

The South Carolina Court of Appeals

In Re: In the Matter of the Estate of Iris Wadsworth

Emmett Caldwell, Appellant,

v.

Suntrust Bank, N.A., Respondent.

Appellate Case No. 2013-000143

ORDER

The order on appeal from the circuit court indicates that Appellant is represented by an attorney and guardian ad litem appointed by the probate court. On April 4, 2013, this Court sent a letter addressed to Itriss J. Jenkins, Appellant's attorney and guardian ad litem in the courts below. We asked Mr. Jenkins to notify the Court within ten days if he was no longer Appellant's guardian. We have not received a response nor has Mr. Jenkins moved to be relieved as counsel; accordingly, Mr. Jenkins is Appellant's attorney and guardian ad litem for the purposes of this appeal. *See* Rule 264(a), SCACR ("The attorneys and/or guardians *ad litem* of the respective parties in the court below shall be deemed the attorneys and guardians of the same parties in the appellate court until withdrawal is approved and notice is given as provided in this Rule.").

In our April 4, 2013 letter, we asked Mr. Jenkins to correct several deficiencies in Appellant's pro se notice of appeal. To date, we have not received an amended notice of appeal and proof of service that comply with the appellate court rules. Specifically, although we have received several amended notices of appeal and an amended proof of service from Appellant, none of the filings by Appellant comply with the format shown in Appendix C to the South Carolina Appellate Court Rules. In *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989), the Supreme Court instructed the Clerk of Court to return a document filed by a litigant who was represented by counsel on appeal. "There is no constitutional right to hybrid

representation either at trial or on appeal." *State v. Rivera*, Op. No. 27220 (S.C. Sup. Ct. filed February 13, 2013) (Shearouse Adv. Sh. No. 7). Pursuant to *Foster*, we are returning Appellant's pro se filings to him. This appeal is hereby dismissed for failure to comply with the requirements of the South Carolina Appellate Court Rules. See Rule 260(a), SCACR ("Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.").


FOR THE COURT

Columbia, South Carolina

cc:
Emmett Caldwell
Michael A. Scardato
Ittriss J. Jenkins
Peter A. Kouten

FILED

5/16/13 