

SUPREME COURT OF COLORADO

Krueger v. Ary

205 P.3d 1150 (Colo. 2009) · Decided March 16, 2009

SUMMARY

The Colorado Supreme Court held that rebuttable presumptions of undue influence and unfairness arising from a fiduciary or confidential relationship do not continue after the opposing party presents legally sufficient rebutting evidence. Although a jury may still infer undue influence and unfairness from the evidence supporting the presumptions, instructing the jury on those permissible inferences is discretionary. The court affirmed the judgment for Ary, finding no abuse of discretion in the trial court's refusal to give Krueger's requested instructions.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Martinez
JURISDICTION	Colorado
DECIDED	March 16, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Krueger, the personal representative of Iver Martin Villa's estate, sued Ary to void conveyances of real property and money allegedly resulting from fiduciary wrongdoing and undue influence. After a jury returned a verdict for Ary, the Colorado Court of Appeals affirmed. The Colorado Supreme Court granted certiorari to decide whether rebuttable presumptions of undue influence and unfairness continue after sufficient rebutting evidence is presented and whether the trial court was required to instruct the jury on those presumptions or permissible inferences.
STANDARD OF REVIEW	The form and style of jury instructions, including whether to instruct on permissible inferences, are reviewed for abuse of discretion. A failure to give an instruction constitutes an abuse of discretion only if it substantially prejudices the requesting party. Whether rebutting evidence is legally sufficient to meet the burden of going forward is a question for the trial court, not the jury.
PRECEDENTIAL VALUE	Published Colorado Supreme Court opinion; precedential.

TOPICS

burden of proof

presumptions

jury instructions

evidence

probate

PRACTICE AREAS

Evidence

Probate and estate litigation

Real estate conveyances

Civil procedure

QUESTIONS PRESENTED

1. Whether rebuttable presumptions of undue influence and unfairness continue after the opposing party presents legally sufficient rebutting evidence.
2. Whether the presumptions shift the burden of proof or only the burden of going forward.
3. Whether a jury may infer undue influence and unfairness from the evidence that gave rise to the rebutted presumptions.
4. Whether the trial court abused its discretion by refusing to instruct the jury on the rebutted presumptions or the permissible inferences.

HOLDINGS

1. Rebuttable presumptions of undue influence and unfairness do not continue in the case after the opposing party presents legally sufficient rebutting evidence. Once rebutted, the presumptions cannot establish the presumed facts as a matter of law.
2. Rebuttable presumptions of undue influence and unfairness shift only the burden of going forward; they do not shift the burden of proof.
3. After a rebuttable presumption has been sufficiently rebutted, the jury may still infer the presumed facts from the evidence that gave rise to the presumption.
4. The trial court did not abuse its discretion by refusing to instruct the jury on the rebutted presumptions or on permissible inferences of undue influence and unfairness because the omission did not substantially prejudice Krueger.

KEY QUOTATIONS

“We hold the rebuttable presumptions of undue influence and unfairness do not continue in a case after they are sufficiently rebutted.” (1154)

“Because the rebuttable presumption shifted the burden of going forward and the burden was met, the presumption does not continue in the case.” (1156)

“Though a rebuttable presumption does not continue in a case once rebutted, a permissible inference of the presumed facts remains.” (1156-1157)

“A trial court abuses its discretion in failing to give a jury instruction if that failure substantially prejudiced the complaining party.” (1158)

FACTUAL BACKGROUND

Villa's longtime housekeeper and paid caregiver, Ary, developed a fiduciary and confidential relationship with him as his health declined. Villa conveyed a house and land worth approximately \$350,000 to Ary by joint-tenancy deed and later gave her a \$5,000 check to help defend her ownership. After Villa's death, Krueger challenged the conveyances as products of undue influence and unfairness; Ary presented evidence of Villa's intent and capacity to make the gifts.

PROCEDURAL HISTORY

The trial court determined that Ary presented legally sufficient evidence to rebut the presumptions arising from her fiduciary and confidential relationship with Villa and declined Krueger's requested jury instructions concerning the rebutted presumptions. The jury returned a verdict for Ary. The court of appeals affirmed, holding that the presumptions disappeared after rebuttal. The Colorado Supreme Court affirmed the court of appeals.

DISPOSITION

affirmed

CASES CITED

- Krueger v. Ary, No. 06CA2142, 2007 WL 4336226 (Colo. App. Dec. 13, 2007)
- Lesser v. Lesser, 128 Colo. 151, 250 P.2d 130 (1952)
- Judkins v. Carpenter, 189 Colo. 95, 537 P.2d 737 (1975)
- Fed. Ins. Co. v. Pub. Serv. Co., 194 Colo. 107, 570 P.2d 239 (1977)
- Short v. Kinkade, 685 P.2d 210 (Colo. App. 1983)
- White v. Hurlbut Grocery Co., 62 Colo. 483, 162 P. 1143 (1917)
- American Ins. Co. v. Naylor, 101 Colo. 34, 70 P.2d 349 (1937)
- Hilliard v. Shellabarger, 120 Colo. 441, 210 P.2d 441 (1949)
- Arnold v. Abernethy, 134 Colo. 573, 307 P.2d 1106 (1957)
- Jordan v. Bogner, 844 P.2d 664 (Colo. 1993)
- Montgomery Ward & Co. v. Kerns, 172 Colo. 59, 470 P.2d 34 (1970)
- Marsh v. Cramer, 16 Colo. 331, 27 P. 169 (1891)
- Hansen v. State Farm Mut. Auto. Ins. Co., 957 P.2d 1380 (Colo. 1998)
- Lowe v. People, 76 Colo. 603, 234 P. 169 (1925)
- Leopold v. People, 105 Colo. 147, 95 P.2d 811 (1939)
- McKenna v. People, 124 Colo. 112, 235 P.2d 351 (1951)
- Aloï v. Union Pacific R.R. Corp., 129 P.3d 999 (Colo. 2006)
- Armentrout v. FMC Corp., 842 P.2d 175 (Colo. 1992)

