

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Joel Schiro and Tammy Schiro v. Kim L. Elliott, as personal representative of the Estate of Sally A. Napuunoa, deceased

No. 2D2025-2366 (Fla. 2d DCA May 29, 2026) · No. 2D2025-2366 · Decided May 29, 2026

SUMMARY

The Florida Second District Court of Appeal affirmed a probate court order determining that property titled in a revocable trust retained its protected homestead status. The court held that the homestead protection passed to the decedent's three adult children upon her death and prevented the property from being sold to satisfy claims of the decedent's creditors.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Silberman, Judge; Morris, Judge; Black, Judge
JURISDICTION	District Court of Appeal of Florida, Second District
DECIDED	May 29, 2026
DOCKET	2D2025-2366
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the probate court determining that property held by the Sally A. Napuunoa Trust retained its protected homestead status and was not subject to the claims of the appellants, who were judgment creditors.
PRECEDENTIAL VALUE	Published appellate opinion
PARTIES	Joel Schiro, Tammy Schiro v. Kim L. Elliott, as personal representative of the Estate of Sally A. Napuunoa, deceased

TOPICS

- creditor claims
- probate procedure
- trust administration
- trusts
- estate administration

PRACTICE AREAS

- probate
- trusts
- real estate
- creditor claims

QUESTIONS PRESENTED

1. Whether the residence was property of the Sally A. Napuunoo Trust rather than property of Napuunoo's probate estate.
2. Whether property titled in a revocable trust may qualify as the decedent's protected homestead under the Florida Constitution.
3. Whether the homestead protection passed at the decedent's death to her adult children and prevented sale of the property to satisfy claims of estate creditors.
4. Whether the decedent's will required the property to be sold to pay estate debts.

HOLDINGS

1. The residence was part of the Sally A. Napuunoo Trust, not the probate estate, because title was held in the name of the Trust.
2. Property held in a revocable trust may constitute the protected homestead of the trust settlor when the settlor retains an ownership interest through the right to revoke the trust.
3. Upon Napuunoo's death, the homestead protection passed to her heirs, including her three adult children, and was not limited to a surviving spouse or minor children.
4. The property could not be sold to satisfy the claims of the Estate's creditors because the heirs' homestead protection attached at Napuunoo's death and the Trust did not specifically direct that the freely devisable homestead be sold.

KEY QUOTATIONS

"We conclude that the trial court correctly found that the property is part of the Trust, not the Estate, and that it was the protected homestead of Ms. Napuunoo." (at 2)

"Thus the homestead protection was not limited to a surviving spouse or minor children, and the trial court correctly found that it passed to Ms. Napuunoo's three adult children." (at 3)

"Therefore, the homestead protection rights of Ms. Napuunoo's heirs attached at her death, and the property cannot be sold to satisfy the claims of the Estate's creditors." (at 3)

FACTUAL BACKGROUND

Sally A. Napuunoo's residence was titled in the name of her revocable trust, the Sally A. Napuunoo Trust, and Napuunoo retained the power to revoke the trust. After her death, her daughter and personal representative, Kim L. Elliott, sought a probate determination that the residence retained its constitutional homestead protection and was exempt from creditor claims. Joel and Tammy Schiro were judgment creditors of Napuunoo and sought to have the property sold to satisfy estate debts.

PROCEDURAL HISTORY

After Sally A. Napuunoo's death, Kim L. Elliott filed an amended petition seeking a determination that Napuunoo's residence was protected homestead property exempt from creditors' claims. The Schiros, judgment creditors who had filed statements of claim in the probate proceeding, moved to dismiss the petition, arguing that

homestead protection was limited to a surviving spouse and minor children. The circuit court denied the motion and entered an order finding that the property was protected homestead; the District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Michael Engelke v. Estate of Paul Engelke, Engelke v. Estate of Engelke, 921 So. 2d 693, 696 (Fla. 4th DCA 2006)
- Havoco of America, Ltd. v. Hill, Havoco of Am., Ltd. v. Hill, 790 So. 2d 1018, 1020 (Fla. 2001)
- Kelli Snyder, Petitioner, v. Kent W. Davis, etc., Respondent, Snyder v. Davis, 699 So. 2d 999, 1000 (Fla. 1997)
- HCA Gulf Coast Hosp. v. Estate of Downing, 594 So. 2d 774, 776 (Fla. 1st DCA 1991)
- Knadle v. Estate of Knadle, 686 So. 2d 631, 632 (Fla. 1st DCA 1996)

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