

SUPREME COURT OF GEORGIA

Barber v. Holmes, 282 Ga. 768

653 S.E.2d 448 (2007) · No. S07A1353 · Decided October 29, 2007

SUMMARY

The Supreme Court of Georgia affirmed summary judgment rejecting a will contest based on alleged undue influence. The court held that evidence of abuse and influence occurring decades before execution of the will, along with inadmissible post-execution hearsay statements, did not show deception, force, or coercion operating on the testatrix when she executed the will.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Melton, Justice; All Justices
JURISDICTION	Georgia
DECIDED	October 29, 2007
DOCKET	S07A1353
DISPOSITION	affirmed
PROCEDURAL POSTURE	The probate court sustained the Barber Children's caveat to the will. Holmes appealed to the superior court, which granted her motion for summary judgment on the undue-influence claim. The Barber Children appealed to the Supreme Court of Georgia.
STANDARD OF REVIEW	The court viewed the evidence in the light most favorable to the Barber Children when reviewing the grant of summary judgment.
PRECEDENTIAL VALUE	Published opinion; precedential Georgia Supreme Court decision.
PARTIES	Etta Varnadoe, Anna Ryals, Jacob Barber, Alec Barber v. Alecia Holmes

TOPICS

- undue influence
- will contests
- probate procedure
- hearsay
- evidence

PRACTICE AREAS

- probate
- estate litigation
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence established undue influence sufficient to invalidate the will.
2. Whether the Barber Children's evidence showed that undue influence operated on Testatrix at the time of execution.
3. Whether Jacob Barber's affidavit statements were admissible to prove that the will was procured by undue influence.

HOLDINGS

1. Evidence of undue influence must show deception, force, or coercion operating on the testatrix at the time of execution and depriving her of free agency; evidence of influence occurring decades earlier was insufficient.
2. The affidavit's statements recounting Testatrix's post-execution declarations that she had been pressured into making the will were inadmissible hearsay for the purpose of invalidating the will.
3. Summary judgment for Holmes was proper because the Barber Children presented no admissible evidence creating a material issue that Testatrix was acting under undue influence when she executed the will.

KEY QUOTATIONS

"To be sufficient to invalidate a will, undue influence must reach the level of "deception or force and coercion operating on the [T]estat[rix] at the time of execution such that the [T]estat[rix] is deprived of free agency."" (653 S.E.2d at 449)

"Therefore, even if Jacob Barber's affidavit could be used to show that Testatrix was in a condition to be easily influenced, the Barber Children failed to present any proper evidence that Testatrix was acting under any undue influence at the time that she executed her will." (653 S.E.2d at 450)

FACTUAL BACKGROUND

Corrine V. Barber died testate, leaving most of her estate to her youngest child, Alecia Holmes. The Barber Children presented evidence that, decades earlier, William Adams had abused and dominated their mother and favored Holmes. Jacob Barber also submitted an affidavit recounting statements allegedly made by Testatrix after execution of the will, asserting that Adams and Holmes had pressured her to disinherit the other children. The undisputed evidence showed that, when the will was executed, Testatrix was in her attorney's office with only her attorney and witnesses, and she stated that she understood and approved the will.

PROCEDURAL HISTORY

Corrine V. Barber's four older children filed a caveat challenging her will on undue-influence grounds after Holmes offered it for probate. The probate court granted the caveat. On appeal, the superior court granted Holmes summary judgment, concluding that no genuine issues of material fact remained. The Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Holland v. Holland, 277 Ga. 792, 793(2), 596 S.E.2d 123 (2004)
- Jones v. Grogan, 98 Ga. 552, 557(7), 25 S.E. 590 (1896)
- Reid v. Wilson, 208 Ga. 235, 237-238(3), 65 S.E.2d 913 (1951)
- General Motors Corp. v. Walker, 244 Ga. 191, 193, 259 S.E.2d 449 (1979)

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