

SUPREME COURT OF ALABAMA

Furrow v. Helton

13 So. 3d 350 (Ala. 2008) · No. 1070667 · Decided October 24, 2008

SUMMARY

The Alabama Supreme Court reviewed a probate-court judgment setting aside a 2003 will based on a jury finding of undue influence. The court held that the contestant failed to present substantial evidence that the beneficiary exercised dominant or controlling influence over the testator or engaged in undue activity to procure the will. The court reversed the judgment and remanded the case.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Smith, Justice; Cobb, Chief Justice; Parker, Justice; See, Justice; Woodall, Justice
JURISDICTION	Alabama
DECIDED	October 24, 2008
DOCKET	1070667
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a Mobile County Probate Court judgment entered on a jury verdict invalidating a will based on undue influence. The Supreme Court reviewed the denial of the will proponent's renewed motion for judgment as a matter of law under Rule 50(b), Ala. R. Civ. P.
STANDARD OF REVIEW	A ruling on a motion for judgment as a matter of law is reviewed under the same standard applied by the trial court. The reviewing court determines whether the nonmovant presented substantial evidence supporting every contested essential element, views the evidence in the light most favorable to the nonmovant, and draws reasonable inferences in the nonmovant's favor. Questions of law are reviewed without a presumption of correctness.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Alabama.
PARTIES	Etole C. Furrow v. Gregory Helton

TOPICS

will contests

undue influence

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Furrow was entitled to judgment as a matter of law because Helton failed to present substantial evidence that Furrow exercised dominant or controlling influence over Malone.
2. Whether Helton presented substantial evidence that Furrow engaged in undue activity in procuring execution of Malone's 2003 will.
3. Whether the jury verdict invalidating the 2003 will could stand when the contestant failed to prove essential elements of undue influence.

HOLDINGS

1. A will contestant must present substantial evidence of each essential element of undue influence, including a confidential relationship, dominant and controlling influence by the beneficiary, and undue activity in procuring execution of the will. Helton failed to present substantial evidence of at least the dominance-and-control and undue-activity elements.
2. Although the parent-child relationship is confidential, Alabama law presumes that the parent is the dominant party. To overcome that presumption, the contestant must show that time and circumstances reversed the natural order so that the parent's will became subordinate to the child's will.
3. Judgment as a matter of law was appropriate for Furrow because Helton's undue-influence claim, although legally valid, lacked substantial evidence on essential elements.

KEY QUOTATIONS

“As the contestant, Gregory was required to offer substantial evidence showing “(1) that a confidential relationship existed between a favored beneficiary and the testator; (2) that the influence of or for the beneficiary was dominant and controlling in that relationship; and (3) that there was undue activity on the part of the dominant party in procuring the execution of the will.”” (354)

“Thus, for the burden of proof to shift, it is clear that our cases require proof of more than a reversal of the traditional roles of parent as care giver and child as care recipient; they require proof that the parent's will has become subordinate to the will of the child.” (356-357)

“In the present case, Gregory did not present substantial evidence indicating that Furrow unduly influenced Malone or that she caused Malone to do something Malone did not independently want to do.” (360)

FACTUAL BACKGROUND

Jewell B. Malone executed a 1995 will that divided her estate equally among her three daughters and provided for descendants of any daughter who predeceased her. After Malone's daughter Helton died, Malone executed a 2003 will leaving her estate equally to her two surviving daughters, Furrow and Lott, with no provision for

grandchildren. Furrow drove Malone to the drafting attorney's office and was present in the vicinity when the will was executed, but the attorney met privately with Malone, and witnesses testified that Malone appeared competent, knew her property and wishes, and acted freely. Helton offered evidence that Malone was elderly, feeble, grieving, and taking numerous medications, but offered no substantial evidence that Furrow dominated or controlled Malone or engaged in undue activity to procure the will.

PROCEDURAL HISTORY

Furrow offered Malone's 2003 will for probate, and Helton contested it, alleging that Furrow had procured the will through undue influence. The probate court entered judgment as a matter of law for Furrow on all claims except undue influence. A jury found for Helton on undue influence, and the probate court entered judgment against the 2003 will. The probate court denied Furrow's renewed Rule 50(b) motion for judgment as a matter of law, and Furrow appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded for proceedings consistent with the opinion.

CASES CITED

- City of Birmingham v. Brown, 969 So. 2d 910, 915 (Ala. 2007)
- Waddell & Reed, Inc. v. United Investors Life Ins. Co., 875 So. 2d 1143, 1152 (Ala. 2003)
- Clifton v. Clifton, 529 So. 2d 980, 983-84 (Ala. 1988)
- Kelly v. Donaldson, 456 So. 2d 30, 33 (Ala. 1984)
- Ex parte Helms, 873 So. 2d 1139, 1143-49 (Ala. 2003)
- Harkins & Co. v. Lewis, 535 So. 2d 104 (Ala. 1988)
- Banks v. Harbin, 500 So. 2d 1027 (Ala. 1986)
- McKerley v. Etowah-DeKalb-Cherokee Mental Health Bd., Inc., 686 So. 2d 1194 (Ala. Civ. App. 1996)
- Driver v. National Sec. Fire & Cas. Co., 658 So. 2d 390 (Ala. 1995)
- First Financial Ins. Co. v. Tillery, 626 So. 2d 1252 (Ala. 1993)
- Penn v. Jarrett, 447 So. 2d 723, 724 (Ala. 1984)
- Reed v. Walters, 396 So. 2d 83, 86 (Ala. 1981)
- Hubbard v. Moseley, 261 Ala. 683, 686-87, 75 So. 2d 658, 661 (1954)
- Nottage v. Jones, 388 So. 2d 923, 926 (Ala. 1980)
- West v. Founders Life Assurance Co. of Florida, 547 So. 2d 870, 871 (Ala. 1989)
- Wilson v. Wehunt, 631 So. 2d 991, 993-95 (Ala. 1994)
- Hawthorne v. Jenkins, 182 Ala. 255, 260, 62 So. 505, 506 (1913)
- Keeble v. Underwood, 193 Ala. 582, 586-87, 69 So. 473, 475 (1915)

- Bain v. Bain, 150 Ala. 453, 43 So. 562 (1907)
- Hall v. Hall, 502 So. 2d 712, 713-14 (Ala. 1987)
- Haginas v. Haginas, 598 So. 2d 1334 (Ala. 1992)
- Brothers v. Moore, 349 So. 2d 1107 (Ala. 1977)
- Gosa v. Willis, 341 So. 2d 699 (Ala. 1977)
- Jackson v. Rodda, 291 Ala. 569, 285 So. 2d 77 (1973)
- Orton v. Gay, 285 Ala. 270, 231 So. 2d 305 (1970)
- Jones v. Boothe, 270 Ala. 420, 119 So. 2d 203 (1960)
- Arrington v. Working Woman's Home, 368 So. 2d 851 (Ala. 1979)
- Kahalley v. Kahalley, 248 Ala. 624, 28 So. 2d 792 (1947)
- Lockridge v. Brown, 184 Ala. 106, 63 So. 524 (1913)
- Chandler v. Chandler, 514 So. 2d 1307 (Ala. 1987)