THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell Scarborough
Master-in-Equity

Appellate Case No. 2021-001296

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, Inc.....Defendants,
of whom
Bradford Q. Jeffcoat, Jr. is.....Petitioner.

REPLY OF PETITIONER

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REPLY

1. Contrary to the assertions of Williams (Return p. 1), this petition implicates two novel questions: (1) the interpretation of "care and custody" under S.C. Code § 62-5-309 (Supp. 2015) and (2) the incidents of ownership, if any, not explicitly set forth in S.C. Code § 27-7-40. *See* Rule 242(b)(1), SCACR. Further, the Court of Appeals' decision directly conflicts this Court's decisions in *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012) (Issue preservation "is not a 'gotcha' game aimed at embarrassing attorneys or harming litigants.") and *Caughman v. Caughman*, 247 S.C. 104, 109, 146 S.E.2d 93, 95 (1965) ("[T]he duty to protect the rights of incompetents has precedence over procedural rules otherwise limiting the scope of review."). *See* Rule 242(b)(3), SCACR.

2. Williams faults Jeffcoat for being unable to find Perkins in late 2015. (Return p. 10). However, Williams rebuffed Jeffcoat's attempts to make contact after she left with Perkins, and Jeffcoat had no information as to their whereabouts. (R 70, 157). Further, Williams lived in Mississippi[1] in 2015 (R 143, 277), but she removed Perkins to Alabama in June of 2015. The October 7, 2015, letter from Williams' counsel (dated roughly three months from the initial guardianship petition) represents the first evidence in the record of what became of Perkins after June of 2015, and where. (R 65-66, 70, 157, 305-309). Perkins died a little over a month later.

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[1] Jeffcoat would note an error in the last sentence of paragraph 2, page 4 of the Petition, which states Jeffcoat and Perkins would visit Williams once or twice a year in Alabama. This statement is incorrect – Perkins and Jeffcoat would visit Williams once or twice a year in Mississippi.

3. Jeffcoat's lack of notice argument is hardly "superficial", "glancing", or "passing". (Return pp. 7, 8). Jeffcoat devoted just over five pages in his Court of Appeals brief to contesting the jurisdiction of the Baldwin County Probate Court. (App. Brief pp. 9-14). The lack of notice to Jeffcoat (which necessarily implicates the meaning of "care and custody") was a part of this argument. Even if Jeffcoat's lack of notice argument was exclusively confined to two sentences, as Williams contends (Return p. 7), this Court has found a mere two sentences in a complaint sufficient to preserve an issue for appeal. *See Holy Loch Distribs., Inc. v. Hitchcock*, 340 S.C. 20, 25, 531 S.E.2d 282, ___ (2000).

4. Williams claims Jeffcoat did not preserve the dismissal of his defenses and counterclaims because he did not pursue a Rule 59(e), SCRCP, motion after the Master-in-Equity issued his order. (Return pp. 10-11). A Rule 59 motion would only have been necessary if Jeffcoat had presented his arguments and the Master-in-Equity failed to rule upon them. *E.g. Elam v. SCDOT*, 361 S.C. 9, 602 S.E.2d 772 (2004). Jeffcoat's counterclaims were mentioned at hearing and in his written submissions, and the Master-in-Equity acknowledged there would be "questions of fact" if the alienation of the joint tenancy (an issue of law) was not dispositive. (App. Brief pp. 16-17; R 235-236, 293-294, 301-303). The Master-in-Equity disposed of all these arguments: "Any relief not specifically addressed herein, is denied." (R 6).

CONCLUSION

The petition should be granted.

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