

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)

OPINION

Schiro, Schiro v. Elliott, Estate of Sally A. Napuunoa

PER CURIAM.

DISTRICT COURT OF APPEAL OF FLORIDA

SECOND DISTRICT

JOEL SCHIRO and TAMMY SCHIRO,

Appellants, v. KIM L. ELLIOTT, as personal representative of the Estate of Sally A. Napuunoa, deceased, Appellee. No. 2D2025-2366 May 29, 2026 Appeal from the Circuit Court for Hillsborough County; Caroline Tesche Arkin, Judge. Matthew C. Scarborough and Amy Lee of Scarborough Attorneys at Law, Tampa, for Appellants. Marley Dodd of Zoecklein Law, P.A., Brandon, for Appellee. SILBERMAN, Judge. Joel and Tammy Schiro seek review of an order entered in probate court determining that property held by the Sally A. Napuunoa Trust (the Trust) retained its homestead status. Because the probate court correctly ruled that the property was the protected homestead of Ms. Napuunoa and that, upon her death, the homestead protection from creditors' claims, including the Schiros, inured to her three children, we affirm. Following the death of her mother, Kim L. Elliott filed an amended petition seeking a determination from the probate court that her mother's residence constituted protected homestead property exempt from the claims of creditors. The petition asserted that upon her mother's death, title to the property descended to the mother's heirs and retained its constitutional exemption from creditor's claims. The Schiros are judgment creditors of Ms. Napuunoa and each filed a statement of claim in the probate case. They moved to dismiss Ms. Elliott's amended petition, arguing that homestead protection is limited to the surviving spouse and minor children. The trial court denied their motion to dismiss after a hearing and thereafter entered the order on appeal. The Schiros argue that

the trial court erred for several reasons. They first contend that the property belongs to the Estate of Sally A. Napuunoa, not the Trust, because her Will provides the personal representative, Ms. Elliott, with the power to lease or sell "any real or personal property belonging to my estate." They contend that because the property is part of the Estate, it should be sold to pay creditors of the Estate. However, the Schiros alternatively argue that if the property belongs to the Trust, it should be sold to pay creditors because the Will states, "I have provided for the payment of all my debts, expenses of administration of property wherever situated passing under this will or otherwise and estate, inheritance, transfer and succession taxes, that become due by reason of my death, under THE SALLY A. NAPUUNOA TRUST"

2 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. Napuunoa. The record reflects that the property is titled in the name of the Trust, and when a property is held in a revocable trust, it is "owned by a 'natural person' for purposes of the constitutional homestead exemption." *Engelke v. Est. of Engelke*, 921 So. 2d 693, 696 (Fla. 4th DCA 2006). Ms. Napuunoa maintained an ownership interest in her residence, even though the revocable Trust held title to the property, because she retained the right to revoke the Trust. See *id.* Therefore, the property was the protected homestead of Ms. Napuunoa even though it was titled in the name of the Trust. When Ms. Napuunoa passed, the property's homestead status passed to her heirs. Article X, section 4, of the Florida Constitution provides, in relevant part: (a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a homestead

(b) These exemptions shall inure to the surviving spouse or heirs of the owner. Courts liberally interpret the homestead exemption in the interest of protecting the family home. *Havoco of Am., Ltd. v. Hill*, 790 So. 2d 1018, 1020 (Fla. 2001). The term "heirs" is not restricted to a person "who would actually take the homestead by law in intestacy on the death of the decedent" but also includes any person described in section 732.103, Florida Statutes (2024), which encompasses the descendants of 3 the decedent. *Snyder v. Davis*, 699 So. 2d 999, 1000 (Fla. 1997);¹ see also *HCA Gulf Coast Hosp. v. Est. of Downing*, 594 So. 2d 774, 776 (Fla. 1st DCA 1991) (holding that the homestead protection from creditors flows to a trust's "beneficiary who would be otherwise entitled to claim homestead protection had title passed directly to her by devise or intestacy"). 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. Napuunoa's three adult children. The Schiros' argument that the Will's language required that the property be sold to pay debts of the Estate is unavailing. The property is in the name of the Trust, and "unless the trust specifically directs that

the freely devisable homestead be sold, the rights of the heirs attach at the death of decedent, and the property is protected from the claims of all creditors." Engelke, 921 So. 2d at 697 (citing Knadle v. Est. of Knadle, 686 So. 2d 631, 632 (Fla. 1st DCA 1996)). Here, the Schiros do not assert that language in the Trust specifically directs the trustee to sell the property. Therefore, the homestead protection rights of Ms. Napuunoa's heirs attached at her death, and the property cannot be sold to satisfy the claims of the Estate's creditors. Affirmed. MORRIS and BLACK, JJ., Concur. Opinion subject to revision prior to official publication. 1 In Snyder, 699 So. 2d at 999, the court was applying the 1995 version of section 732.103, but this does not impact our analysis.