

SUPREME COURT OF ILLINOIS

Shriners Hospitals for Children v. Bauman

236 Ill. 2d 45 (Ill. 2009) · No. No. 106461 · Decided October 29, 2009

SUMMARY

The Supreme Court of Illinois held that a claim for intentional interference with an expectancy of inheritance is not subject to the six-month limitation period for contesting a will under section 8-1 of the Probate Act. Because Shriners Hospitals for Children lacked a fair opportunity to pursue a will contest and sought relief for alleged inter vivos transfers that a will contest could not address, the court reversed the lower courts and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Burke; Chief Justice Fitzgerald; Justice Freeman; Justice Thomas; Justice Kilbride; Justice Garman; Justice Karmeier
JURISDICTION	Illinois
DECIDED	October 29, 2009
DOCKET	No. 106461
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Shriners appealed dismissal of its intentional-interference-with-an-expectancy-of-inheritance tort claim as untimely under section 8-1 of the Illinois Probate Act. The Illinois Supreme Court granted leave to appeal.
STANDARD OF REVIEW	De novo review of the statutory-construction question concerning whether the six-month limitation period applies to the tort claim.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Illinois.
PARTIES	Shriners Hospitals for Children v. James G. Bauman, individually and as executor of the Estate of Grace Ellis, Other appellees

TOPICS

- probate procedure
- intentional interference with expectancy
- will contests
- statutory interpretation
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether section 8-1 of the Illinois Probate Act's six-month limitation period for petitions contesting the validity of a will applies to a tort claim for intentional interference with an expectancy of inheritance.
2. Whether the tort claim was barred under Robinson because Shriners had forgone an available will-contest remedy.

HOLDINGS

1. Section 8-1's six-month limitation period applies to a petition to contest the validity of a will, not to a distinct personal tort action for intentional interference with an expectancy of inheritance.
2. Robinson did not require dismissal because its limitation on the tort applied where plaintiffs had an opportunity to contest the will, chose not to do so, and entered into an agreement releasing further claims; Shriners had no comparable opportunity and did not waive its claims.

KEY QUOTATIONS

"A tort action for intentional interference with inheritance is distinct from a petition to contest the validity of a will, in several important respects." (at 240)

*"Thus, a tort claim for intentional interference with an expectancy is not a 'petition * * * to contest the validity of the will' under the plain statutory language of section 8-1."* (at 241)

"Accordingly, we find that section 8-1 does not apply to the tort action filed by Shriners against Bauman." (at 243)

"We emphasize that our holding applies to the particular parties under the circumstances of this case and does not extend to a plaintiff who fails to bring a tort claim within the period for filing a will contest, where the will contest remedy was available." (at 243)

FACTUAL BACKGROUND

Grace Ellis executed a 1964 will naming Shriners Hospitals for Children as a contingent beneficiary if she died without direct descendants. In 1999, Ellis executed a new will naming her pastor, James G. Bauman, as sole primary beneficiary; that will was admitted to probate in 2003. Shriners did not learn of its interest in the 1964 will or of Bauman's alleged conduct, including inter vivos transfers exceeding \$1 million, until 2006, after the six-month period for contesting the 1999 will had expired.

PROCEDURAL HISTORY

The Cook County circuit court dismissed Shriners' will-contest and tort claims with prejudice and denied leave to amend, ruling that the petition was filed more than six months after the 1999 will was admitted to probate. The appellate court affirmed, holding that the tort claim was an impermissible collateral attack on the probated will. The Illinois Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the circuit court for further proceedings consistent with the opinion, including further proceedings on Shriners' intentional-interference-with-an-expectancy-of-inheritance claim.

CASES CITED

- Ruffing v. Glissendorf, 41 Ill. 2d 412, 419, 243 N.E.2d 236 (1968)
- Robinson v. First State Bank of Monticello, 97 Ill. 2d 174, 182-86, 73 Ill. Dec. 428, 454 N.E.2d 288 (1983)
- In re Estate of Mohr, 357 Ill. App. 3d 1011, 1013-14, 294 Ill. Dec. 398, 830 N.E.2d 810 (2005)
- People v. Lewis, 223 Ill. 2d 393, 402, 307 Ill. Dec. 645, 860 N.E.2d 299 (2006)
- Ultsch v. Illinois Municipal Retirement Fund, 226 Ill. 2d 169, 181, 314 Ill. Dec. 91, 874 N.E.2d 1 (2007)
- In re E.B., 231 Ill. 2d 459, 466, 326 Ill. Dec. 1, 899 N.E.2d 218 (2008)
- Board of Education, Joliet Township High School District No. 204 v. Board of Education, Lincoln Way Community High School District No. 210, 231 Ill. 2d 184, 198, 325 Ill. Dec. 217, 897 N.E.2d 756 (2008)
- People ex rel. Madigan v. Kinzer, 232 Ill. 2d 179, 184-85, 327 Ill. Dec. 546, 902 N.E.2d 667 (2009)
- Mount v. Dusing, 414 Ill. 361, 365, 111 N.E.2d 502 (1953)
- Hall v. Eaton, Hall v. Eaton, 259 Ill. App. 3d 319, 321, 197 Ill. Dec. 583, 631 N.E.2d 805 (1994)
- In re Estate of Spaits, 104 Ill. 2d 431, 435-36, 84 Ill. Dec. 647, 472 N.E.2d 784 (1984)
- Nupnau v. Hink, 33 Ill. 2d 285, 288, 211 N.E.2d 379 (1965)
- Merrick v. Continental Illinois National Bank & Trust Co. of Chicago, 10 Ill. App. 3d 104, 114, 293 N.E.2d 767 (1973)
- Vickie Lynn Marshall v. E. Pierce Marshall, Marshall v. Marshall, 547 U.S. 293, 312, 126 S. Ct. 1735, 164 L. Ed. 2d 480 (2006)
- In re Estate of Roeseler, 287 Ill. App. 3d 1003, 1021, 223 Ill. Dec. 208, 679 N.E.2d 393 (1997)
- In re Estate of Knowlson, 204 Ill. App. 3d 454, 457-58, 149 Ill. Dec. 813, 562 N.E.2d 277 (1990)
- Nemeth v. Banhalmi, 99 Ill. App. 3d 493, 499, 55 Ill. Dec. 14, 425 N.E.2d 1187 (1981)
- Edward A. Schilling v. Maria Herrera, Schilling v. Herrera, 952 So. 2d 1231, 1233-37 (Fla. App. 2007)
- Evelyn G. DeWITT and Mabel M. DeWitt, Appellants, v. Estelle R. DUCE, Dallas W. Weaver and Mabel E. Weaver, Appellees., DeWitt v. Duce, 408 So. 2d 216, 218 (Fla. 1981)
- In re Estate of Hoover, 160 Ill. App. 3d 964, 966, 112 Ill. Dec. 382, 513 N.E.2d 991 (1987)
- Pedersen v. Dempsey, 341 Ill. App. 141, 143, 93 N.E.2d 85 (1950)
- In re Estate of Jeziorski, 162 Ill. App. 3d 1057, 1059, 1063, 114 Ill. Dec. 267, 516 N.E.2d 422 (1987)