

DISTRICT COURT OF APPEAL OF FLORIDA

Sturm v. Gibson

185 So. 2d 732 (Fla. Dist. Ct. App. 1966) · Decided April 29, 1966

SUMMARY

The Florida District Court of Appeal reviewed an order denying revocation of probate of Della Swan’s will. The court held that although a confidential relationship existed between the beneficiary and the testatrix, the record did not show that the beneficiary participated in procuring execution of the will or otherwise exerted undue influence. The probate court’s order was affirmed.

CASE DETAILS

COURT	District Court of Appeal of Florida
WRITING FOR THE COURT	Liles, Acting Chief Judge; Liles; Hobson; Overton, Associate Judge; Ben F., Associate Judge
JURISDICTION	Florida
DECIDED	April 29, 1966
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Pasco County judge denying a petition to revoke probate of Della Swan's will.
STANDARD OF REVIEW	The probate court's factual findings are entitled to the same weight as those of any other trier of fact and will not be disturbed absent a palpable misconception of fact or manifest misapprehension or misapplication of law.
PRECEDENTIAL VALUE	Published Florida District Court of Appeal opinion
PARTIES	Clark Sturm v. Wayne Gibson

TOPICS

- undue influence
- will contests
- probate
- estate litigation
- appellate procedure

PRACTICE AREAS

- Probate
- Wills and estates
- Estate litigation
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence established that Wayne Gibson exercised undue influence sufficient to revoke probate of Della Swan's will.
2. Whether the county judge's factual findings and treatment of the evidence warranted appellate disturbance.

HOLDINGS

1. The will was not shown to have been procured through undue influence. Although Gibson had a confidential relationship with the testatrix, the record did not show that he participated in procuring execution of the will.
2. The probate court's decision would not be disturbed absent a palpable misconception of fact or manifest misapprehension or misapplication of law.

KEY QUOTATIONS

“over-persuasion, duress, force, coercion, or artful or fraudulent contrivances to such a degree that there is destruction of the free agency and will power of the one making the will.” (732)

“He was the trier of the facts and his decision will be given the same weight as any other trier of fact and unless there is a “palpable misconception of fact or manifest misapprehension or misapplication of law” his decision will not be disturbed.” (733)

FACTUAL BACKGROUND

Della Swan, a Florida resident, executed a will naming Wayne Gibson executor and devising to him a ranch in Pasco County. Gibson had been Swan's ranch foreman and had lived in the same dwelling with her for some time. Clark Sturm, who was named a residuary legatee and received a \$5,000 cash legacy, challenged probate on the ground that Gibson unduly influenced Swan. Gibson drove Swan to the attorney's office, but was not present when the will was executed and did not know its contents until after Swan's death.

PROCEDURAL HISTORY

Clark Sturm, an heir and residuary legatee, petitioned to revoke probate of Della Swan's will, principally alleging that Wayne Gibson exercised undue influence over the testatrix. After taking testimony, the probate court denied revocation. The District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Sturm v. Gibson, 159 So. 2d 917 (Fla. Dist. Ct. App. 1964)
- Heasley v. Evans, Heasley v. Evans, 104 So. 2d 854 (Fla. Dist. Ct. App. 1958)

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