

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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MAY 11 2021

SC Court of Appeals

RICHLAND COUNTY PROBATE COURT

Amy W. McCulloch, Probate Court Judge

Court of Common Pleas

Case No. 2018-002167

Isaac Smith, Jr., Appellant

v.

Johnnie Mae Muller Newton, Respondent

Amended Petition to compel Probate Court to produce Probate Court Tape of Transcript

Petitioner, Isaac Smith, Jr., hereby respectfully request this court compel the above name probate judge to produce the tape of transcript dated December 1, 2016. This petition is in reference to Judge Amy W. McCulloch, Probate Judge for Richland County, 1701 Main Street, Columbia, South Carolina 29201. Richland County Probate Court Judge Amy W. McCulloch office oversaw the probate of the Estate of Johnnie Mae Muller, Richland County Probate Court file 2016-ES-40-00077. I was the personal representative of the Estate of Johnnie Mae Muller. The following is a narrative of action leading up to this request the Probate Court be compelled to produce to the petitioner the tape that is defective according to correspondence with the probate court,

1, Petitioner requested a transcript of the hearing held on December 1, 2016 from Creel Reporting Service. The reporting company contacted the Probate Court and they arranged to have the tape of the aforementioned hearing transcribed. In the process, while transcribing the tape, they discovered the tape was compromised and much if not all of the tape was not comprehensible. The tape was worthless and consequently, there was no record of the hearing as is constitutionally required. The tape was compromised and it is our constitutional right and duty to find out why the tape was in the condition it was in.

2. Subsequently, Petitioner requested the tape from the Probate Court so that I

could find out why the tape is inaudible. The law requires that the court have an adequate record of a hearing of the level of the hearing of December 1, 2016. The probate court is not a summary court and is held to the same standard of the circuit court as to preservation of the record.

3. Later, Petitioner received a correspondence from the Probate Court that I could not get a copy of the tape because the tape had not been saved. The judge referenced Rule 1 of the South Carolina Rules of Civil Procedure. That put me in an unwinnable situation. I desperately wanted to correct what I considered as an unlawful ruling and I did not have a record that is required for further action. I needed to find out how and why the tape was compromised. I need the tape in order to find out what happened to it.


4. Subsequently Petitioner corresponded with Judge Allison Renee Lee in the above referenced matter. I am enclosing a copy of the previous letter her. Since that correspondence, she was replaced her in this position at the beginning of the new year.

5. I then corresponded with Robert E. Hood, mistakenly thinking he was the new Chief Administrative Judge. Judge Hood forwarded my letter to Judge L. Casey Manning. I received a response from Judge L. Casey Manning that neither he nor Judge Hood has any jurisdiction to review my matter. Judge Manning further replied that the nor any circuit court judge had any authority to compel the Probate Judge to change their decision.

6. The case reference above under appeal is not the matter to which the petitioner is writing, however the matter under appeal is related to the current issue Petitioner am writing about. The above referenced appellate case concern a procedural matter. The matter Petitioner is addressing is the unavailability of a tape from a transcript was made from a hearing from the same probate estate under appeal.

7. Petitioner contends that the failure of Judge Amy W. McCulloch leaves petitioner in an unwinnable situation. The Probate Court's actions or lack thereof has caused considerable hardship the petitioner. Petitioner desperately want to appeal an unlawful ruling and does not have a record that is required for appeal.

Petitioner respectfully request the court to compel the Probate Court to produce the tape so that the petitioner can determine why the tape was compromised. Petitioner needs a copy of the tape or whatever is left of it in order to find out what happed to it.


Isaac Smith, Jr., Pro Se
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April 30, 2021

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Johnnie Mae Muller Newton, Respondent

PROOF OF SERVICE

I certify that I have served a copy of the Amended Petition to compel Probate Court to produce Probate Court Tape of Transcript by depositing a copy of it in the United States Mail, by depositing a copy of the same into the United States Mail, first-class postage prepaid, addressed as follows:

Heather Cairns,
Cairns Law Firm, LLC,
2537 Gervais Street, Columbia, SC 29204

Adam T. Silvernail
Law Office of Adam T. Silvernail
Post Office Box 7995
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Richland County Probate Court
1701 Main Street
Columbia, SC 29201

Fifth Circuit Court
1701 Main Street
Columbia, SC 29201

Elnora J. Dean
1401 Calhoun St,
Columbia, SC 29201

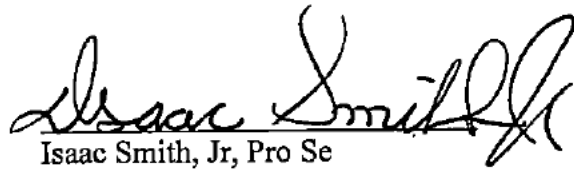
Sonja Lewis
605 Morning Drive
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Lexington County Probate Court
Suite 134
205 East Main Street
Lexington, SC 29072.

Ann Herrera
201 Swanton Way
Decatur, GA 30030

Fulton County Probate Court
136 Pryor Street: # 6230
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Johnnie Mae Muller Newton, Respondent

PROOF OF SERVICE

I certify that I have served a copy of the Petitioner's Motion to Reconsider the Court's Order denying Petitioner's Request To compel Probate Court to produce Tape of Probate Court Transcript by depositing a copy of it in the United States Mail, by depositing a copy of the same into the United States Mail, first-class postage prepaid, addressed as follows:

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Columbia, SC 29201

Fifth Circuit Court
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Columbia, SC 29201

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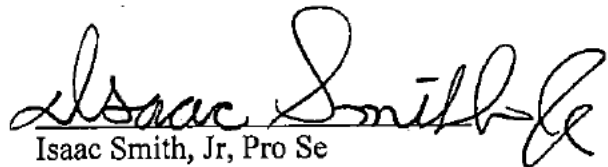
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136 Pryor Street: # 6230
Atlanta, GA 30303

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270 Stoneridge Drive
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A handwritten signature in cursive script that reads "Isaac Smith, Jr." with a stylized flourish at the end.

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April 30, 2021

Issac Smith, Jr.
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Los Angeles, CA 90008



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