

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION TWO

Estate of Melanie P. Berger

No. B321347, California Court of Appeal, Second Appellate District, Division Two

SUMMARY

The court held that under Probate Code § 6110(c)(2), extrinsic evidence of surrounding circumstances is always admissible to determine whether an unwitnessed document was intended as a will, even if the document’s language unambiguously expresses testamentary intent. The court also found that the evidence compelled a finding by clear and convincing evidence that the decedent intended her signed, unwitnessed letter—drafted days before major surgery and naming her fiancée as sole beneficiary—to constitute her will, reversing the probate court’s denial of probate. Key topics: testamentary intent, harmless error rule, admissibility of extrinsic evidence, clear and convincing evidence standard, and the two-witness requirement exception.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Two
WRITING FOR THE COURT	Hoffstadt; Ashmann-Gerst; Chavez
JURISDICTION	California
DOCKET	B321347
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from order denying petition to probate a letter as a will
STANDARD OF REVIEW	Substantial evidence review with clear and convincing evidence standard; reversal only if evidence compels a finding as a matter of law.
PRECEDENTIAL VALUE	published
PARTIES	Maria L. Coronado v. Glee Berger

TOPICS

- probate procedure
- probate
- evidence
- statutory interpretation
- standard of review

PRACTICE AREAS

- Probate
- Wills
- Estates

QUESTIONS PRESENTED

1. May a probate court consider extrinsic evidence of the circumstances surrounding a document's execution when determining whether the document was intended as a will, even if the document's terms unambiguously show testamentary intent?
2. Do the facts of this case compel, as a matter of law, a finding by clear and convincing evidence that the drafter intended the document to be a will?

HOLDINGS

1. Extrinsic evidence is always admissible on the question of whether a document constitutes a will, regardless of any ambiguity in the document's language.
2. The evidence compels a finding by clear and convincing evidence that Melanie Berger intended her August 16, 2002 letter to be her will.

KEY QUOTATIONS

"The Probate Code mandates that a document will be considered a 'will' capable of being probated in court only if the document is in writing, signed (or authorized) by the testator, and signed by two people who witnessed the testator sign or acknowledge her signature." (2)

"However, the code will overlook a failure to comply with the two-witness requirement if the party seeking to probate the document as a will 'establishes by clear and convincing evidence that, at the time the testator signed the [document], the testator intended the [document] to constitute the testator's will.'" (2-3)

"Extrinsic evidence is always admissible on the question of the drafter's intent." (13)

"Taken together, the words in the letter itself and the circumstances surrounding its creation and execution compel the finding, as a matter of law, that Melanie intended her letter to have testamentary effect." (17)

FACTUAL BACKGROUND

Melanie Berger, assigned male at birth, scheduled gender reassignment surgery in late August 2002. On August 16, 2002, she wrote and signed a letter on Social Security Administration stationery naming her fiancée Maria Coronado as sole beneficiary in the event of her death, listing specific assets. The letter was not witnessed. She emailed Maria the same day informing her of the will. After surgery, the relationship ended in 2003. In 2020, Melanie died. The letter was found at the bottom of a desk drawer. Maria petitioned to probate the letter as a will. The probate court found lack of testamentary intent.

PROCEDURAL HISTORY

Maria Coronado filed a petition to probate a letter as Melanie Berger's will. The probate court denied the petition after a two-day evidentiary hearing and a subsequent reopened hearing. Coronado appealed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

Order reversed; Maria entitled to costs on appeal. No express remand instructions, but reversal implies probate court must grant the petition to probate the letter as a will.

CASES CITED

- Estate of Saueressig, 38 Cal.4th 1045 (2006)
- Estate of Manchester, 174 Cal. 417 (1917)
- Estate of Stoker, 193 Cal.App.4th 236 (2011)
- Estate of Eugene, 104 Cal.App.4th 907 (2002)
- Estate of Brenner, 76 Cal.App.4th 1298 (1999)
- Estate of Sargavak, 35 Cal.2d 93 (1950)
- Estate of Wunderle, 30 Cal.2d 274 (1947)
- Estate of Geffene, 1 Cal.App.3d 506 (1969)
- Estate of Spitzer, 196 Cal. 301 (1925)
- Estate of Williams, 155 Cal.App.4th 197 (2007)
- Estate of Kane, 236 Cal.App.2d 51 (1965)
- Estate of Button, 209 Cal. 325 (1930)
- Estate of Spencer, 87 Cal.App.2d 591 (1948)
- Estate of Wolfe, 260 Cal.App.2d 587 (1968)
- Estate of Toregano, 54 Cal.2d 234 (1960)
- Estate of MacLeod, 206 Cal.App.3d 1235 (1988)
- Jarman v. HCR ManorCare, Inc., 10 Cal.5th 375 (2020)
- Estate of Ben-Ali, 216 Cal.App.4th 1026 (2013)
- Conservatorship of O.B., 9 Cal.5th 989 (2020)
- Almanor Lakeside Villas Owners Assn. v. Carson, 246 Cal.App.4th 761 (2016)
- In re Aurora P., 241 Cal.App.4th 1142 (2015)
- Boling v. Public Employment Relations Bd., 5 Cal.5th 898 (2018)
- People v. Navarro, 12 Cal.5th 285 (2021)
- In re Caden C., In re Caden C., 11 Cal.5th 614 (2021)
- Estate of Anderson, 56 Cal.App.4th 235 (1997)
- Estate of Boysen, 441 P.3d 633 (Or. App. 2019)
- Estate of Dye, 92 Cal.App.4th 966 (2001)
- Estate of Dodge, 6 Cal.3d 311 (1971)
- Halldin v. Usher, 49 Cal.2d 749 (1958)
- Kaanaana v. Barrett Business Services, Inc., 11 Cal.5th 158 (2021)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/california-california-court-of-appeal-second-appellate-district-division-two/0/estate-of-melanie-p-berger-an04an2j>