

In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

SC Court of Appeals

Charles B. Simmons Jr., Circuit Court Judge

Docket Case No. 2018-CP-23-00883  
Appellate Case No. 2019-001518

Laurel Grove, LLC,

Respondent,

vs.

Frances Lee Farmer Sullivan, Marcus Lynn Farmer, Nelson Eugene Farmer, Peaches Shawn Farmer, John Anthony Pelzer, Thomas Farmer, Tara Smith, the Heirs of Kimberly Bean, L'Kita Brown, Margaret Lois Brown, Robert Brown and Willie Brown as officers, directors, and/or shareholders of the Holy Temple of God Faith Healing Church, Estate of Lula Mae Knox, Shirley Miller, Norma Williams, Juanita Smith, Evelyn Byrd, James Brown, Norman Smith, Robert Smith, Catherine Stroble, Sharon Brown, the Greenville County Tax Collector, John Doe representing any and all known and unknown heirs of the following individuals who may claim an interest in the Property: Willie R. Brown a/k/a Willie Ruth Brown a/k/a Willie Lee Farmer Brown a/k/a Willie Lee Wilson, Robert R. Brown a/k/a Robert Russell Brown a/k/a Robert Russell Roland Brown, Mary Elizabeth Farmer Crudup, Nelson Farmer, Donnie Rae Farmer, Richard Earle Farmer, Nazeae Jefferson a/k/a Zeon Jefferson, Annie Ruth Farmer Pelzer, Willie Rufus Farmer, Kimberly Bean, Lula Mae Knox, Theodore Byrd, Michael Jerome Smith, and as Defendants whose names are unknown claiming any right, title estate, interest in, or lien upon the real estate described in the Complaint herein, any known adults, their heirs and assigns and all other persons, firms or corporations entitle to claim under by or through the above-named Defendants, being as a class designated as Richard Roe, and any unknown infants or persons under disability being a class designated as Jane Doe, Defendants.

Of Whom, Juanita Smith, Evelyn Byrd, Shirley Miller, and Sharon Brown are the Appellants.

SUPPLEMENTAL RECORD ON APPEAL

**APPELLANTS OF RECORD:**

JUANITA SMITH  
111 Hanover Place Apt. #39  
Spartanburg, S.C. 29306  
(864)978-8096  
**APPELLANT**

EVELYN BYRD  
232A Norris Ridge Apts.  
Spartanburg, S.C. 29306  
(864)515-8237  
**APPELLANT**

SHIRLEY MILLER  
179 Amos Street  
Spartanburg, S.C. 29306  
(864)585-8714  
**APPELLANT**

SHARON BROWN  
216 Ardmore Rd.  
Spartanburg, S.C. 29306  
(864)253-9975  
**APPELLANT**

**OTHER COUNSEL OF RECORD**

Aimee V. Leary (S.C. Bar # 100657)  
Fox Rothschild LLP  
2 West Washington Street, Suite 1100  
Greenville, SC 29601  
aleary@foxrothschild.com  
(864)751-7624

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SPARTANBURG  
IN THE MATTER OF

CASE NUMBER LULA MAE KNOX

2014ES4201854

**CERTIFICATE OF APPOINTMENT**

This is to certify that

\_\_\_\_\_  
MS. SHARON BROWN  
\_\_\_\_\_

is/are the duly qualified

- PERSONAL REPRESENTATIVE
- GUARDIAN
- CONSERVATOR
- TRUSTEE
- \_\_\_\_\_

in the above matter and that this appointment, having been executed on the 22nd day of December, 2020, now in full force and effect, including authorization to receive all monies, income, principal, interest & dividends of and belonging to said estate.

RESTRICTIONS:

NONE.

Executed this 8th day of April, 2021.

*Ponda A. Caldwell*  
\_\_\_\_\_

**Ponda A. Caldwell, Probate Court Judge**

Do not accept a copy of this certificate without the raised seal of the Probate Court.

SHARON BROWN, PETITIONER

VS

NORMA WILLIAMS, EVELYN BYRD, CATHERINE STROBLE, TYLISA CARTLEDGE, SHIRLEY MILLER, JAMES BROWN, JUANITA SMITH AND NORMAN SMITH, RESPONDENTS.

- Jury Verdict. This action came before the court for a trial by jury. The issues have been tried and the verdict rendered.
- Decision by court. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- Action Dismissed.  Rule 12(b), SCRCP  Rule 40(c)(3), SCRCP  
 Rule 41(a), SCRCP (Vol. Nonsuit)  Settled  
 Other, Explain: \_\_\_\_\_

IT IS ORDERED AND ADJUDGED:  See attached Order  
 Statement of Judgment by Court.

Dated at SPARTANBURG, South Carolina, this 22<sup>nd</sup> day of DECEMBER, 2020.

PONDA A. CALDWELL  
Probate Judge

This judgment was entered on the 22<sup>nd</sup> day of DECEMBER, 2020, and a copy mailed first class this 30<sup>th</sup> day of DECEMBER, 2020, to attorneys of record or to parties (when appearing pro se) as follows:

JAMES B. DRENNAN, III, ESQ.  
PO BOX 891  
SPARTANBURG, SC 29304

KRISTIN BARBER, ESQ.  
PO DRAWER 5587  
SPARTANBURG, SC 29304

SHIRLEY MILLER  
179 AMOS STREET  
SPARTANBURG, SC 29306

SEE ATTACHED LIST

Ponda A. Caldwell  
Probate Judge

JUANITA SMITH  
111 HANOVER PLACE, APT. 39  
SPARTANBURG, SC 29306

NORMA WILLIAMS  
222 ARDMORE ROAD  
SPARTANBURG, SC 29306

EVELYN BYRD  
232-A NORRIS RIDGE APTS.  
SPARTANBURG, SC 29306

CATHERINE STROBLE  
412-B ALMA BYRD LANE  
SPARTANBURG, SC 29306

JAMES BROWN  
141 LEISURE LANE  
SPARTANBURG, SC 29306

TYLISA CARTLEDGE  
11130 WHITLOCK CROSSING COURT  
CHARLOTTE, NC 28273

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

IN THE PROBATE COURT

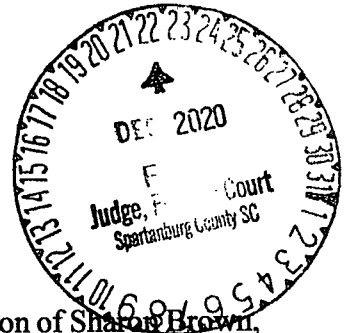
Sharon Brown, )  
 )  
Petitioner, )

vs. )

ORDER  
CASE NUMBER: 2014ES4201854

Norma Williams, Evelyn Byrd, Catherine )  
Stroble, Tylisa Cartledge, Shirley Miller, )  
James Brown, Juanita Smith and Norman )  
Smith, )  
 )  
Respondents )

In Re: Estate of Lula Mae Knox, deceased )  
 )



This matter came before the Court on December 22, 2020, upon Petition of Sharon Brown, seeking Formal Testacy and Appointment of a photocopy of a July 13, 1999 Will of Lula Mae Knox (“Decedent”), who died a resident of Spartanburg County on March 3, 2011. The original Will could not be found following the Decedent’s death, but Petitioner alleges that it was misplaced and that it was not destroyed by Decedent with the intent to revoke.

The Petitioner is designated as the alternate Personal Representative in the Decedent’s Will, to serve in the event that Norma Williams, the first-named Personal Representative, was unable to serve.

The Respondents are all of those persons who would constitute the Decedent’s heirs at law should she be determined to have died intestate, and the Petitioner and the Respondents are thus all persons having an interest which might be affected by this action. All of the Respondents have either been served or have accepted service, and Respondent Norman Smith is the only Respondent who has filed a Reply to the Petition and Supplemental Petition herein. Notice of Hearing was provided

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to the Respondents as required by law.

The Petitioner was present for the hearing with her attorney, James B. Drennan, III, and Respondent Norman Smith was present with his attorney, Kristin Burnett Barber. Also in attendance were Respondents Shirley Miller and Catherine Stroble. None of the other parties attended the hearing.

At the beginning of the hearing, attorney Barber advised the Court that she had not served Respondent Norman Smith's Reply, Counterclaim and Cross-Claim on any parties other than the Petitioner, and she asked that the Court delay consideration of the Cross-Claim until after she has accomplished service on all parties. The Court granted this request without objection, and the matters raised in Respondent Norman Smith's Cross-Claim will be heard at a later date.

The Decedent's Will appears to have been executed by her in accordance with all statutory requirements, and it is a self-proving Will. This being the case, it was not necessary to have the witnesses testify as to the formalities observed in the execution of the Will. According to the testimony, the Will was prepared by attorney David Wood, who is now deceased.

Based upon the testimony and evidence presented, the Court finds as follows:

FINDINGS OF FACT

Based upon the testimony presented, the Court finds that the Decedent was unmarried at the time of her death and that her children were Theodore Byrd, who predeceased her leaving no issue; Evelyn Byrd, who is living; Catherine Stroble (formerly Catherine Stroble Farmer), who is living; Robert Gerald Smith, who survived the Decedent but later died unmarried and leaving no children or other issue; Michael Jerome Smith, who predeceased the Decedent leaving one child, Respondent Tylisa Cartledge; Shirley Miller (formerly Shirley Rice), who is living; James Brown, who is living; Norma Williams, also living; Norman Smith, who is living; and Juanita Smith, who is living but is not a beneficiary under the Will. Accordingly, the Decedent's heirs at law, had she died intestate,

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are her children, Evelyn Byrd, Catherine Stroble, Shirley Miller, James Brown, Norma Williams, Norman Smith and Juanita Smith, and her grandchild, Tylisa Cartledge, successor to the interest of her predeceased father, Michael Jerome Smith.

The Court finds that the Decedent's feelings towards the beneficiaries under the Will, including the Petitioner, remained unchanged from the date of the Will up to the time of her death. Shirley Miller testified that not long before her death the Decedent said that she still had a Will, which indicates that the Will had not been revoked to that point, and that the Decedent was still satisfied with the Will. Catherine Stroble testified that the Decedent made statements indicating that she might have turned over possession of the original Will to a Norman Dawkins at Dawkins Funeral Home. The Court finds that the Decedent could not have destroyed her Will with intent to revoke at that point, since she did not have possession of the original.

#### CONCLUSIONS OF LAW

When the original of a will cannot be located after the testatrix' death, and if it was last known to have been in the testatrix' possession, there is a presumption that it must have been destroyed by the testatrix with the intent to revoke. *In re Estate of Pallister*, 363 S.C. 437, 611 S.E.2d 250 (2005). However, proof that a testator whose will cannot be found after death entertained a kindly or loving feeling towards the beneficiaries under the will carries weight and tends toward the conclusion of non-revocation of the will by the testator. *Estate of Pallister*, supra.

The Court finds that the presumption of revocation that arises when a Will cannot be found after a testatrix' death has been effectively rebutted by the testimony presented to the Court and that the copy of the Will of Lula Mae Knox dated July 13, 1999 should be admitted to probate in Solemn Form.

Although the subject Will designates Norma Williams as the primary Personal Representative of the Decedent's estate, it appears that Ms. Williams has not submitted the Will for probate, nor has

she followed through with an application for appointment filed by her years ago. She has not advocated for the Will and the Court finds that she should not be appointed Personal Representative and the Decedent's appointment of Petitioner Sharon Brown as alternate Personal Representative should be given effect.

Based upon the foregoing considerations it is accordingly

**ORDERED, ADJUDGED AND DECREED** that the copy of the Last Will and Testament of Lula Mae Knox dated July 13, 1999 should be, and it hereby is, admitted formally to probate. It

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is further ordered that if the decedent had died intestate, her heirs at law would have been the persons as set out hereinabove. It is

**FURTHER ORDERED** that the Petition for Appointment of Sharon Brown is hereby  
GRANTED.

IT IS SO ORDERED, this 22<sup>nd</sup> day of December, 2020.

Ponda A. Caldwell  
Ponda A. Caldwell, Probate Judge

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LAST WILL AND TESTAMENT  
LULA MAE KNOX  
PAGE TWO

ITEM III

I hereby will, devise and bequeath the property located at 133 Collins Avenue, Spartanburg, S. C., to my Son, ROBERT GERALD SMITH, to be his in fee simple.

ITEM IV

I hereby will, devise and bequeath all the rest, residue and remainder of my property, whether it be real, personal or mixed, to my Granddaughter, Sharon Brown, to be hers.

ITEM V

*ab*  
I do hereby nominate, constitute and appoint as Personal Representative of this, my Last Will and Testament, my Daughter, NORMA WILLIAMS.

ITEM VI

*X*  
In the event that my said Daughter, NORMA WILLIAMS, should be unable or unwilling to serve or continue to serve as Personal Representative, then, in that event, I nominate, constitute and appoint my Granddaughter, SHARON BROWN, to serve as Personal Representative, she also to serve without bond.

IN WITNESS WHEREOF, I have hereunto set and subscribed my hand and seal this 13 day of July, 1999.

*Lula Mae Knox*  
LULA MAE KNOX

LAST WILL AND TESTAMENT  
LULA MAE KNOX  
PAGE THREE

The foregoing instrument, consisting of four (4) pages, was on this date subscribed on this page and at the end thereof by LULA MAE KNOX the above named Testatrix, and by her signed, sealed, published and declared this to be her Last Will and Testament in the presence of us and each of us, who thereupon at her request and in her presence and in the presence of each other, have hereunto subscribed our names as attesting witnesses thereto.

*Lill. Hunt* of *Union SC*  
*Cheryl B. Lemon* of *Spartanburg SC*

I, LULA MAE KNOX, the Testatrix, sign my name to this instrument this 15<sup>th</sup> day of July, 1977, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament and that I sign it willingly, that I execute it as my free and voluntary act for the purpose therein expressed, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

*Lula Mae Knox*  
LULA MAE KNOX



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Certificate of Counsel

APR 19 2021

SC Court of Appeals

The undersigned hereby certifies that the Supplemental Record on

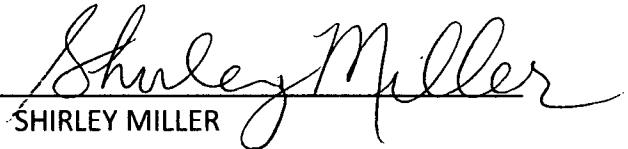
Appeal contains all material proposed to be included by any of the parties and not any other material.



JUANITA SMITH  
111 Hanover Place Apt. #39  
Spartanburg, S.C. 29306  
(864)978-8096  
**APPELLANT**



EVELYN BYRD  
232A Norris Ridge Apts.  
Spartanburg, S.C. 29306  
(864)515-8237  
**APPELLANT**



SHIRLEY MILLER  
179 Amos Street  
Spartanburg, S.C. 29306  
(864)585-8714  
**APPELLANT**



SHARON BROWN  
216 Ardmore Rd.  
Spartanburg, S.C. 29306  
(864)253-9975  
**APPELLANT**

April 13, 2021