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Jan 27 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
In the Court of Common Pleas

J. Cordell Mattox, Circuit Judge

Case No. 2021-CP-37-00560
Appellate Case No. 2021-001552

Dorothy Pierce,

Appellant,

v.

Jared Adam Pierce,

Respondent.

REPLY TO APPELLANT'S OPPOSITION TO
MOTION TO DISMISS APPEAL

/s/ Richard Hunt McDuff
Richard Hunt McDuff, Esq.
SC Bar No. 76242
MJM Law, LLC d/b/a Merrell Jahn & McDuff
119-B Professional Park Drive
Seneca, South Carolina 29678
Tel: (864) 882-2466
Attorney for Respondent

COMES NOW the Respondent, Jared Adam Pierce, by and through his undersigned attorney and pursuant to Rule 240(f), Appellate Court Rules, and hereby files this Reply to the Appellant's Opposition to Motion to Dismiss Appeal. In further support of his Motion to Dismiss Appeal, the Respondent would show unto the Court the following:

I. LEGAL ARGUMENT

A. The Appellant is Not Licensed and Does Not Understand the Applicable Standards

The Appellant's response in opposition to the Motion to Dismiss proves why the Court should prohibit Appellant from proceeding *pro se* and dismiss this appeal. In her opposition, she argues that this Court must apply the standard set forth in Rule 12(b)(6), SCRPC, and the cases interpreting the rule, to determine whether this appeal must be dismissed. The Appellant seeks to have a standard of review employed by this Court that is wholly inapplicable, and illustrates why the court in *Brown v. Coe*, 365 S.C. 137, 616 S.E. 2d 705 (2005), imposed a rule prohibiting the personal representative of an estate, who is not a lawyer, from pursuing an appeal. As our Supreme Court stated, "such a prohibition is necessary to protect the public from representation by those unlearned in the law" *Id.* at 616 S.E. 2d 708-709.

The Appellant has provided no evidence that she is licensed as an attorney in the State of South Carolina or any other jurisdiction, for that matter. The problem with the Appellant's *pro se* representation is compounded because she, in the purported capacity of Personal Representative, is responsible for advancing the interests of the heirs of the Decedent's estate in addition to her own interest. She is incapable of properly and adequately representing those interests.

B. The Appellant's Return is Untimely

Pursuant to Rule 240(e), Appellate Court Rules, the Appellant was required to file her Return to within ten (10) days of the service of the Motion to Dismiss Appeal. The Respondent's

motion was filed with this Court on January 13, 2022. The Appellant was electronically served with the motion on that same date. The Appellant was required to file her Return with the Court no later than January 24, 2022.¹ She did not file her return with the Court until January 25, 2022. The Appellant never sought to enlarge the time limit for the filing of the Return.

Rule 240(e) provides that the “[f]ailure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.” Alternatively, the Respondent respectfully requests the Appellant’s failure to timely file her Return be deemed to be consent to the Motion to Dismiss Appeal.

II. CONCLUSION

Based the arguments and legal citations set forth in his Motion to Dismiss and in the Reply. the Respondent respectfully requests this Court to dismiss this appeal, along with striking the Notice of Appeal, based upon the fact that the Appellant has failed to pursue this appeal through an attorney licensed to practice in the State of South Carolina, or, in the alternative, because she failed to timely file a Return.

Respectfully submitted,

/s/ Richard Hunt McDuff
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¹ The tenth day fell on Sunday January 23, 2022.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that Appellant, **Dorothy Pierce**, *pro se*, was served via email (dorothypierce84@gmail.com) and U.S. Mail dated January 27, 2022, at 750 Mourning Dove Lane, Seneca, South Carolina 29678.

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