

SUPREME COURT OF WASHINGTON

Cleveland v. Duke

157 Wash. 2d 206 (2006) · Decided June 22, 2006

SUMMARY

The Washington Supreme Court held that the Trust and Estate Dispute Resolution Act applies to will contests but does not eliminate the statutory requirement under RCW 11.24.020 to request and serve a citation. Because Helen Cleveland failed to timely issue and serve the citation on the personal representative, the court lacked personal jurisdiction and the will contest was time-barred. The court affirmed dismissal of the contest.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Sanders, J.; Alexander, C.J.; C. Johnson, J.; Madsen, J.; Bridge, J.; Chambers, J.; Owens, J.; Fairhurst, J.; J.M. Johnson, J.
JURISDICTION	Washington
DECIDED	June 22, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	Helen Cleveland appealed dismissal of her statutory will contest for lack of jurisdiction based on her failure to timely request and serve a citation on the decedent's personal representative. The Washington Supreme Court granted discretionary review and affirmed the Court of Appeals on different grounds.
STANDARD OF REVIEW	De novo review of dismissal for lack of jurisdiction under CR 12(b) (2).
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential.
PARTIES	Helen Cleveland v. Leilani Duke

TOPICS

- will contests
- probate procedure
- personal jurisdiction
- statutory interpretation
- civil procedure

PRACTICE AREAS

- probate
- civil procedure
- estate litigation

QUESTIONS PRESENTED

1. Whether TEDRA applies to statutory will contests.
2. Whether TEDRA's notice provisions eliminate or modify the citation requirement imposed by RCW 11.24.020.
3. Whether Cleveland's failure to request and serve a citation within the applicable limitations period deprived the court of personal jurisdiction and required dismissal of the will contest.

HOLDINGS

1. TEDRA applies to will contests because a will contest presents a question arising in the administration of an estate and therefore constitutes a TEDRA matter.
2. TEDRA does not affect the requirement under RCW 11.24.020 that a party contesting a will request and serve a citation on the executors, administrators, and other specified parties.
3. Failure to request and timely serve the citation required by RCW 11.24.020 deprives the court of personal jurisdiction over a party to the will contest.
4. Cleveland's citation, issued and served more than two years after she filed the will-contest petition, was untimely and could not cure the jurisdictional defect.

KEY QUOTATIONS

“A citation is equivalent to a civil summons, conferring personal jurisdiction over a party to a will contest.” (209)

“Under RCW 11.24.020, a party contesting a will must issue a citation to parties to any existing probate proceeding.” (212)

“A party contesting a will must satisfy the RCW 11.24.020 citation requirement.” (213)

FACTUAL BACKGROUND

Robert Kordon executed a will on April 2, 2001, died on April 24, 2001, and his will was admitted to probate the next day with Leilani Duke appointed personal representative. Kordon's sister, Helen Cleveland, filed a petition contesting the will on August 24, 2001, but did not request or serve a statutory citation on Duke. Cleveland did not issue a citation until October 9, 2003, more than two years after filing the petition, and the superior court dismissed the contest.

PROCEDURAL HISTORY

Robert Kordon's will was admitted to probate and Leilani Duke was appointed personal representative. Cleveland filed a petition contesting the will but did not issue a citation to Duke. More than two years later, after Duke moved to dismiss, Cleveland issued a citation; the superior court dismissed the contest for lack of jurisdiction. The Court of Appeals ultimately affirmed, and the Washington Supreme Court affirmed, holding that TEDRA applies to will contests but does not eliminate the statutory citation requirement.

DISPOSITION

affirmed

CASES CITED

- State v. Squally, 132 Wn.2d 333, 340, 937 P.2d 1069 (1997)
- In re Estate of Wheeler, 71 Wn.2d 789, 795, 431 P.2d 608 (1967)
- In re Murphy's Estate, 98 Wash. 548, 553, 168 P. 175 (1917)
- In re Marriage of Markowski, 50 Wn. App. 633, 635-36, 749 P.2d 754 (1988)
- In re Estate of Kordon, 126 Wn. App. 482, 486, 108 P.3d 1238 (2005)
- In re Estate of Black, 116 Wn. App. 492, 499, 66 P.3d 678 (2003)
- Gordon v. Seattle-First Nat'l Bank, 49 Wn.2d 728, 736, 306 P.2d 739 (1957)
- State v. Wilson, 125 Wn.2d 212, 217, 883 P.2d 320 (1994)
- King County Water Dist. No. 90 v. City of Renton, 88 Wn. App. 214, 228, 944 P.2d 1067 (1997)
- In re Estate of Palucci, 61 Wn. App. 412, 417, 810 P.2d 970 (1991)
- State ex rel. Wood v. Superior Court, 76 Wash. 27, 30-31, 135 P. 494 (1913)
- In re Estate of Toth, 138 Wn.2d 650, 653, 981 P.2d 439 (1999)