DISTRICT OF COLUMBIA COURT OF APPEALS

Valentine v. Elliott

819 A.2d 968 (D.C. 2003) · No. Appeal Nos. 97-PR-1217; 98-PR-934; 98-PR-1104; 98-PR-1771; 99-PR-531; 99-PR-1392; 99-PR-1619; 00-PR-71; 00-PR-768; 00-PR-808; 00-PR-873; 00-PR-904; 00-PR-905; 00-PR-1469 · Decided March 27, 2003

SUMMARY

The District of Columbia Court of Appeals reviewed fourteen consolidated appeals arising from the probate of Daniel B. Delaney's estate. The court addressed the timeliness of a will contest and common-law-wife claim, ownership of disputed accounts, compensation and attorney-fee issues, and removal of the personal representative. It affirmed the challenged orders and judgments, holding in relevant part that the will contest and spousal election claims were time-barred.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Belson, Senior Judge; Belson; Farrell; Washington
JURISDICTION	District of Columbia
DECIDED	March 27, 2003
DOCKET	Appeal Nos. 97-PR-1217; 98-PR-934; 98-PR-1104; 98-PR-1771; 99-PR-531; 99-PR-1392; 99-PR-1619; 00-PR-71; 00-PR-768; 00-PR-808; 00-PR-873; 00-PR-904; 00-PR-905; 00-PR-1469
DISPOSITION	affirmed
PROCEDURAL POSTURE	Fourteen consolidated appeals from probate orders involving will contests, a common-law-wife claim, ownership of Virginia accounts, fiduciary and tax-counsel compensation, attorneys' fees, sanctions, and removal and replacement of a personal representative.
STANDARD OF REVIEW	De novo review for summary judgment and choice-of-law questions; abuse of discretion for compensation, attorneys' fees, and sanctions; clearly erroneous review for predicate bad-faith findings and factual findings in a bench matter; statutory review of mandatory removal of a personal representative; abuse of discretion for appointment of a successor personal representative.
PRECEDENTIAL VALUE	Published opinion; precedential

PARTIES	Edna J. Valentine, Lawrence M. Elliott, R. Eliot Rosen, Christopher Hoge, on behalf of the Delaney estate v. Lawrence M. Elliott, Christopher Hoge, successor personal representative, The Delaney estate, Residuary charitable beneficiaries, including the NAACP and American Heart Association

TOPICS

will contests · probate procedure · estate administration · appellate procedure · statutory interpretation

PRACTICE AREAS

Probate · Estate administration · Appellate procedure · Statutory interpretation · Civil procedure

QUESTIONS PRESENTED

1. Whether Valentine's challenge to the July 31 will based on intrinsic fraud or forgery was timely under the probate will-contest statute.
2. Whether the discovery rule could apply to a belated will contest based on intrinsic fraud.
3. Whether the three-year civil-fraud limitations period or later notice to other heirs restarted or extended the will-contest period.
4. Whether Valentine's common-law-wife and elective-share claim was time-barred.
5. Whether the Probate Division had subject-matter jurisdiction to determine ownership of Virginia accounts held in joint names.
6. Which jurisdiction's law governed the account-ownership dispute.
7. Whether the Virginia accounts were convenience accounts belonging to the estate or joint accounts carrying survivorship rights.
8. Whether requiring Valentine to deposit the disputed funds into the court registry violated due process or the Contract Clause.
9. Whether the trial court properly denied Elliott compensation and reduced Rosen's compensation.
10. Whether Valentine had standing to appeal Rosen's compensation order.
11. Whether attorneys' fees were properly denied for alleged bad-faith litigation and witness interference.
12. Whether Elliott was properly removed as personal representative and whether he had standing to challenge appointment of the successor representative.

HOLDINGS

1. The discovery rule may be used for a belated will contest based on intrinsic fraud, such as forgery, but the challenger must act with reasonable diligence after acquiring actual or inquiry notice. Valentine's challenge was untimely because she suspected forgery when she received the will in March 1994 but waited until 1997 to investigate and file her challenge.

2. The three-year statute of limitations for civil fraud under D.C. Code § 12-301(8) does not apply to a will contest governed by the probate code; the probate statute's six-month limitations period controls.
3. Later publication or notice to previously omitted heirs does not restart the six-month period for a party who already received notice of the appointment.
4. Valentine's claim to common-law-wife status was time-barred because any purpose for asserting that status was to elect a statutory spousal share, and the statutory six-month election period had expired.
5. The Probate Division had subject-matter jurisdiction to determine whether the Virginia accounts belonged to the estate because the decedent was domiciled in the District and the dispute was a claim between the executor and a legatee.
6. District of Columbia law governed whether the Virginia accounts passed into the estate because the District's governmental interests in preventing fraud and administering the estate were substantially stronger than Virginia's interests.
7. Both accounts were convenience accounts belonging to the estate, not joint accounts with rights of survivorship, because Delaney supplied all deposited funds and Valentine failed to prove an inter vivos gift by clear and convincing evidence.
8. Requiring Valentine to deposit the disputed funds into the court registry did not violate procedural due process because she received notice, participated in the hearing, argued the merits, and failed to seek a continuance, leave to submit additional materials, or reconsideration.
9. The trial court properly denied Elliott's second compensation request because an earlier final, non-clearly-erroneous order had already determined that the will barred compensation for his personal services.
10. The trial court did not abuse its discretion by denying most requested attorneys' fees because the challenged claims, although weak, were not shown to be entirely without legal or factual support, asserted wantonly, or brought for improper purposes.
11. The trial court properly removed Elliott because he failed without reasonable excuse to perform a material fiduciary duty, including timely payment and filing of estate taxes.
12. After removal, Elliott lacked standing to challenge appointment of Hoge as successor personal representative because he suffered no injury to a legal right or legally protected relationship.

KEY QUOTATIONS

> *"Thus it seems appropriate to allow the use of the discovery rule for belated will contests based on claims of intrinsic fraud."* (981)

> *"We hold that the statute of limitations for fraud embodied in D.C.Code § 12-301(8) does not apply to will contests under the probate code."* (983)

> *"On balance, then, the District's interests are substantially stronger, and its law governs."* (990)

> *"Since the court has no discretion, but is statutorily bound to remove the personal representative if it finds that he or she has committed an infraction of a personal representative's fiduciary duties, we review only the*

> *finding of an infraction."* (1003)

FACTUAL BACKGROUND

Daniel B. Delaney died domiciled in the District of Columbia in 1993, leaving a July 18 will naming Edna J. Valentine as sole beneficiary and a later July 31 will leaving most of the estate to charitable beneficiaries. Valentine received notice of the later will in March 1994 but did not formally challenge it until 1997, despite immediately suspecting forgery. Two Virginia accounts funded solely by Delaney were placed in joint names with Valentine shortly before his death, and Valentine transferred and spent the funds after his death. The probate court treated the accounts as estate assets, denied or reduced compensation and fee requests, awarded limited attorneys' fees, and removed original personal representative Lawrence M. Elliott for fiduciary delinquencies, including late tax filings.

PROCEDURAL HISTORY

The Superior Court of the District of Columbia admitted a later will to probate, dismissed Valentine's challenges to that will and her common-law-wife claim as untimely, determined that disputed Virginia accounts belonged to the estate, and entered related orders concerning accounting, escrow, compensation, attorneys' fees, and removal of the personal representative. Several appeals were abandoned and dismissed. The Court of Appeals affirmed the challenged orders and judgments, while dismissing the abandoned appeals and Elliott's appeal from the appointment of the successor personal representative.

DISPOSITION

affirmed

CASES CITED

- In re Estate of Derricotte, 744 A.2d 535 (D.C. 2000)
- West v. Morris, 711 A.2d 1269, 1271 (D.C. 1998)
- Dyer v. William S. Bergman & Associates, Inc., 685 A.2d 1285, 1286-87 (D.C. 1993)
- Robinson v. Howard University, 455 A.2d 1363, 1366 (D.C. 1983)
- In re Burleson, 738 A.2d 1199, 1203-04 (D.C. 1999)
- Knight v. Furlow, 553 A.2d 1232, 1233 (D.C. 1989)
- Duggan v. Keto, 554 A.2d 1126, 1134 (D.C. 1989)
- Johnson v. Martin, 567 A.2d 1299, 1302 (D.C. 1989)
- Interdonato v. Interdonato, 521 A.2d 1124, 1138 (D.C. 1987)
- In re Estate of McCagg, 450 A.2d 414 (D.C. 1982)
- Criscoe v. Derooy, 384 A.2d 627 (Del. Ch. 1978)
- Padgett v. Estate of Padgett, 318 So. 2d 484 (Fla. Dist. Ct. App. 1975)
- Estate of Colucci, 492 A.2d 1155 (Pa. Super. Ct. 1985)
- Diamond v. Davis, 680 A.2d 364, 372-73 (D.C. 1996)

- Kropinski v. World Plan Executive Council-US, 853 F.2d 948, 955 (D.C. Cir. 1988)
- Mullin v. Washington Free Weekly, Inc., 785 A.2d 296, 299 (D.C. 2001)
- Colbert v. Georgetown University, 641 A.2d 469, 472-73 (D.C. 1994)
- East v. Graphic Arts Industrial Joint Pension Trust, 718 A.2d 153, 157 (D.C. 1998)
- Ray v. Queen, 747 A.2d 1137, 1142 (D.C. 2000)
- Biscoe v. Arlington County, 738 F.2d 1352, 1360 (D.C. Cir. 1984)
- Davis v. Altmann, 492 A.2d 884, 885-87 (D.C. 1985)
- Imirie v. Imirie, 246 F.2d 652, 653 (D.C. Cir. 1957)
- Harrington v. Emmerman, 186 F.2d 757, 761 (D.C. Cir. 1950)
- Uckele v. Jewett, 642 A.2d 119, 123 (D.C. 1994)
- Johnson v. United States, 398 A.2d 354, 367 (D.C. 1979)
- Weinberg v. Johnson, 518 A.2d 985, 987 (D.C. 1986)
- Murphy v. McCloud, 650 A.2d 202, 203 (D.C. 1994)
- In re Estate of King, 769 A.2d 771, 777, 780 (D.C. 2001)
- Chambers v. NASCO, 501 U.S. 32, 45-46 (1991)
- Roadway Express, Inc. v. Piper, 447 U.S. 752, 764, 766 (1980)
- Synanon Foundation, Inc. v. Bernstein, 517 A.2d 28, 36-38 (D.C. 1986)
- Gray v. Washington, 612 A.2d 839 (D.C. 1992)
- In re C.T., 724 A.2d 590, 595 (D.C. 1999)
- In re Estate of Jacobson, 387 A.2d 590, 591 (D.C. 1978)
- In re Estate of Burleson, 738 A.2d 1199, 1203-04 (D.C. 1999)
- Barrera v. Wilson, 668 A.2d 871 (D.C. 1995)
- Circle Liquors, Inc. v. Cohen, 670 A.2d 381, 385 n. 8 (D.C. 1996)
- Weaver v. Grafio, 595 A.2d 983, 986 (D.C. 1991)
- Budinich v. Becton Dickinson & Co., 486 U.S. 196, 200 (1988)