

SUPREME COURT OF FLORIDA

Newman v. Smith

77 Fla. 633 (Fla. 1918) · Decided June 10, 1918

SUMMARY

The Florida Supreme Court considers a challenge to the probate of L. W. Smith’s will, which left his entire estate to his widow and appointed her executrix. The contestant, Smith’s daughter, alleged lack of testamentary capacity and undue influence because the will was executed while Smith was hospitalized and taking narcotics. The court addresses the legal effect of the evidence and appellate review of the lower court’s revocation of probate.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Whitfield, J.; Taylor, J.; West, J.; Browne, C. J.; Ellis, J.
JURISDICTION	Florida
DECIDED	June 10, 1918
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a decree of the Circuit Court for Hillsborough County reversing a county judge's decree that revoked probate of L. W. Smith's will. The Supreme Court reviewed the evidence and affirmed the circuit court's decree.
STANDARD OF REVIEW	On appeal in a will contest, a trial judge's factual findings ordinarily are not disturbed when supported by ample evidence. However, an appellate court must reverse when the finding is contrary to the legal effect of the evidence considered as a whole, even if the evidence is conflicting and the trial judge personally observed the witnesses. The Supreme Court will affirm a circuit court decree reversing a county judge when the circuit court's decree accords with the legal effect of the evidence.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Florida; binding precedent within Florida unless subsequently limited or overruled.
PARTIES	Willo V. Newman v. Margaret F. Smith, as Executrix of the Last Will and Testament of L. W. Smith, Deceased

TOPICS

will contests

testamentary capacity

undue influence

probate procedure

standard of review

PRACTICE AREAS

Probate

Trusts and estates

Appellate procedure

Evidence

QUESTIONS PRESENTED

1. Whether the evidence established that L. W. Smith lacked testamentary capacity when he executed the will.
2. Whether the will was procured by undue or improper influence that prevented Smith from exercising a free testamentary intent.
3. Whether the circuit court properly reversed the county judge's decree based on the legal effect of the evidence despite conflicts in testimony.

HOLDINGS

1. A testator has testamentary capacity when he generally understands the nature and extent of the property being disposed of, his relationship to persons who would naturally claim a substantial benefit, and the practical effect of the will. The evidence, considered as a whole, did not show that Smith lacked such capacity when he executed the will.
2. Undue influence requires proof of overpersuasion, coercion, or force that destroys or hampers the testator's free agency and will power. Mere affection, attachment, desire to gratify a trusted person's wishes, or the existence of an opportunity to influence does not ordinarily establish undue influence. The evidence did not prove undue influence in Smith's execution of the will.
3. An appellate court should reverse a trial judge's finding when the finding is contrary to the legal effect of the evidence considered as an entirety, even though the evidence is conflicting and some evidence supports the finding.
4. A person of sound mind has the legal right to exclude an only child from benefits under a will, and an apparently unequal or unjust disposition alone does not invalidate the will.

KEY QUOTATIONS

“In the making of a will a “sound mind” comprehends ability of the testator to mentally understand in a general way the nature and extent of the property to be disposed of, and the testator’s relation to those who would naturally claim a substantial benefit from the will, as well as a general understanding of the practical effect of the will as executed.” (at 649)

“Where the finding of a trial judge is contrary to the legal effect of the evidence on the issues made, the appellate court should reverse the finding even though the trial judge personally saw and heard the witnesses testify and even though there were conflicts in the testimony, and there was some evidence tending to support the finding.” (at 650)

“Undue influence comprehends over-persuasion, coercion or force that destroys or hampers the free agency and will power of the testator.” (at 666)

FACTUAL BACKGROUND

L. W. Smith executed a will in a Tampa hospital on February 27, 1913, leaving his entire estate to his wife, Margaret F. Smith, and naming her executrix. Smith was suffering from vascular disease, pain, fear of death, and had received morphine, while medical and lay witnesses gave conflicting evidence about his mental capacity. Smith's daughter, Willo V. Newman, alleged that he was incapacitated and unduly influenced, emphasizing that an earlier intention may have existed to divide his property between her and his wife. Other witnesses testified that Smith understood the will, retained it, discussed its contents, and remained mentally competent.

PROCEDURAL HISTORY

L. W. Smith's will was admitted to probate by the Hillsborough County Judge. His daughter, Willo V. Newman, petitioned to revoke probate, alleging that Smith lacked testamentary capacity because of illness and narcotics and that the will resulted from undue influence. The county judge revoked probate, but the circuit court reversed and directed dismissal of the contest. Newman appealed to the Supreme Court of Florida, which affirmed the circuit court.

DISPOSITION

affirmed

CASES CITED

- Epling v. Hutton, 121 Ill. 555, 13 N. E. 242
- Horner v. Buckingham, 64 Atlantic, 41
- Perez v. Bank of Key West, 36 Fla. 467, 18 South. Rep. 590
- Peck v. Osteen, 37 Fla. 427, 20 South. Rep. 549
- Alvarez v. Bowden, 39 Fla. 450, 22 South. Rep. 718
- Ross & Co. v. Walker, 44 Fla. 704, 32 South. Rep. 934
- Howard v. Sheffield, 73 Fla. 358, 74 South. Rep. 488
- McGill v. Chappelle, 71 Fla. 479, 71 South. Rep. 836
- Cowen v. Bean, 159 Wis. 67, 149 N. W. 745
- In re Weber's Estate, 401 Mich. 477, 167 N. W. Rep. 937
- Slaughter v. Heath, 127 Ga. 747, 57 S. E. 69, 27 L. R. A. (N. S.)
- Sweetser v. Ladd, 52 Fla. 663, 41 South. Rep. 705
- Brown v. Avery, 63 Fla. 355, 58 South. Rep. 34, Ann. Cas. 1914A, 90