

SUPREME COURT OF THE STATE OF MONTANA

In the Matter of the Estate of Helen Edwards

387 Mont. 274, 2017 MT 93 (2017) · No. DA 16-0137 · Decided April 25, 2017

SUMMARY

The Montana Supreme Court reviewed a dispute over competing wills and trusts executed by Helen Edwards. The court affirmed rulings concerning the appointment of a neutral personal representative, evidentiary issues, and the jury’s finding that the later testamentary documents were procured by undue influence, fraud, or duress. It reversed and remanded the refusals to admit the earlier will, enforce the earlier trust, and award attorney fees and certain costs.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Beth Baker; Beth Baker; Mike McGrath; James Jeremiah Shea; Dirk M. Sandefur; Michael E. Wheat
JURISDICTION	Montana
DECIDED	April 25, 2017
DOCKET	DA 16-0137
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal and cross-appeal from a Madison County District Court judgment following a jury trial concerning competing wills and trusts. The Supreme Court affirmed the appointment of a neutral personal representative, the evidentiary rulings, and the jury's finding that the 2012 testamentary documents were procured by undue influence, fraud, or duress, but reversed the refusal to probate the 2010 Will, enforce the 2010 Trust, and award attorney fees.
STANDARD OF REVIEW	Appointment of a personal representative was reviewed for correctness of legal interpretation; evidentiary rulings, including exclusion of expert testimony, for abuse of discretion; the jury's civil verdict for substantial credible evidence viewed in the light most favorable to the prevailing party; entitlement to judgment as a matter of law de novo; legal authority for attorney fees for correctness; and the decision to award or deny fees for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

Nancy Schulz, Paul Degel, G.G. Verone v. Nancy Schulz, Paul Degel, G.G. Verone

TOPICS

will contests

undue influence

probate procedure

trust administration

evidence

PRACTICE AREAS

probate

estate litigation

trusts

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court properly appointed a neutral personal representative who was not required to defend the 2012 Will.
2. Whether the District Court abused its discretion in admitting the settlement agreement with Ruby Valley Hospital, excluding testimony by Helen's attorneys concerning her testamentary intentions, and excluding Dr. Megan Evans's testimony.
3. Whether substantial credible evidence supported the jury's finding that the 2012 Will and 2012 Trust were procured by undue influence, fraud, or duress.
4. Whether the District Court was required to admit the 2010 Will to probate and enforce the 2010 Trust after the 2012 testamentary documents were invalidated.
5. Whether Verone was entitled to attorney fees under Montana's will-contest statute.

HOLDINGS

1. When neither competing will has yet been probated and the litigation's purpose is to determine which will is valid and effective, the District Court may appoint a neutral personal representative who has no duty to advocate for either will.
2. The District Court did not abuse its discretion by admitting evidence of Verone's settlement with Ruby Valley Hospital after Schulz opened the door to the subject, or by excluding hearsay testimony concerning Helen's statements about her testamentary intentions.
3. Even assuming the District Court arguably erred in excluding Dr. Evans's testimony, the ruling was not reversible because the testimony would have been cumulative and did not affect a substantial right.
4. Substantial credible evidence supported the jury's finding that Schulz or Degel procured the 2012 Will and 2012 Trust by undue influence, fraud, or duress.
5. After the jury invalidated the 2012 Will and Trust, the District Court was required to admit the 2010 Will to probate and enforce the 2010 Trust because those documents were pleaded and litigated as the competing testamentary documents and were the only valid and unrevoked documents remaining before the court.
6. Section 72-12-206, MCA, did not bar Verone from seeking attorney fees because she successfully defended the 2010 Will, which should have been confirmed and admitted to probate after the 2012 Will

was invalidated.

KEY QUOTATIONS

“The court committed no legal error when it appointed Suenram as a neutral personal representative and held that he had no duty to defend either will until a determination had been made as to which will was valid and effective.” (¶ 29)

“The mere “opportunity to exercise undue influence on the testator is not sufficient to prove undue influence and invalidate a will.” (¶ 56)

“Because Schulz and Degel opposed probate of the 2010 Will through the “petition for probate of a later will revoking the former [will],” the court was required to determine “first whether the later will [was] entitled to probate.”” (¶ 73)

“We reverse and remand with instructions that the court admit the 2010 Will to probate and enforce the terms of the 2010 Trust.” (¶ 81)

“The District Court thus erred in determining that Verone was statutorily barred from recovering attorney fees.” (¶ 91)

FACTUAL BACKGROUND

Helen Edwards executed a 2010 Will and Trust that left most of her estate to her niece, G.G. Verone. In 2012, after Nancy Schulz began working as Helen's housekeeper and Paul Degel became involved in her affairs, Helen executed a new will and amended trust that substantially benefited Schulz and Degel and reduced Verone's gift. Evidence at trial included Helen's social isolation, Schulz's access to Helen and control over communications, Schulz's acquisition of powers of attorney and bank-signatory authority, and Degel's involvement in discussions about Helen's estate plan. The jury found that the 2012 Will and Trust were procured by undue influence, fraud, or duress.

PROCEDURAL HISTORY

After Helen Edwards died, Nancy Schulz petitioned to probate the 2012 Will, while G.G. Verone objected and cross-petitioned to probate the 2010 Will and validate the 2010 Trust. The District Court appointed Andrew Suenram as a neutral interim personal representative and special fiduciary. After trial, the jury found that Schulz or Degel procured the 2012 Will and 2012 Trust through undue influence, fraud, or duress. The District Court nevertheless refused to probate the 2010 Will, validate the 2010 Trust, and award Verone attorney fees; the parties appealed and cross-appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The District Court was instructed to admit the 2010 Will to probate, enforce the terms of the 2010 Trust, initiate probate proceedings consistent with the opinion, and conduct further proceedings to determine the amount of attorney fees to which Verone may be entitled.

CASES CITED

- In re Estate of McMurchie, 2004 MT 98, ¶ 7, 321 Mont. 21, 89 P.3d 18
- Beehler v. E. Radiological Assocs., P.C., 2012 MT 260, ¶ 17, 367 Mont. 21, 289 P.3d 131
- D.R. Four Beat Alliance, LLC v. Sierra Prod. Co., 2009 MT 319, ¶ 23, 352 Mont. 435, 218 P.3d 827
- Murray v. Whitcraft, 2012 MT 298, ¶¶ 7, 26, 367 Mont. 364, 291 P.3d 587
- Campbell v. Canty, 1998 MT 278, ¶ 19, 291 Mont. 398, 969 P.2d 268
- Johnson v. Costco Wholesale, 2007 MT 43, ¶ 18, 336 Mont. 105, 152 P.3d 727
- Mlekush v. Farmers Ins. Exch., 2015 MT 302, ¶ 8, 381 Mont. 292, 358 P.3d 913
- Wohl v. City of Missoula, 2013 MT 46, ¶ 29, 369 Mont. 108, 300 P.3d 1119
- Kiely Constr. L.L.C. v. City of Red Lodge, 2002 MT 241, ¶ 95, 312 Mont. 52, 57 P.3d 836
- Stevenson v. Felco Indus., 2009 MT 299, ¶ 40, 352 Mont. 303, 216 P.3d 763
- In re Estate of Harmon, 2011 MT 84A, ¶¶ 21-22, 32, 37, 47, 360 Mont. 150, 253 P.3d 821
- Phillip R. Morrow, Inc. v. FBS Ins. Mont.-Hoiness Labar, Inc., 236 Mont. 394, 399, 770 P.2d 859, 862 (1989)
- In re Estate of Mead, 2014 MT 264, ¶¶ 23-24, 27, 376 Mont. 386, 336 P.3d 362
- Folsom v. City of Livingston, 2016 MT 238, ¶ 16, 385 Mont. 20, 381 P.3d 539
- State v. Price, 2006 MT 79, ¶ 17, 331 Mont. 502, 134 P.3d 45
- S & P Brake Supply, Inc. v. STEMCO LP, 2016 MT 324, ¶ 51, 385 Mont. 488, 385 P.3d 567
- Reese v. Stanton, 2015 MT 293, ¶ 25, 381 Mont. 241, 358 P.3d 208
- In re Estate of Harms, 2006 MT 320, ¶ 36, 335 Mont. 66, 149 P.3d 557
- In re Estate of Lightfield, 2009 MT 244, ¶¶ 40-42, 351 Mont. 426, 213 P.3d 468
- Stoican v. Wagner (In re Estate of Lawlor), 2015 MT 54, ¶ 16, 378 Mont. 281, 343 P.3d 577
- Goodover v. Lindsey's, 255 Mont. 430, 438, 843 P.2d 765, 770 (1992)
- In re Kesl's Estate, 117 Mont. 377, 161 P.2d 641 (1945)

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