

SUPREME COURT OF ARKANSAS

Martin v. Simmons First Trust Co.

371 Ark. 484 (2007) (Ark. 2007) · No. No. 07-93 · Decided November 15, 2007

SUMMARY

The Arkansas Supreme Court affirmed the Union County Circuit Court’s determination that Arkansas was the proper forum for probate of Mary Ann Daley’s estate. The court held that Daley, who had been adjudicated incompetent before being taken to California, had not been shown to have acquired a California domicile because there was no evidence she had the capacity to form the requisite intent. A concurring opinion would have affirmed under Arkansas’s probate venue statute based on the location of most of the estate’s assets.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Hannah, Chief Justice; Annabelle Clinton Imber, Justice
JURISDICTION	Arkansas
DECIDED	November 15, 2007
DOCKET	No. 07-93
DISPOSITION	affirmed
PROCEDURAL POSTURE	Laurie Martin appealed the Union County Circuit Court's order overruling her objection to probate in Arkansas and holding that Union County was the proper venue for probate of Mary Ann Daley's estate. The Arkansas Supreme Court accepted certification from the court of appeals regarding an issue of first impression.
STANDARD OF REVIEW	Probate matters are reviewed de novo. The probate judge's findings will not be disturbed absent an abuse of discretion or a clearly erroneous decision.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; binding precedent in Arkansas, subject to the concurrence's disagreement with the majority's reliance on domicile rather than statutory residence.
PARTIES	Laurie Martin v. Simmons First Trust Company

TOPICS

probate procedure

estate administration

guardianship procedure

appellate procedure

statutory interpretation

PRACTICE AREAS

Probate

Estate administration

Guardianship

Appellate procedure

QUESTIONS PRESENTED

1. Whether Union County, Arkansas, was the proper venue for probate of Daley's estate even though Daley died in California and Martin claimed she was a California resident at death.
2. Whether Daley's stay in California and acquisition of a California identification card established a change in domicile or residence sufficient to defeat Arkansas probate venue.
3. Whether the California petition's earlier filing made California the proper forum for probate.

HOLDINGS

1. Union County was a proper forum for probate because Daley remained domiciled in Arkansas at the time of her death; her temporary removal to California did not establish a new domicile.
2. The California identification card did not establish a change in domicile because Martin presented no evidence that Daley had the mental capacity to express an intent to make California her home.
3. The fact that Martin filed the California probate petition before the Arkansas petition did not determine the proper probate venue and did not validate the circumstances of Daley's removal to California.

KEY QUOTATIONS

“to effect a change in domicile from one locality or state to another, there must be actual abandonment of the first domicile, coupled with an intention not to return to it and there must be a new domicile acquired by actual residence in another place or jurisdiction, with intent of making the last acquired residence a permanent home.” (268 S.W.3d at 307)

“Thus, we turn to the question of where Daley was domiciled at the time of her death.” (268 S.W.3d at 307)

FACTUAL BACKGROUND

Mary Ann Daley was found incompetent to manage her affairs in an Arkansas guardianship proceeding, and a guardian of her person and a separate guardian of her estate were appointed. Although the circuit court authorized a temporary trip to California and directed arrangements for Daley's transportation to Omaha, Laurie Martin moved Daley to California, placed her in a California nursing home, and helped her obtain a California senior-citizen identification card. Daley died in California while still incompetent, and the competing probate proceedings were then filed in California and Arkansas.

PROCEDURAL HISTORY

After Daley died in California, Martin filed an intestate probate petition in Ventura County, California. Simmons First Trust Company, guardian of Daley's estate, filed a petition to probate Daley's will and appoint a personal

representative in Union County, Arkansas, where probate was opened and Simmons First was appointed executor. The Union County Circuit Court overruled Martin's venue objection, and the Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Reynolds v. Guardianship of Sears, 327 Ark. 770, 940 S.W.2d 483 (1996)
- Phillips v. Sherrod Estate, 248 Ark. 605, 453 S.W.2d 60 (1970)
- Weaver v. Weaver, 231 Ark. 341, 329 S.W.2d 422 (1959)
- Martin v. Decker, 96 Ark. App. 45, 237 S.W.3d 502 (2006)
- Groschner v. Winton, 146 Ark. 520, 226 S.W. 162 (1920)
- McPherson v. McKay, 205 Ark. 1135, 172 S.W.2d 911 (1943)
- Lawrence v. Sullivan, 90 Ark. App. 206, 205 S.W.3d 168 (2005)
- Smith v. Rudolph, 221 Ark. 900, 256 S.W.2d 736 (1953)
- Shelton v. Shelton, 180 Ark. 959, 23 S.W.2d 629 (1930)

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