trial court's denial of the Appellant's Motion for Summary Judgment and have this matter immediately placed on the Probate Court's Docket for a hearing on the merits.

Respectfully Submitted

/s/ John S. Keffer, Esquire
KEFFER LAW FIRM
S.C. Bar No.: 67910
10 Law Range
Sumter, South Carolina 29150
Tele: (803) 774-1004
Attorney for Respondent.

November 25, 2019

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF: DARLINGTON

INVENTORY AND APPRAISEMENT: PROBATE PROPERTY

ORIGINAL

AMENDED #1

(must restate the unchanged information from the original Inventory)

IN THE MATTER OF:
BROCKIE HOPKINS, JR.
(Decedent)

CASE NUMBER: 2017-ES-16-00433

File the original Inventory and Appraisal with the Probate Court within ninety (90) days following the fiduciary appointment.

A copy shall be sent to each interested person who has demanded it. A Proof of Delivery must be filed with the Court. The gross fair market value of all probate assets, regardless of location (whether in this state or elsewhere), should be listed as of the date of death. Continue on additional sheets if necessary. An Amended Inventory should be utilized for correcting, adjusting or adding to an original inventory, and *must restate the unchanged information from the original Inventory*. A qualified and disinterested appraiser may be employed to ascertain the value of any asset. If an appraiser is employed, his/her name and address must be indicated with the item or items he/she appraised.

RECAPITULATION

Schedule A - Real Estate	\$20,000.00
Schedule B - Stocks and Bonds.....	\$0
Schedule C - Notes Due Decedent and Cash.....	\$2,166.39
Schedule D - Insurance on Decedent's Life - Payable to the Estate.....	\$0
Schedule E - Jointly Owned Property	NA
Schedule F - Other Miscellaneous Assets	\$12,549.50
Schedule G - Transfers During Decedent's Life Payable to the Estate	\$0
Schedule H - Powers of Appointment Payable to the Estate	\$0
Schedule I - Annuities and Retirement Accounts Payable to the Estate.....	\$0
GROSS VALUE OF PROBATE ESTATE	\$34,715.89

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisal of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 7 day of May, 2018.

[Signature]
Notary Public for South Carolina
My Commission Expires: 12/30/2026

Personal Representative

Signature: *[Signature]*

Print Name: Rodney Hopkins

Address: 314 W. Richardson Circle
Hartsville, SC 29550

Telephone (Work): _____

(Home): _____

(Cell): (843) 639-2391

(Email): _____

Co-Personal Representative

Signature: _____

Name: _____

Address: _____

Telephone (Work): _____

(Home): _____

(Cell): _____

(Email): _____

Attorney: Richard E. Conner, Jr., Esq.
Address: 115 Cargill Way, Suite C2
Hartsville, SC 29550
Telephone: (843) 332-1678
Email: rec@connerlawsc.com

(If none, so state)

A. REAL ESTATE in Decedent's name alone or tenants in common (not as joint with right of survivorship). Describe each property by listing its full address, tax map number, deed book and page and description consistently (house, lot, buildings, acreage). Also list oil / mineral rights and time shares, if it is real property. If the property is encumbered, list the full fair market value of the property here and the encumbrance on Encumbrance section below	% Owned by Decedent	Fair Market Value of Decedent's Interest
1. 2221 W. Old Camden Road, Hartsville, SC; TMS#018-00-03-049	100%	20,000.00
2.		
3.		
B. STOCKS, BONDS in Decedent's name alone or tenants in common (not as joint with right of survivorship). List each type of security and number of shares.		
1. NONE		0
2.		
3.		
C. CASH, BANK ACCOUNTS, NOTES RECEIVABLES in Decedent's name alone or as tenants in common. List each separate account type and institution and the last two digits of each account. List all bank accounts owned by Decedent alone or as tenants in common (checking, savings, CDs, money market, brokerage, employment bonus, cash award, final paycheck etc.), cash on hand, notes payable to Decedent, and survival action proceeds.		
1. SPC - Savings Account #...960	100%	532.71
2. SPC - Checking Account #...960	100%	1,633.68
3.		
D. LIFE INSURANCE payable to the Decedent's estate.		
1. NONE		0
2.		
E. JOINTLY OWNED PROPERTY – REPORTING IS NOT REQUIRED		N/A
F. ALL OTHER MISCELLANEOUS PERSONAL PROPERTY in Decedent's name alone or as tenants in common. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-titled (Include year/make/model/VIN, if applicable), airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets		
1. Darlington Memory Gardens Plot, Burial	100%	1,549.50
2. 2003 Toyota Tacoma	100%	10,000.00
3. 1992 Chevrolet S10	100%	1,000.00
4.		
G. TRANSFERS DURING DECEDENT'S LIFE PAYABLE TO ESTATE ONLY Any transfers intended to take effect at death if payable to the Estate shall be reported. A trust created by Decedent in which income for life was retained by the Decedent, power to revoke or other incidents of ownership retained by the Decedent, lifetime transfers of real property in which Decedent retained life estate, etc.		
1. NONE		0
2.		
H. POWERS OF APPOINTMENT PAYABLE TO THE ESTATE ONLY List property, both real and personal, over which Decedent possessed a Power of Appointment whether testamentary or otherwise, if such property is payable to the Estate.		
1. NONE		0
I. ANNUITIES AND IRA, ETC. PAYABLE TO THE ESTATE ONLY List any annuities or retirement accounts owned by the Decedent and payable to the Estate.		
1. NONE		0
2.		
TOTAL PROBATE ESTATE VALUE	\$	34,715.89
ENCUMBRANCES (e.g., mortgages, liens, judgments, etc., but not general debts of the estate). List debts of the Decedent secured by assets on the above schedule and describe the debt and the specific asset encumbered.		
1. SPC Personal Loan #...124 (Toyota Tacoma)		2,779.00
2.		
TOTAL ENCUMBRANCES	\$	2,779.00

STATE OF SOUTH CAROLINA)
)
 COUNTY OF: DARLINGTON)
)
 IN THE MATTER OF:)
 BROCKIE HOPKINS, JR.)
 (Decedent))

IN THE PROBATE COURT

ACCOUNTING

CASE NUMBER: 2017-ES-16-00433

FINAL
 INTERIM # _____

The undersigned Personal Representative(s) submits this accounting, which covers the period from OCTOBER 19, 2016 through MARCH 30, 2018.

The documentation on the following page(s) of this form sets forth a complete accounting for the period specified, which is summarized as follows: 920

Beginning Balance from Inventory(ies) or prior Interim Accounting, if applicable	2,166.39
Plus: Receipts (Rent, Refunds, Dividends, Interest, etc.)	15,019.52
Subtotal	17,185.47
Less: Disbursements and Distributions	15,203.96
Ending Balance	1,981.51

The Personal Representative(s) declares that this account has been examined and that its contents represent a correct statement of all receipts and disbursements and are true to the best knowledge and belief of the Personal Representative(s).

SWORN to before me this 7 day of May 2018

Signature: [Signature]
 Print Name: RODNEY HOPKINS
 Address: 314 W. RICHARDSON CIRCLE
HARTSVILLE, SC 29550

[Signature]
 Notary Public for South Carolina
 My Commission Expires: 12/30/2026

Telephone (Work): _____
 (Home): _____
 (Cell): (843) 639-2391
 Email: _____

Co-Personal Representative Signature: _____
 Print Name: _____
 Address: _____

SWORN to before me this _____ day of _____ 20____

Telephone (Work): _____
 (Home): _____
 (Cell): _____
 Email: _____

Notary Public for South Carolina
 My Commission Expires: _____

FILED
 2018 MAY 10 PM 4:20
 CLERK OF PROBATE
 DARLINGTON COUNTY, SC

ASSETS AND RECEIPTS			DISBURSEMENTS AND DISTRIBUTIONS		
Date	Description	Amount	Date	Transaction Description	Amount
	SPC Checking Account				
	(balance from Inventory & Appraisalment)				921
6-Sep-16		\$ 1,633.68	6-Sep-16	Insurance	\$ 30.00
			7-Sep-16	TransAmerica	\$ 15.16
			8-Sep-16	Auto Insurance	\$ 79.40
			8-Sep-16	The Hartford	\$ 87.80
			9-Sep-16	AT&T	\$ 300.00
			11-Sep-16	Withdrawal	\$ 400.00 ✓
			12-Sep-16	Withdrawal	\$ 720.00 ✓
			12-Sep-16	NSF Fee	\$ 30.00
13-Sep-16	Deposit	\$ 920.00	14-Sep-16	NSF Fee-Midland National	\$ 30.00
			15-Sep-16	NSF Fee - SEC Life of Denver	\$ 30.00
			15-Sep-16	NSF Fee - United World	\$ 30.00
			16-Sep-16	NSF Fee - Time Warner Cable	\$ 30.00
			16-Sep-16	NSF Fee - Time Warner Cable	\$ 30.00
			19-Sep-16	NSF Fee - Midland National	\$ 30.00
			21-Sep-16	NSF Fee - Insurance	\$ 30.00
			21-Sep-16	NSF Fee - United World	\$ 30.00
			22-Sep-16	NSF Fee - Darlington Co.	\$ 30.00
			23-Sep-16	NSF Fee - Time Warner Cable	\$ 30.00
			23-Sep-16	NSF Fee - Time Warner Cable	\$ 30.00
			23-Sep-16	NSF Fee - Pee Dee	\$ 30.00
			29-Sep-16	NSF Fee - Insurance	\$ 30.00
			5-Oct-16	NSF Fee - Auto Owners	\$ 30.00
			6-Oct-16	NSF Fee - Transamerica	\$ 30.00
			7-Oct-16	NSF Fee - Auto Owners	\$ 30.00
			11-Oct-16	NSF Fee - The Hartford	\$ 30.00
			13-Oct-16	NSF Fee - The Hartford	\$ 30.00
			21-Oct-16	NSF Fee - Insurance	\$ 30.00
24-Oct-16	Deposit - Insurance	\$ 11.95	25-Oct-16	NSF Fee - Transamerica	\$ 30.00
			3-Nov-16	Withdrawal - Deceased MBR	\$ 303.27
	Balance (SPC Savings Acct)				
	balance from Inventory & Appraisalment				
11-Sep-16		\$ 532.27	11-Sep-16	Withdrawal	\$ 400.00
			13-Sep-16	USPS	\$ 1.00
			13-Sep-16	Withdrawal	\$ 100.00
			27-Oct-16	Payment	\$ 696.30
			3-Nov-16	Payment (From checking)	\$ 303.27
			15-Nov-16	Payment (From insurance)	\$ 1,780.49

2018 MAY 10 PM 4:20
 THE STATE OF SOUTH CAROLINA
 DEPARTMENT OF REVENUE
 COLUMBIA, SOUTH CAROLINA

ASSETS AND RECEIPTS

DISBURSEMENTS AND DISTRIBUTIONS

922

Payment received for insurance claim on Toyota
 17-Jan-17 Tacoma \$ 11,571.62

 5-Apr-17 Deposit \$ 350.00

26-Jan-17 Pee Dee Electric Co-op (Utility) \$ 77.00
 27-Jan-17 Auto Owners Insurance \$ 206.78
 24-Feb-17 Service Fee Darlington County \$ 3.95
 24-Feb-17 Darlington County (Utility) \$ 13.28
 24-Feb-17 Darlington County Treasurer \$ 66.00
 24-Feb-17 Pee Dee Electric Co-op (Utility) \$ 68.00
 6-Mar-17 Auto Owners Insurance \$ 98.39
 17-Mar-17 Darlington County (Utility) \$ 13.28
 3-Apr-17 Pee Dee Electric Co-op (Utility) \$ 48.96
 3-Apr-17 Auto Owners Insurance \$ 98.39
 17-Apr-17 Darlington County (Utility) \$ 13.28
 17-Apr-17 Pee Dee Electric Co-op (Utility) \$ 56.00
 11-May-17 Conner Law Office \$ 200.00 ✓
 17-May-17 Conner Law Office \$ 750.00 ✓
 19-May-17 Darlington County (Utility) \$ 13.28
 19-May-17 Pee Dee Electric Co-op (Utility) \$ 45.00
 19-May-17 Auto Owners Insurance \$ 206.78
 8-Jun-17 Pee Dee Electric Co-op (Utility) \$ 46.00
 21-Jun-17 Darlington County (Utility) \$ 13.28
 21-Jun-17 Auto Owners Insurance \$ 98.40
 23-Jun-17 Service Fee Darlington County \$ 3.95
 23-Jun-17 Darlington County Treasurer \$ 74.75
 29-Jun-17 Conner Law Office \$ 185.00
 10-Jul-17 WalMart Super Center \$ 37.86
 3-Aug-17 Darlington County (Utility) \$ 26.56
 3-Aug-17 Pee Dee Electric Co-op (Utility) \$ 49.96
 3-Aug-17 Auto Owners Insurance \$ 98.40
 28-Aug-17 Conner Law Office \$ 1,220.00 ✓
 14-Sep-17 Darlington County (Utility) \$ 13.28
 14-Sep-17 Pee Dee Electric Co-op (Utility) \$ 127.95
 14-Sep-17 Auto Owners Insurance \$ 206.80
 23-Oct-17 Darlington County (Utility) \$ 13.28
 23-Oct-17 Pee Dee Electric Co-op (Utility) \$ 46.00
 23-Oct-17 Auto Owners Insurance \$ 126.13
 30-Nov-17 Darlington County (Utility) \$ 13.28
 30-Nov-17 Pee Dee Electric Co-op (Utility) \$ 46.90
 1-Dec-17 Auto Owners Insurance \$ 126.13
 28-Dec-17 Darlington County (Utility) \$ 13.28
 28-Dec-17 Pee Dee Electric Co-op (Utility) \$ 43.00
 29-Dec-17 Auto Owners Insurance \$ 126.13
 12-Jan-18 Darlington County (Utility) \$ 13.28
 19-Jan-18 Pee Dee Electric Co-op (Utility) \$ 44.00

FILED
 2018 MAY 10 PM 4:21
 J. WILSON
 CLERK OF COURSE
 DARLINGTON COUNTY, SC

**ASSETS AND
RECEIPTS**

**DISBURSEMENTS AND
DISTRIBUTIONS**

		26-Jan-18 Conner Law Office	\$	950.00 ✓
		31-Jan-18 Conner Law Office	\$	1,500.00 ✓
		7-Feb-18 Auto Owners Insurance	\$	126.13
		8-Feb-18 Pee Dee Electric Co-op (Utility)	\$	42.00
		1-Mar-18 Darlington County (Utility)	\$	100.13
		2-Mar-18 Norton Funeral Home - Memorial	\$	810.00
		15-Mar-18 Darlington County	\$	3.95
		15-Mar-18 Pee Dee Electric Co-op (Utility)	\$	43.00
		15-Mar-18 Darlington County Treasurer	\$	88.00
		16-Mar-18 Auto Owners Insurance	\$	262.26
		7-Apr-18 Darlington County (Utility)	\$	45.83
		9-Apr-18 Pee Dee Electric Co-op (Utility)	\$	44.00
TOTAL	\$ 15,019.52	TOTAL	\$	15,203.96

FILED

2018 MAY 10 PM 4:21

WILLIAM L. LAWSON
CLERK OF THE PROBATE
DARLINGTON COUNTY, SC

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT)

COUNTY OF: DARLINGTON)

PROOF OF DELIVERY

IN THE MATTER OF:)
BROCKIE HOPKINS, JR.)
(Decedent))

CASE NUMBER: 2017-ES-16-00433

On the 8th day of May, 2018, I mailed or delivered the following document(s):

***Inventory & Appraisement Amended #1
Accounting dated 10/19/16 – 03/30/18***

924

- A copy of which is attached hereto and incorporated herein, or
- The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

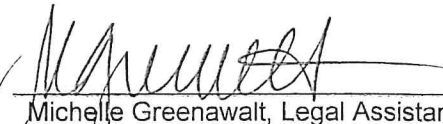
- personal delivery
- certified mail
- commercial delivery
- ordinary first-class mail
- registered mail
- electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
John S. Keffer, Esq., Attorney for Petitioner	10 Law Range, Sumter, SC 29150

SWORN to before me this 8 day of May, 2018

Taylor L Wallace
Notary Public for South Carolina
My Commission Expires: 8/30/20

Signature: 
 Print Name: Michelle Greenawalt, Legal Assistant to Richard E. Conner, Jr., Esq.
 Address: CONNER LAW FIRM, P.C.
115 Cargill Way, Suite C2
Hartsville, SC 29550
 Telephone (Work): (843) 332-1678
 (Home): _____
 (Cell): _____
 E-mail: rec@connerlawsc.com
 Relationship to Decedent/Estate: Attorney for Respondent, Rodney B. Hopkins

FILED
2018 MAY 10 PM 4:21
DARLINGTON COUNTY, SC

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS

The Honorable Roger E. Henderson, Circuit Court Judge

Darlington County Docket No: 2019-CP-16-00634 do dated October 15,

Rodney Brock Hopkins.....Respondent.

v.

Mary Uptagraft on Behalf of Joshua B. Hopkins, Jacob T. Hopkins, Jensen M. Hopkins, &
Johanna S. Hopkins,

.....Appellant.

PROOF OF SERVICE

I CERTIFY THAT I have served the Record on Appeal and Proof of Service dated October 15, 2020, on the above-referenced case on Rodney Brock Hopkins by depositing a copy of it in the United States Mail, postage prepaid on October 15, 2020, addressed to his attorney of record, Richard E, Conner, Jr., The Conner Law Firm, 115 Cargill Way, Ste. C-2, Hartsville, SC 29550. Also sending by the following email address to his attorney of record: rec@connerlawsc.com

s/ John S. Keffer
JOHN S. KEFFER, ESQUIRE
10 Law Range
Sumter, SC 29150
803-774-1004
Attorney for Respondent
S.C. Bar No.: 67910

October 15, 2020