

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

John P. Kellar v. Estate of John W. Kellar

John P. Kellar v. Estate of John W. Kellar, 257 So. 3d 1044 (Fla. 4th DCA 2018) (Fla. 4th DCA 2018) · No. 4D17-3019

SUMMARY

The Florida District Court of Appeal affirmed the probate court's order granting administration to the decedent's wife, holding that she presented competent substantial evidence to raise a rebuttable presumption of undue influence by the son in procuring the revocation of the decedent's will, and the son failed to prove the nonexistence of undue influence by a preponderance of the evidence. The court further held that the trial court's minor factual errors and an erroneous alternative legal conclusion regarding the prenuptial agreement were harmless. This case applies the burden-shifting framework for undue influence claims in will contests under Florida law.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Gerber, C.J.; Gerber; Levine; Klingensmith
JURISDICTION	Florida
DOCKET	4D17-3019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from circuit court orders granting administration petition and denying rehearing.
STANDARD OF REVIEW	It is axiomatic that the trial court's resolution of conflicting evidence will not be disturbed by a reviewing court in the absence of a clear showing of error, or that the conclusions reached are erroneous. In reviewing the trial court's findings, they must be given the benefit of all reasonable inferences that may be drawn from the evidence. Further, we are prohibited from reevaluating the evidence and substituting our judgment for that of the finder of the facts.
PRECEDENTIAL VALUE	binding
PARTIES	John P. Kellar v. Estate of John W. Kellar

TOPICS

[undue influence](#)[will contests](#)[probate](#)[appellate procedure](#)[evidence](#)

PRACTICE AREAS

Wills, Trusts, and Estates

Appellate Procedure

QUESTIONS PRESENTED

1. Whether the circuit court erred in finding that the son failed to prove the nonexistence of undue influence by a preponderance of the evidence.
2. Whether the circuit court's erroneous factual findings regarding the son driving the decedent to the lawyer, timing of the guardian's removal of the decedent, and the son's beneficiary status were harmless error.
3. Whether the circuit court's alternative conclusion that the prenuptial agreement precluded revocation of the will was erroneous and, if so, whether it was harmless.

HOLDINGS

1. The circuit court's finding that the son failed to establish, by a preponderance of the evidence, the nonexistence of undue influence was affirmed because the wife presented competent substantial evidence to raise the presumption, and the burden shifted to the son.
2. The erroneous factual findings—regarding the son driving the decedent, timing of removal, and beneficiary status—were harmless because they were inconsequential to the ultimate finding that the son failed to rebut the presumption of undue influence.
3. The circuit court's alternative conclusion that the prenuptial agreement precluded revocation of the will was erroneous, but harmless given the independent finding that the son failed to prove the nonexistence of undue influence.

KEY QUOTATIONS

"It is axiomatic that the trial court's resolution of conflicting evidence will not be disturbed by a reviewing court in the absence of a clear showing of error, or that the conclusions reached are erroneous. In reviewing the trial court's findings, they must be given the benefit of all reasonable inferences that may be drawn from the evidence. Further, we are prohibited from reevaluating the evidence and substituting our judgment for that of the finder of the facts." (1045)

FACTUAL BACKGROUND

Upon the death of John W. Kellar, a dispute arose between his son, John P. Kellar, and his wife over the administration of his estate. The wife alleged that the son exerted undue influence over the decedent to procure the revocation of a will favoring the wife. The circuit court found a rebuttable presumption of undue influence and shifted the burden to the son to prove its nonexistence by a preponderance of the evidence. The court made three erroneous factual findings but concluded they were harmless. The court also erroneously concluded that the prenuptial agreement precluded revocation, but that was also harmless.

PROCEDURAL HISTORY

The decedent's son appealed the circuit court's order granting the decedent's wife's petition for administration in part and denying the son's counterpetition, as well as the order denying his motion for rehearing. The Fourth District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- RBC Ministries v. Barbara Tompkins, as personal representative of the estate of Lewis A. Simoneau, RBC Ministries v. Tompkins, 974 So. 2d 569 (Fla. 2d DCA 2008)
- Lindeburg v. Lindeburg, 162 So. 2d 1 (Fla. 3d DCA 1964)
- Estate of Brock, 692 So. 2d 907 (Fla. 1st DCA 1996)