

## SUPREME COURT OF APPEALS OF WEST VIRGINIA

# Wayne Patterson v. Danaya Steiner, Danaya Steiner (aka Danaya Reid), Joe Steiner, and Jaime T. Adkins

No. 11-1666 (Kanawha County 11-C-1211) · No. No. 11-1666 · Decided March 8, 2013

### SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the dismissal of Wayne Patterson’s petition for summary relief under West Virginia Code § 55-3A-1 et seq., which sought possession of residential property allegedly wrongfully occupied by the respondents. The court held that the respondents’ occupancy was lawful because it was authorized by heirs of the decedent, and the record did not establish the alleged property damage. The court also declined to reverse based solely on the respondents’ failure to file a response.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                     |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Appeals of West Virginia                                                                                                                                                                                           |
| WRITING FOR THE COURT | Per curiam; Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II                                                                           |
| JURISDICTION          | West Virginia                                                                                                                                                                                                                       |
| DECIDED               | March 8, 2013                                                                                                                                                                                                                       |
| DOCKET                | No. 11-1666                                                                                                                                                                                                                         |
| DISPOSITION           | affirmed                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Wayne Patterson appealed the Kanawha County Circuit Court's dismissal with prejudice of his petition for summary relief under West Virginia Code §§ 55-3A-1 et seq. for alleged wrongful occupation of residential rental property. |
| STANDARD OF REVIEW    | De novo review of the circuit court's dismissal of the petition.                                                                                                                                                                    |
| PRECEDENTIAL VALUE    | Nonprecedential memorandum decision under West Virginia Rule of Appellate Procedure 21                                                                                                                                              |
| PARTIES               | Wayne Patterson v. Danaya Steiner (aka Danaya Reid), Joe Steiner, Jaime T. Adkins                                                                                                                                                   |

### TOPICS

eviction

landlord tenant

probate procedure

appellate procedure

standard of review

## PRACTICE AREAS

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## QUESTIONS PRESENTED

1. Whether Patterson, as administrator of the decedent's estate or as an heir, could obtain summary relief under West Virginia Code §§ 55-3A-1 et seq. based on alleged wrongful occupation.
2. Whether the respondents' occupation was wrongful and whether the allegations and record established a statutory basis for summary eviction based on unauthorized occupation or property damage.
3. Whether the circuit court erred by dismissing the petition with prejudice.

## HOLDINGS

1. The circuit court properly dismissed Patterson's petition because the record did not establish that respondents were wrongfully occupying the property or had committed the type of property damage that would support summary relief under the statute.
2. A circuit court's order dismissing a complaint or petition is reviewed de novo.

## KEY QUOTATIONS

*“The circuit court’s dismissal of petitioner’s petition is reviewed de novo.”* (3)

*“For the foregoing reasons, we find no error in the decision of the Circuit Court of Kanawha County and affirm its order, entered August 22, 2011, denying petitioner’s petition for summary relief for wrongful occupation of residential rental property.”* (4)

## FACTUAL BACKGROUND

Patterson sought possession of residential property at 825 Barrett Drive in South Charleston, West Virginia, claiming to be the owner and alleging that the respondents were occupying the property without authorization and had damaged it. Patterson was the administrator of the estate of Josephine Patterson and also one of her heirs. The circuit court found that respondents occupied the premises at the invitation of two other heirs, making their occupation lawful, and found no persuasive indication that they had damaged the real property.

## PROCEDURAL HISTORY

Patterson filed a petition for summary relief in magistrate court seeking possession of residential property and alleging unauthorized occupation and property damage. The respondents removed the matter to circuit court, which held a hearing and dismissed the petition with prejudice, while allowing Patterson limited access to inspect the property and estate storage and allowing respondents to remain in possession pending agreement among the heirs or further court order. The circuit court denied Patterson's motions to reconsider, and Patterson appealed. The Supreme Court of Appeals affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- State ex rel. McGraw v. Scott Runyan Pontiac-Buick, Inc., 194 W. Va. 770, 461 S.E.2d 516 (1995)
- Napier v. Napier, 211 W. Va. 208, 564 S.E.2d 418 (2002)
- Voss v. King, 33 W. Va. 236, 10 S.E. 402 (1889)
- State v. Julius, 185 W. Va. 422, 408 S.E.2d 1 (1991)

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