

CALIFORNIA COURT OF APPEAL

Anderson v. Breeden

173 Cal. App. 4th 369 (Cal. Ct. App. 2009) · Decided April 24, 2009

SUMMARY

The California Court of Appeal held that a petition to admit a holographic will was untimely under Probate Code section 8226, subdivision (c). The statute required the administrator to file within the later of 120 days after the intestacy determination or 60 days after obtaining knowledge of the will. Because the petition was filed after both applicable deadlines, the court affirmed the denial of probate.

CASE DETAILS

COURT	California Court of Appeal
WRITING FOR THE COURT	Mallano, P. J.; Rothschild, J.; Tucker, J.
JURISDICTION	California
DECIDED	April 24, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Kathleen Anderson, the administrator of James Peter Earley’s estate, appealed from an order denying her petition to admit Earley’s holographic will to probate as untimely.
STANDARD OF REVIEW	Independent review applies because the appeal involves the application of a statute to undisputed facts.
PRECEDENTIAL VALUE	Published California Court of Appeal opinion; precedential under California law unless subsequently depublished or otherwise limited.
PARTIES	Kathleen Anderson v. Vicky Breeden

TOPICS

- probate procedure
- probate
- statutory interpretation
- plain meaning rule
- appellate procedure

PRACTICE AREAS

- probate
- estate administration
- statutory interpretation
- appellate procedure

QUESTIONS PRESENTED

1. Whether Probate Code section 8226, subdivision (c), imposes filing deadlines when a petition to admit a single will to probate is filed after the probate court has determined that the decedent died intestate.
2. Whether Anderson’s petition to admit Earley’s holographic will was timely under the later-of-120-days-after-the-intestacy-determination or-60-days-after-discovery deadlines in section 8226, subdivision (c).

HOLDINGS

1. Probate Code section 8226, subdivision (c), applies even when the proponent seeks to probate only one will after the court has determined that the decedent died intestate. The statute’s filing deadlines are not limited to proceedings involving successive wills.
2. Anderson’s petition was untimely because it was filed after both applicable deadlines: 60 days after she discovered the will and 120 days after the probate court determined that Earley died intestate.

KEY QUOTATIONS

“The language of section 8226 is unambiguous, so its plain meaning controls.” (173 Cal. App. 4th at 374)

“In sum, section 8226 provides filing deadlines for admitting a will to probate regardless of whether another will has already been admitted to probate or whether estate proceedings have already commenced based on a determination of intestacy.” (173 Cal. App. 4th at 377)

FACTUAL BACKGROUND

James Peter Earley died in May 2007 with an estate valued at approximately \$1.25 million. The probate court appointed his first cousin Kathleen Anderson administrator and determined that he died intestate. Anderson discovered a 1954 holographic will and two codicils on October 22, 2007, but did not petition to admit them to probate until February 19, 2008. The will was therefore presented more than 60 days after discovery and more than 120 days after the intestacy determination.

PROCEDURAL HISTORY

The probate court appointed Anderson administrator and determined that Earley died intestate. After discovering a holographic will and codicils, Anderson filed a petition to admit the will to probate more than 60 days after discovering it and more than 120 days after the intestacy determination. The probate court sustained Breeden’s objection and denied the petition under Probate Code section 8226, subdivision (c). The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Emeryville Redevelopment Agency v. Harcros Pigments, Inc., 101 Cal. App. 4th 1083, 1095 (2002)
- Shirk v. Vista Unified School District, 42 Cal. 4th 201, 211 (2007)
- Torres v. Parkhouse Tire Service, Inc., 26 Cal. 4th 995, 1003 (2001)

- Doe v. City of Los Angeles, 42 Cal. 4th 531, 547 (2007)
- Commission on Peace Officer Standards & Training v. Superior Court, 42 Cal. 4th 278, 290 (2007)
- Estate of Bergland, 180 Cal. 629, 637 (1919)
- Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75, 79 (1998)
- New Hampshire Motor Transport Association v. Rowe, 448 F.3d 66, 77 (1st Cir. 2006)
- Estate of Wilcox, 68 Cal. App. 2d 780, 786 (1945)