

SUPREME COURT OF OREGON

In re Shanks' Estate, 168 Or. 650

126 P.2d 504 (1942) · Decided March 4, 1942

SUMMARY

The Oregon Supreme Court reviewed a will contest alleging that Richard A. Shanks lacked testamentary capacity because of insanity and unsoundness of mind. The court held that the evidence, including testimony concerning his business activities and the limited probative value of the medical opinions, supported his competency when he executed the will. The decree validating the will was affirmed, with no appellate costs allowed.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Bailey; Brand; Kelly; Lusk; Rand
JURISDICTION	Oregon
DECIDED	March 4, 1942
DISPOSITION	affirmed
PROCEDURAL POSTURE	Will contest concerning testamentary capacity. The contestants appealed from a circuit court decree reversing a county court order that had held the will invalid.
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion
PARTIES	Lois F. Shanks and others v. Neal W. Shanks and others

TOPICS

- will contests
- testamentary capacity
- probate
- evidence
- presumptions

PRACTICE AREAS

- Probate
- Estate litigation
- Evidence

QUESTIONS PRESENTED

- Whether Richard A. Shanks possessed sufficient testamentary capacity when he executed the will.
- Whether the evidence overcame the presumptions that a formally executed testator was competent and that every testator is sane.

HOLDINGS

1. The evidence established that Shanks's mind and memory were sufficiently sound at the time of execution for him to understand the nature and amount of his property and the persons to whom he wished to leave it; therefore, he was competent to make the will.
2. Although the proponents bear the burden of proving the testator's competency, they benefit from the presumption of competency arising from due execution of the will and from the general presumption that every testator is sane.
3. Medical expert testimony concerning testamentary incapacity has limited probative value when it is based almost exclusively on an interested witness's account and an incomplete hypothetical question that omits material facts and does not address the testator's condition at execution.

KEY QUOTATIONS

“The burden of proof of competency of the testator is upon the proponents of the will, but they have the benefit of the presumption that he was competent to make the will, inasmuch as it was executed in due form:” (662)

“The real question here involved is whether the mind and memory of the testator were sufficiently sound to enable him to know and understand the business in which he was engaged at the time of executing the will.” (663)

“The decree appealed from is affirmed. No costs will be allowed in this court.” (665)

FACTUAL BACKGROUND

Richard A. Shanks executed a will on August 1, 1938, while suffering from cancer and other painful ailments, and died thirteen months later. The will provided modest bequests to his mother, brother, and sister, with the residue passing to his wife and two minor daughters. Although contestants presented testimony from the widow and two physicians describing delusions, unusual behavior, and insanity, other evidence showed that Shanks continued to manage property, collect rents, handle business affairs, serve as a railway-brotherhood chairman, and consult with an attorney about revising and executing his will. The witnesses to the will and the drafting attorney considered him competent at execution.

PROCEDURAL HISTORY

Richard A. Shanks's will was admitted to probate in common form, and his widow was appointed executrix. The widow and the couple's minor children, acting through a guardian ad litem, initiated a contest within one year, alleging that the decedent lacked testamentary capacity because of insanity and unsoundness of mind. The Union County Court held the will invalid, but the circuit court reversed and declared the will valid; the contestants appealed to the Oregon Supreme Court, which affirmed.

DISPOSITION

affirmed

CASES CITED

- Morley v. Silverton Hospital, 138 Or. 75, 95, 5 P.2d 92
- In re Will of Robert Carr, 121 Or. 574, 580, 256 P. 390
- In re Finkler's Estate, 3 Cal. 2d 584, 46 P.2d 149
- In re Nolan's Estate, 25 Cal. App. 2d 738, 78 P.2d 456
- Stevens v. Myers, 62 Or. 372, 391, 121 P. 434, 126 P. 29
- Copenhefer v. Powers, 137 Or. 145, 150, 300 P. 505
- Ames' Will, 40 Or. 495, 67 P. 737
- Holman's Will, 42 Or. 345, 70 P. 908
- Pickett's Will, 49 Or. 127, 89 P. 377
- Collins v. Long, 95 Or. 63, 186 P. 1038, 8 A.L.R. 1370