

Nov. 20, 2014

To the Beaufort Co. Probate Court and others,

Look what I found - Now will someone explain why that after over one year this has not happened. What happened to a speedy trial or hearing? At first I thought that Carey Fleming had just sucked another \$500.00 from me, it will be interesting to get the truth. Anyway My wife & I have been denied our Civil rights & we have done nothing wrong. The Port Royal Police has not done their job (duty) the Court had continued My wife stay in the Helena House without any verification of Evinr. lies and unproven allegations, the S.C. Bar (Wm Campbell) has lied & the Attorney General of S.C. Alan Wilson has flip flopped My wife and I are losing the final days of our lives. How do you explain this?

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FILED

STATE OF SOUTH CAROLINA ) IN THE PROBATE COURT  
2013 OCT -3 ) PH 3:48  
COUNTY OF BEAUFORT ) PROBATE COURT, CASE NO.: 2013ES07000011  
BEAUFORT COUNTY, SC ) 2013ES07000012  
IN THE MATTER OF: )  
ANNA M. HAYS, a protected person ) MEMORANDUM IN OPPOSITION TO  
ERIN KATHLEEN HAYS FOUNTAIN, ) MOTION GRANTING PETITIONS  
And PATRICK T. HAYS, ) AND MOTION TO DISMISS  
Petitioners. ) PETITIONS FILED BY HENRY HAYS

Henry Hays, Petitioner, in the above referenced matter does hereby submit the following Memorandum in Opposition to Petitioners', Erin Kathleen Hays Fountain and Patrick T. Hays, Motion to Grant their Petitions and Motion to Dismiss Henry Hays' Petitions.

Petitioners have moved for an Order Granting their Petitions for Appointment of Guardian and Conservator on the erroneous basis that the Court made a finding that Anna M. Hays is incapacitated and appointed Erin Kathleen Hays Fountain as Guradian and Patrick Hays as Conservator at the hearing on August 19 and 20, 2013. In fact, Petitioners state in their motion that "[T]he Court had already determined to grant the relief requested in the Petitions." The Court heard testimony for two days and midday on the 20<sup>th</sup>, the Court suspended the hearing in the hopes that the parties could possibly reach a settlement in the matter. The Court did not make any such findings on the record and simply continued the hearing pending the outcome of the parties' settlement discussions. Further, the Petitioners had not completed the testimony in their case and Petitioner, Henry Hays, had not even had an opportunity to present testimony on his

behalf. For the Petitioners to state that the Court made such findings and to argue that the matter is *res judicata* is simply not true and a complete misrepresentation of the aforementioned proceedings.

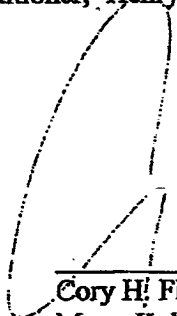
Not only do the Petitioners allege that the Court made such findings, the Petitioners allege that counsel for Henry Hays agreed to conclude the case with the erroneous findings set forth above. Petitioners go on to state in their motion that Counsel sought to withdraw Mr. Hays' prior agreement to conclude the case with these findings. Counsel has been quite candid with all parties involved that Mr. Hays has never agreed to these findings and has made no other representation to the contrary. Counsel did agree to diligently work towards a possible resolution of the case after the Court suspended the hearing for the purpose of doing just that.

In addition to stating that the Court made the aforementioned findings, Petitioners also contend in their Motion that "[T]he Court assigned to counsel for the Petitioners the drafting of the Order to enter these findings and to describe the living conditions for Anna Marie Hays." This statement is factually inaccurate as the Court at no time made these findings nor ruled on the matter. The Court merely continued the hearing so as to allow the parties time to resolve the matter amongst themselves.

Even in the event that the Court determines that Anna M. Hays is incapacitated, the Court would have to hear testimony as to the fitness of the Petitioners to serve as Guardian and Conservator. In addition, Henry Hays, regardless of whether he petitioned the Court to serve in that capacity, would have the opportunity to present testimony on his behalf as he is given priority to serve under S.C. Code §62-5-311. S.C. Code §62-5-311(b) provides that Henry Hays has priority to serve over the Petitioners as he is the

spouse of the alleged incapacitated person absent a finding of good cause by the Court as to why he should not be given priority. Petitioners have to present testimony as to what circumstances support a finding of good cause so as to allow them to serve instead of Mr. Hays. In addition, Petitioners spent the majority of the hearing presenting testimony attacking Mr. Hays' character and his fitness to serve in either capacity and Mr. Hays has a right to defend himself as to those allegations and present evidence as to why the Court should recognize that he does have priority over the Petitioners under S.C. Code §62-5-311. Even if the Court were to dismiss Mr. Hays' petitions, he would still be entitled to submit testimony at the hearing on the Petitioners motions.

For the foregoing reasons, Petitioner, Henry Hays, respectfully submits that petitioners' motions be denied.



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October 3, 2013  
Beaufort, South Carolina