

SUPREME COURT OF ALABAMA

Colley v. Estate of Dees

266 So. 3d 707 (Ala. 2018) · Decided June 15, 2018

SUMMARY

The Alabama Supreme Court affirmed a judgment entered after a jury trial upholding Sara Dees's 2012 will against challenges based on lack of testamentary capacity, undue influence, and fraud. The court held that the evidence created factual disputes for the jury, and it rejected challenges concerning bifurcation of claims, evidentiary rulings, and jury instructions.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Alabama                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Stuart, Chief Justice; Bolin, Justice; Wise, Justice; Sellers, Justice; Shaw, Justice                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| JURISDICTION          | Alabama                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| DECIDED               | June 15, 2018                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Appeal from a final judgment entered after a jury verdict upholding Sara Dees's September 2012 will and rejecting Colley's will-contest claims. The trial court also entered judgment as a matter of law for Stephens and Dees's estate on the fraud claim.                                                                                                                                                                                                                                                                  |
| STANDARD OF REVIEW    | A judgment as a matter of law is reviewed under the same standard applied by the trial court: whether the nonmovant presented substantial evidence creating a factual dispute for the jury, viewing the evidence and reasonable inferences in the nonmovant's favor. Evidentiary rulings are reviewed for abuse of discretion. Trial-court decisions to bifurcate claims and manage trial proceedings are reviewed for abuse of discretion. Unpreserved or inadequately argued issues generally provide no basis for relief. |
| PRECEDENTIAL VALUE    | Published Alabama Supreme Court opinion; precedential.                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| PARTIES               | Stephen Colley, as executor of the estate of Hazel Colley v. Franklin Leroy Stephens, Estate of Sara Dees                                                                                                                                                                                                                                                                                                                                                                                                                    |

TOPICS

will contests

probate procedure

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## PRACTICE AREAS

probate

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## QUESTIONS PRESENTED

1. Whether Colley was entitled to judgment as a matter of law on his claims that Dees lacked testamentary capacity or executed the will under Stephens's undue influence.
2. Whether the trial court erred by entering judgment as a matter of law for Stephens and Dees's estate on the fraud claim.
3. Whether the trial court abused its discretion by bifurcating the will contest from Colley's claims involving the power of attorney and Dees's financial accounts.
4. Whether the trial court abused its discretion by excluding evidence of Stephens's manslaughter conviction, violent reputation, and alleged prior bad acts.
5. Whether the jury instructions and the trial court's supplemental response to the jury's request for guidance required a new trial.
6. Whether the trial judge's alleged conduct toward Colley's counsel deprived Colley of a fair trial.

## HOLDINGS

1. The trial court properly denied Colley's motion for judgment as a matter of law because the evidence, viewed favorably to the nonmovants, created disputed factual issues concerning Dees's testamentary capacity and whether Stephens exercised undue influence.
2. Colley was not entitled to relief concerning the judgment as a matter of law on his fraud claim because his appellate brief failed to discuss the elements of fraud or cite supporting authority.
3. The trial court did not abuse its discretion by bifurcating the will contest from claims concerning the power of attorney and Dees's financial accounts.
4. The trial court did not abuse its discretion by excluding evidence of Stephens's manslaughter conviction, violent reputation, and alleged violent or otherwise bad acts, while allowing evidence concerning his reputation for truthfulness.
5. The trial court's jury instructions and supplemental response to the jury's request for guidance did not warrant a new trial.
6. Colley did not establish that the trial judge's conduct toward his counsel prejudiced him or required reversal.

## KEY QUOTATIONS

*"In fact, however, the trial court's ruling meant exactly the opposite-that he had produced substantial evidence creating a factual dispute." (713)*

*“Accordingly, there was a disputed factual issue with regard to Dees's competency, and the trial court committed no error when it denied Colley's motion for a judgment as a matter of law at the close of all the evidence.” (714)*

*“The Alabama Rules of Evidence empower a trial court to exclude evidence it deems to be irrelevant as well as evidence that, although possibly relevant, is deemed to be sufficiently prejudicial that the risk of that prejudice outweighs any probative value.” (717)*

*“It thus appears that Colley's concern that the jury heard the exchange and subsequently thought less of his counsel is unfounded, and his argument is without merit.” (719)*

## FACTUAL BACKGROUND

Sara Dees executed a September 2012 will making her nephew Franklin Leroy Stephens the primary beneficiary and executor of her estate. Before and around the time of execution, Stephens lived with and cared for Dees, arranged legal appointments, obtained a durable power of attorney, and took steps to become a signatory or beneficiary on her financial accounts. Dees's sister Hazel challenged the will, alleging fraud, undue influence, and lack of testamentary capacity; after Hazel died, her son Stephen Colley was substituted as plaintiff. At trial, conflicting evidence addressed Dees's mental condition and Stephens's influence, and the jury upheld the will.

## PROCEDURAL HISTORY

Hazel Colley challenged Dees's September 2012 will and related transactions, asserting fraud, misrepresentation, undue influence, and lack of testamentary capacity. The claims were consolidated, and the trial court bifurcated the will contest from claims involving Dees's power of attorney and financial accounts. After a jury trial, the jury returned a verdict for Stephens and Dees's estate; the trial court entered a final judgment under Rule 54(b), denied postjudgment motions, and Colley appealed.

## DISPOSITION

affirmed

## CASES CITED

- Stephens v. Colley, 160 So. 3d 278 (Ala. 2014)
- Stephens v. Colley, 210 So. 3d 1091 (Ala. 2015) (table)
- Aetna Ins. Co. v. Kennedy ex rel. Bogash, 301 U.S. 389 (1937)
- Ray v. Huett, 225 So. 3d 30 (Ala. 2016)
- Palm Harbor Homes, Inc. v. Crawford, 689 So. 2d 3 (Ala. 1997)
- Carter v. Henderson, 598 So. 2d 1350, 1353 (Ala. 1992)
- West v. Founders Life Assurance Co. of Florida, 547 So. 2d 870, 871 (Ala. 1989)
- Waddell & Reed, Inc. v. United Investors Life Ins. Co., 875 So. 2d 1143, 1152 (Ala. 2003)
- Haynes v. State, 644 So. 2d 1281, 1282-83 (Ala. Crim. App. 1994)
- Sanders v. Brooks, 611 So. 2d 336, 338-39 (Ala. 1992)

- Sessions v. Handley, 470 So. 2d 1164, 1167 (Ala. 1985)
- Lawrence v. First National Bank of Tuskaloosa, 516 So. 2d 630 (Ala. 1987)
- Burke v. Thomas, 282 Ala. 412, 211 So. 2d 903 (1968)
- Fletcher v. Deloach, 360 So. 2d 316 (Ala. 1978)
- Welch v. Hill, 608 So. 2d 727, 728 (Ala. 1992)
- Sea Calm Shipping Co., S.A. v. Cooks, 565 So. 2d 212, 216 (Ala. 1990)
- EB Invs., L.L.C. v. Pavilion Dev., L.L.C., 77 So. 3d 133, 136-37 (Ala. 2011)
- Sweeney v. Purvis, 665 So. 2d 926, 930 (Ala. 1995)
- Bama's Best Party Sales, Inc. v. Tupperware, U.S., Inc., 723 So. 2d 29, 32 (Ala. 1998)
- Preferred Risk Mut. Ins. Co. v. Ryan, 589 So. 2d 165 (Ala. 1991)
- Van Voorst v. Federal Express Corp., 16 So. 3d 86, 92 (Ala. 2008)
- McMahon v. Yamaha Motor Corp., U.S.A., 95 So. 3d 769, 775 (Ala. 2012)
- Mobile Gas Service Corp. v. Robinson, 20 So. 3d 770, 781 (Ala. 2009)
- Gregory v. Lloyd Wood Construction Co., 736 So. 2d 571, 579 (Ala. 1999)
- Campbell v. State, 654 So. 2d 69, 72 (Ala. Crim. App. 1994)
- Phillips v. State, 527 So. 2d 154 (Ala. 1988)
- Sanders v. State, 426 So. 2d 497, 506 (Ala. Crim. App. 1982)