

SUPREME COURT OF FLORIDA

In re Manney's Estate

42 So. 2d 535 (Fla. 1949) · Decided October 28, 1949

SUMMARY

The court considered whether sufficient evidence established that a missing 1946 will contained a clause revoking prior wills. Relying on testimony from the drafting attorney, a beneficiary, and corroborating witnesses, the court held that the evidence supported the probate court’s finding. The court reversed the Circuit Court and reinstated the probate court’s determination.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	TERRELL, Justice; ADAMS, C.J.; SEBRING, J.; ROBERTS, J.
JURISDICTION	Florida
DECIDED	October 28, 1949
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from a circuit court decree concerning probate of a lost will and whether a later will contained a clause revoking prior wills.
STANDARD OF REVIEW	A probate court's factual determination based on witness testimony should not be reversed unless clearly erroneous, particularly because the probate judge observed the witnesses and evaluated their demeanor and credibility.
PRECEDENTIAL VALUE	Published opinion

TOPICS

- lost will
- probate
- evidence
- standard of review
- appellate procedure

PRACTICE AREAS

- Probate
- Evidence
- Appellate Procedure

QUESTIONS PRESENTED

- Whether the evidence was sufficient to establish that the decedent's 1946 will contained the usual clause revoking all prior wills.

2. Whether the circuit court properly disturbed the probate court's factual determination after the probate judge heard and observed the witnesses.

HOLDINGS

1. The evidence was sufficient to support the finding that the 1946 will contained the usual clause revoking prior wills.
2. The circuit court should not have reversed the probate court because the probate judge could reasonably reach the conclusion that the 1946 will contained a revocation clause, and the probate judge's finding was not clearly erroneous.

KEY QUOTATIONS

"In our view the net result of all the testimony is that the will of 1946 was executed and that it contained the usual revocation clause." (42 So. 2d at 536)

"Hence he should not be reversed unless he is clearly in error." (42 So. 2d at 536)

"We think the evidence is such that the Probate Judge could have reasonably reached the conclusion he did." (42 So. 2d at 536)

FACTUAL BACKGROUND

Katherine Elsie Vincent Manney executed a 1943 will naming legatees who were not her heirs or blood relatives. After her death, the original 1943 will could not be found, and a copy was offered for probate. Evidence was presented that Manney later executed a 1946 will, but the 1946 document could not be produced; the dispute concerned whether it contained the usual clause revoking prior wills. The drafting attorney and a principal beneficiary testified that the revocation clause was included, supported by other testimony.

PROCEDURAL HISTORY

The probate court found that the decedent executed a 1946 will containing the usual clause revoking prior wills. The circuit court agreed that the 1946 will was executed but held that the evidence did not establish that it contained a revocation clause. The Supreme Court of Florida reversed the circuit court.

DISPOSITION

reversed

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