

SUPREME COURT OF FLORIDA

In Re: Estate of P. P. Cobb

26 So. 2d 442 (Fla. 1946) · Decided June 7, 1946

SUMMARY

The court reviewed a probate decree awarding \$15,000 in attorneys' fees for successfully contesting and setting aside an alleged will. It held that the fee award should not be disturbed absent an abuse of discretion or application of an incorrect legal rule, and affirmed the judgment in all respects except that \$721.95 in trial-preparation expenses was chargeable as costs against the estate. The decree was otherwise affirmed.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Chapman, C. J.; Terrell, J.; Thomas, J.; Adams, J.
JURISDICTION	Florida
DECIDED	June 7, 1946
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final decree awarding \$15,000 as a reasonable attorney fee for successfully contesting and setting aside an alleged will.
STANDARD OF REVIEW	The attorney-fee award will not be reversed unless the trial court abused its discretion or was clearly wrong, including by applying a wrong rule of law to the evidence.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	Appellants contesting the attorney-fee award v. W. E. Vassar, Executor of the Estate of P. P. Cobb, Fort Pierce Memorial Hospital, Fort Pierce Woman's Club Public Library

TOPICS

- will contests
- estate litigation
- probate procedure
- remedies
- standard of review

PRACTICE AREAS

- Probate
- Estate litigation
- Attorney fees
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion or applied an incorrect legal rule in awarding \$15,000 in attorney fees for the will contest.
2. Whether \$721.95 spent by Doyle E. Carlton in preparing the case for trial could be charged as costs against the estate.

HOLDINGS

1. The \$15,000 attorney-fee award was not reversible because it did not clearly appear that the trial court abused its discretion or applied a wrong rule of law to the evidence.
2. The \$721.95 expended by Doyle E. Carlton in preparing the case for trial could in equity be charged as costs against the estate.

KEY QUOTATIONS

“Attorneys fees in a case of this kind should be reasonable and adequate, though the condition of estates is sometimes such that they may be neither.”

“They should not be so small as to shock commonly accepted patterns of reason; neither should they be so large as to outrage the public conscience.”

FACTUAL BACKGROUND

The estate was valued at approximately \$80,000 to \$100,000. Counsel successfully contested a bogus will and thereby preserved administration under a bona fide will; the principal difference between the wills concerned the residuary estate, while the legacies were the same. The trial court awarded \$15,000 in attorney fees, and the evidence included expert opinions that a reasonable fee would be approximately one-third of the estate's value. The estate's assets included real and personal property that had to be converted before distribution, and other legal expenses also remained to be paid.

PROCEDURAL HISTORY

The Circuit Court entered a final decree adjudicating \$15,000 as a reasonable attorney fee for the attorneys who contested and set aside an alleged will of P. P. Cobb. The appellants argued that the award was inadequate and that the trial court had disregarded the evidence. The Supreme Court of Florida affirmed the judgment, except that it held a \$721.95 litigation expense could in equity be charged as costs against the estate.

DISPOSITION

affirmed

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