

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

In re Estate of Sarah Grant Dunson v. Raymond

141 So. 2d 601 (Fla. Dist. Ct. App. 1962) · No. No. 2345 · Decided May 25, 1962

SUMMARY

The Florida Second District Court of Appeal affirmed an order admitting Sarah Grant Dunson's will to probate. The court rejected challenges based on lack of testamentary capacity and undue influence, holding that substantial evidence supported the probate judge's findings and that the will's provisions did not establish coercion or an unnatural disposition.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	KANNER; ALLEN, Acting C.J.; SMITH, J.
JURISDICTION	Florida
DECIDED	May 25, 1962
DOCKET	No. 2345
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the probate judge admitting the decedent's will to probate.
STANDARD OF REVIEW	The appellate court examined whether the probate judge had misapprehended the legal effect of the evidence as a whole and whether substantial evidence supported the determination of testamentary capacity.
PRECEDENTIAL VALUE	Published Florida District Court of Appeal opinion; precedential within the limits of applicable Florida law.
PARTIES	William Morgan Grant v. Edward L. Raymond

TOPICS

will contests

testamentary capacity

undue influence

probate procedure

trust administration

PRACTICE AREAS

Probate

Wills and estates

Trusts

QUESTIONS PRESENTED

1. Whether the evidence established that the testatrix lacked testamentary capacity when she executed the will.
2. Whether the will was invalid because it resulted from undue influence exerted by the appellee.
3. Whether the probate judge misapprehended the legal effect of the evidence in admitting the will to probate.

HOLDINGS

1. The will was not invalid for lack of testamentary capacity because substantial evidence supported the probate judge's determination that the testatrix possessed the required capacity at the time of execution.
2. The will was not invalid for undue influence because the record did not establish overpersuasion, duress, force, coercion, or fraudulent or artful conduct sufficient to destroy the testatrix's free agency and will power.
3. The probate judge did not misapprehend the legal effect of the evidence, and the order admitting the will to probate was properly affirmed.

KEY QUOTATIONS

"Mental capacity of a testator at the time he executed his will is the determining factor, and capacity to dispose of one's property testamentarily depends upon a sound mind and not upon a sound body." (604)

"The term, 'sound mind,' connotes the ability of a testator to understand in a general way the nature and extent of the property to be disposed of, his relationship to those who would naturally claim a substantial benefit from the will, as well as a general comprehension of the practical effect of the will as executed." (604)

"The burden of overthrowing a will on the ground of lack of testamentary capacity is a heavy one and must be sustained by a preponderance of the evidence." (605)

"for a will to be invalidated upon this ground, the undue influence charged must be such that it amounts to overpersuasion, duress, force, coercion, or artful or fraudulent contrivances to such an extent that there is a destruction of free agency and will power of the testator." (605)

FACTUAL BACKGROUND

Sarah Grant Dunson, age seventy-nine, suffered from a cancerous brain growth and arteriosclerosis, underwent brain surgery, and was later declared incompetent, but executed her will approximately five months before her death. The will provided her brother William Morgan Grant with a lifetime monthly income of \$200, additional support for his health and care, and funeral expenses, while placing most of the estate in a testamentary trust administered by Edward L. Raymond, who had served as Dunson's stockbroker and was named executor and trustee. Grant challenged the will based primarily on testamentary incapacity and undue influence, and the evidence presented at the probate hearings was extensive and conflicting.

PROCEDURAL HISTORY

William Morgan Grant, the decedent's brother, challenged admission of his sister's will to probate, principally alleging lack of testamentary capacity and undue influence. After extensive evidentiary hearings, the probate judge admitted the will. The District Court of Appeal reviewed the record and affirmed.

DISPOSITION

affirmed

CASES CITED

- Skelton v. Davis, 133 So. 2d 432 (Fla. App. 1961)
- In re Donelly's Estate, 188 So. 108 (Fla. 1938)
- In re Starr's Estate, 170 So. 620 (Fla. 1935)
- In re Willmott's Estate, 66 So. 2d 465 (Fla. 1953)
- In re Bailey's Estate, In re Bailey's Estate, 122 So. 2d 243 (Fla. App. 1960)
- Heasley v. Evans, Heasley v. Evans, 104 So. 2d 854 (Fla. App. 1958)
- In re Kiggins' Estate, 67 So. 2d 915 (Fla. 1953)

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