

INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

Teresa Farmer v. Jeremiah Edward Farmer, individually and in his official capacity as Executor of the Estate of William J. Farmer, Sr., Ashley N. Deem, Chief Deputy Clerk, and William Joseph Farmer, Jr.

Farmer · No. 25-ICA-30 · Decided December 4, 2025

SUMMARY

The Intermediate Court of Appeals of West Virginia affirmed orders declining to remove Jeremiah Farmer as executor of the Estate of William J. Farmer, Sr., and denying Teresa Farmer’s Rule 60(b) motion. The court held that Teresa Farmer did not establish executor incompetence or breach of fiduciary duty and had not complied with the statutory requirements for claiming an elective share. The court also concluded that the circuit court did not abuse its discretion in denying post-judgment relief.

CASE DETAILS

COURT	Intermediate Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Judge Charles O. Lorensen; Judge Daniel W. Greear; Judge S. Ryan White
JURISDICTION	Intermediate Court of Appeals of West Virginia
DECIDED	December 4, 2025
DOCKET	25-ICA-30
DISPOSITION	affirmed
PROCEDURAL POSTURE	Teresa Farmer appealed orders denying removal of Jeremiah Farmer as executor, denying her claim to an elective share, and denying her motion for relief under West Virginia Rule of Civil Procedure 60(b).
STANDARD OF REVIEW	The December 20, 2024, order was reviewed de novo because it was treated as an order granting summary judgment. The April 16, 2025, Rule 60(b) order was reviewed for abuse of discretion. The court noted that an order concerning removal of an executor would traditionally be reviewed for abuse of discretion after appellate review by the circuit court, but found it unnecessary to resolve that procedural issue because Farmer’s claims failed even under the less deferential summary-judgment standard.

PRECEDENTIAL VALUE	Published memorandum decision
PARTIES	Teresa Farmer v. Jeremiah Edward Farmer, individually and in his official capacity as Executor of the Estate of William J. Farmer, Sr., Ashley N. Deem, Chief Deputy Clerk, William Joseph Farmer, Jr.

TOPICS

probate procedure

estate administration

elective share

summary judgment

appellate procedure

PRACTICE AREAS

probate

estate administration

appellate procedure

civil procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether the circuit court erred by declining to remove Jeremiah Farmer as executor based on alleged improper conduct and breaches of fiduciary duty.
2. Whether Teresa Farmer was entitled to an elective share despite failing to file an elective-share petition, provide the required notices, and obtain a hearing under West Virginia Code § 42-3-4(a).
3. Whether the circuit court abused its discretion by denying Teresa Farmer's motion for relief under West Virginia Rule of Civil Procedure 60(b).

HOLDINGS

1. A party seeking removal of an executor must establish that the executor is incompetent or has failed or refused to perform the executor's duties. Teresa Farmer did not meet that burden, so the circuit court properly declined to remove Jeremiah Farmer.
2. A surviving spouse who seeks an elective share must comply with West Virginia Code § 42-3-4(a) by filing an elective-share petition within the statutory period, serving the personal representative and interested persons, and providing the required hearing notice. Teresa Farmer's general claim for expenses did not satisfy those requirements, and the court found no basis to excuse compliance.
3. The circuit court did not abuse its discretion in denying Teresa Farmer's Rule 60(b) motion for relief from the judgment.

KEY QUOTATIONS

“In West Virginia, a party requesting removal of an executor must meet a high burden in that removing an executor requires evidence establishing that the executor is incompetent or that the executor fails or refuses to perform his or her duties.” (at 3)

“The requirements for electing to take a spouse’s elective share are set forth in West Virginia Code § 42-3-4(a)” (at 4)

FACTUAL BACKGROUND

William J. Farmer, Sr. died testate on March 28, 2022, while married to Teresa Farmer, although they had lived apart for several months. His 2000 will, executed before the marriage, divided the estate between his two sons and named Jeremiah Farmer as executor after the former spouse named in the will was disqualified by divorce. Teresa Farmer filed claims alleging executor misconduct and sought Jeremiah Farmer's removal, but her estate claim for \$77,485 in personal property, funeral, and other expenses did not identify itself as an elective-share claim. She had actual knowledge of the probate proceeding and did not file the petition, notices, or hearing request required to elect a statutory share.

PROCEDURAL HISTORY

William J. Farmer, Sr.'s estate was admitted to probate, and Teresa Farmer filed a civil action asserting fraud, theft, and self-dealing claims against the executor and a beneficiary. She also sought the executor's removal before the Mercer County Commission and filed a claim for personal property, funeral expenses, and other expenses, but did not file an elective-share petition. The estate proceedings and civil action were consolidated, and the circuit court decided the matter on briefs, deposition testimony, and documentary evidence, treating the submissions as competing motions for summary judgment. The circuit court denied removal and concluded that Farmer was not entitled to an elective share, denied her Rule 60(b) motion, and the Intermediate Court of Appeals affirmed both orders.

DISPOSITION

affirmed

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Vanderpool v. Hunt, 241 W. Va. 254, 823 S.E.2d 526 (2019)
- Haines v. Kimble, 221 W. Va. 266, 654 S.E.2d 588 (2007)
- George C. Baker Tr. Dated July 20, 2002 v. Cooper, No. 21-0866, 2022 WL 17444547 (W. Va. Dec. 6, 2022)
- Latimer v. Mechling, 171 W. Va. 729, 301 S.E.2d 819 (1983)