

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough
Master-in-Equity

Court of Appeals Case No.: 2018-001464

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Aug 20 2021

SC Court of Appeals

Vanessa Williams, Vanessa Williams, as
Conservator and Guardian of Sandra P. Perkins,
and Vanessa Williams, as Personal Representative
of the Estate of Sandra P. Perkins..... Respondent,

v.

Bradford Q. Jeffcoat, Jr. and Blue Heron
Builders, LLC..... Defendants,

of whom

Bradford Q. Jeffcoat, Jr. is theAppellant.

REPLY
(REHEARING)

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Appellant Bradford Jeffcoat submits the following reply to the Respondent's Response to his Petition for Rehearing and Rehearing *En Banc*:

1. Jeffcoat made his "care and custody" argument under the former S.C. Code § 62-5-309 in his brief (App. Brief p. 12), Williams addressed it in her brief (Resp. Brief pp. 6-7), and Jeffcoat replied (Reply Brief p. 4-5). This argument is preserved. Jeffcoat would note that Williams offers no authorities that refute the guidance of *South Carolina Jurisprudence*.

2. Williams likewise offers no authorities to refute *Deeds of Conveyance*, which squarely supports Jeffcoat's argument that Williams could not unilaterally alienate her mother's interest in 1955 Old Fort. To the extent the 2019 publication date of this book is even relevant (it is not), Jeffcoat would note that his initial brief in this matter was filed on November 26, 2018.

3. Williams' preservation arguments ignore Rule 221, SCACR, which entitles a litigant to file a petition for rehearing when issues have been "overlooked or misapprehended". Jeffcoat has identified such issues in this Court's July 14, 2021, opinion and filed a petition to address them, as he is entitled to under Rule 221, and required to under Rule 242(c) (requiring a petition for rehearing before a petition for certiorari is filed). Under Williams' interpretation of South Carolina's preservation law, any attempt to address issues "overlooked or misapprehended" in an appellate court's opinion would be an "unpreserved argument".

4. Williams' preservation arguments also rely on wholly inapplicable federal appellate law and questions of how hard Jeffcoat "pressed" his arguments (not if the arguments were made or not). "Our supreme court has cautioned that issue preservation 'is not a 'gotcha' game aimed at embarrassing attorneys or harming litigants.'" *Johnson v. Roberts*, 422 S.C. 406, 412, 812 S.E.2d 207, 210 (Ct. App. 2018) (quoting *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012)). Further, "where the question of issue preservation is subject to

multiple interpretations, any doubt should be resolved in favor of preservation.” *Id.* (quoting *Atl. Coast* at 333, 730 S.E.2d at 287 (Toal, C.J., concurring in result in part and dissenting in part)); *see also Calhoun v. Calhoun*, 339 S.C. 96, 529 S.E.2d 14 (2000) (preservation of argument when reasonably clear from brief’s argument, despite no technical mention in issues on appeal). To the extent there are questions as to the preservation of any issue in this appeal (there are none), this Court must err on the side of preservation.

CONCLUSION

The petition for rehearing should be granted, and this rehearing should be held *en banc*.

Dated: 08/20/2021

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