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Apr 21 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.

RESPONDENT'S RETURN TO
AMENDED APPLICATION FOR TEMPORARY ORDER OF RESTRAINT

/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 Return to the Appellant's Amended Application for Temporary Order of Restraint. In support of his Return, the Respondent would show unto the Court the following:

I. Background

The Respondent initiated an action to contest the purported Last Will and Testament of his father, Doyle Elton Pierce. On August 18, 2021, the Oconee County Probate Court entered an order invalidating the purported Will as a forgery and removing the Appellant as Personal Representative of the estate. The Appellant appealed the order of the Probate Court to the Circuit Court. The Probate Court's order was affirmed by the Circuit Court on January 29, 2021.

II. The Appellant's Claim for Extraordinary Relief Against Non-Parties

Gregory A. Pierce and Donna C. Moore are the siblings of the Respondent. They are not parties to the appeal. The only party subject to this court's jurisdiction is the Respondent, Jared Adam Pierce. The Appellant has not alleged that the Respondent has engaged in any conduct related to the property of the Decedent. The Appellant seeks what is tantamount to injunctive relief against non-parties and alleges facts that have not been established, judicially or otherwise. If the conduct alleged did occur, the Appellant has remedies she can seek in the lower courts. She has chosen not to do so.

The Appellant has not demonstrated how this Court has jurisdiction over Gregory Pierce and Donna Moore. Pursuant to *S.C. Code Ann.* § 14-8-200, "the [Court of Appeals] has jurisdiction over any case in which an appeal is taken from an order, judgment, or decree of the circuit court, family court, a final decision of an agency This jurisdiction is appellate only, and the court shall apply the same scope of review that the Supreme Court would apply in a similar case." In

reviewing decisions of the Probate Court, *S.C. Code Ann.* § 62-1-308(i) provides, [t]he hearing must be strictly on appeal and no new evidence may be presented.” The matters before this court are (a) whether there is any evidence to support the ruling of the Probate Court, or (b) whether the Probate Court made an error of law. *In re: Estate of Pallister*, 363 S.C. 437, 611 S.E. 2d 250, 256 (2005).

III. Conclusion

The Appellant has not and cannot demonstrate how this court has jurisdiction to issue an order granting extraordinary relief against nonparties to this appeal. The Respondent respectfully requests this Court to deny the Appellant’s Amended Application for Temporary Order of Restraint for the reasons set forth above.

Respectfully submitted,

/s/ Richard Hunt McDuff
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, **Robert L. Gailliard, Esquire**, Counsel for the Appellant, was served via email (rlgailliardlaw@outlook.com) and U.S. Mail dated April 21, 2022, at 122 Caryota Lane, Summerville, South Carolina 29486.

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