

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Elson v. Vargas

520 So. 2d 76 (Fla. Dist. Ct. App. 1988) · No. No. 87-184 · Decided February 9, 1988

SUMMARY

The Florida Third District Court of Appeal affirmed an order upholding Paula Oliver's will against Dorothy Elson's challenge based on alleged undue influence by the sole beneficiary, Amanda Vargas. The court held that Vargas's confidential relationship with Oliver and active procurement of the will created a presumption of undue influence, but found that Vargas presented sufficient evidence to rebut the presumption. The court deferred to the trial court's factual findings and declined to reweigh the evidence.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Schwartz, C.J.; Hendry, J.; Nesbitt, J.
JURISDICTION	Florida
DECIDED	February 9, 1988
DOCKET	No. 87-184
DISPOSITION	affirmed
PROCEDURAL POSTURE	Dorothy Elson appealed from an order denying her petition to revoke Paula Oliver's will after a nonjury trial at which the trial court upheld the will.
STANDARD OF REVIEW	The appellate court deferred to the trial judge's factual findings after the nonjury trial and held that reweighing the evidence was not its function.
PRECEDENTIAL VALUE	Published Florida District Court of Appeal opinion
PARTIES	Dorothy Elson v. Amanda Vargas, as Personal Representative of the Estate of Paula Oliver, Deceased

TOPICS

- undue influence
- will contests
- probate procedure
- probate
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Vargas's confidential relationship with Oliver and active participation in procuring the will established a presumption of undue influence.
2. Whether Vargas presented sufficient evidence and a reasonable explanation to rebut or dissipate the presumption of undue influence.
3. Whether the trial court's failure expressly to address the presumption and rebuttal in its final order required reversal.
4. Whether the appellate court should reweigh the evidence supporting the trial court's decision to uphold the will.

HOLDINGS

1. When a substantial beneficiary has a confidential relationship with the testator and actively participates in procuring the contested will, a presumption of undue influence arises. Vargas's confidential relationship, sole-beneficiary status, and active procurement of Oliver's will satisfied those conditions.
2. Once the presumption arose, Vargas met her burden of coming forward with a reasonably credible explanation for her active role in Oliver's affairs, thereby dissipating the presumption and leaving undue influence as a permissible inference for the trier of fact.
3. The trial court's failure to address expressly the presumption of undue influence or whether Vargas rebutted it did not require reversal because the findings and evidentiary record demonstrated that the presumption had been rebutted.
4. The appellate court must defer to the trial judge's assessment of the evidence and witness credibility following a nonjury trial and may not reweigh the evidence.

KEY QUOTATIONS

"It is well established that when a substantial beneficiary under a will (1) has a confidential relationship with the testator, and (2) is active in procuring the contested will, the presumption of undue influence arises." (76)

"Once sufficient evidence of undue influence was established, it became the burden of the will proponent to come forward with a reasonable explanation for her active role in the decedent's affairs to rebut the presumption of undue influence." (77)

"Reweighing of the evidence is not this court's function." (78)

FACTUAL BACKGROUND

Paula Oliver's will named Amanda Vargas, who had cared for Oliver during her final months, as sole beneficiary and personal representative. Vargas arranged for an attorney to prepare the will, paid the attorney, took possession of the document, and arranged for neighbors to witness Oliver's signing; the attorney never met or advised Oliver independently. Evidence also showed that Vargas assisted Oliver with her personal, household,

and financial needs, while neighbors and other witnesses described Oliver as strong-willed, mentally competent when she signed the will, and in control of her own decisions.

PROCEDURAL HISTORY

Elson challenged Oliver's will on the ground that it resulted from undue influence by Vargas. After a nonjury trial, the trial judge upheld the will and denied the petition to revoke it. The Third District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Estate of Carpenter, 253 So. 2d 697, 701 (Fla. 1971)
- Blades v. Ward, 475 So. 2d 935 (Fla. 3d DCA 1985)
- In re Estate of Carpenter, 253 So. 2d 697, 702 (Fla. 1971)
- In re Knight's Estate, 108 So. 2d 629 (Fla. 1st DCA 1959)
- Ahlman v. Wolf, 483 So. 2d 889, 892 (Fla. 3d DCA 1986)
- In re Estate of Paulk, 503 So. 2d 368 (Fla. 1st DCA), review denied, 513 So. 2d 1062 (Fla. 1987)
- In re Estate of Lightfoot, 433 So. 2d 607, 609 (Fla. 4th DCA 1983), review denied, 444 So. 2d 417 (Fla. 1984)
- In re Peter's Estate, 155 Fla. 453, 20 So. 2d 487 (Fla. 1945)
- In re Starr's Estate, 125 Fla. 536, 170 So. 620, 623 (Fla. 1935)
- In re Sharp's Estate, 133 Fla. 802, 183 So. 470 (Fla. 1938)
- In re Algar's Estate, 383 So. 2d 676 (Fla. 5th DCA), review denied, 389 So. 2d 1107 (Fla. 1980)
- Butler v. Williams, 141 So. 2d 4, 5 (Fla. 2d DCA 1962)
- Skelton v. Davis, 133 So. 2d 432 (Fla. 3d DCA 1961)
- Marshall v. Johnson, 392 So. 2d 249, 251 (Fla. 1980)
- Shaw v. Shaw, 334 So. 2d 13, 16 (Fla. 1976)
- Delgado v. Strong, 360 So. 2d 73, 75 (Fla. 1978)