

SUPREME COURT OF OREGON

In re Walther's Estate, 177 Or. 382

163 P.2d 285 (1945) · Decided October 9, 1945

SUMMARY

The Oregon Supreme Court reviewed a will contest challenging Margaret Walther's 1942 will on grounds of testamentary incompetency and undue influence. The court held that the evidence supported Walther's testamentary capacity and that leaving her estate to Ulrich Wyss was not unnatural under the circumstances. The judgment disallowing the contest was affirmed.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Hay; Bailey; Belt; Eossman; Kelly; Lusk
JURISDICTION	Oregon
DECIDED	October 9, 1945
DISPOSITION	affirmed
PROCEDURAL POSTURE	Contestants appealed from a circuit court judgment disallowing their contest of Margaret Walther's 1942 will.
STANDARD OF REVIEW	The Supreme Court independently reviewed the will-contest record, while giving considerable weight to the trial judge's factual conclusions because the trial judge saw and heard the witnesses.
PRECEDENTIAL VALUE	Published, precedential Oregon Supreme Court opinion
PARTIES	Johanna Zenger, Caroline E. Brande, Henry Thoeny, other contestants v. Ulrich Wyss, individually and as executor of the estate of Margaret Walther

TOPICS

- will contests
- testamentary capacity
- undue influence
- probate
- estate planning

PRACTICE AREAS

- Probate
- Wills and estates
- Estate litigation

QUESTIONS PRESENTED

1. Whether Margaret Walther possessed testamentary capacity when she executed the August 26, 1942 will.
2. Whether Walther's suspicions that relatives were attempting to obtain her money constituted an insane delusion invalidating the will.
3. Whether Ulrich Wyss exercised undue influence in procuring the will or whether his presence at its execution created a presumption of undue influence.

HOLDINGS

1. Walther had sufficient testamentary capacity because she understood that she was revoking her former will, making a new will, and leaving all of her property to Wyss. Old age, illness, physical debility, and intermittent mental confusion did not establish lack of testamentary capacity at the time of execution.
2. Walther's belief that certain relatives were attempting to obtain her money was an unjustified delusion, but it was not an insane delusion that invalidated the will because it was not wholly spontaneous and unsupported by extrinsic circumstances; it was instead an erroneous conclusion based on her misinterpretation of events.
3. The will was not procured through undue influence. Wyss neither induced nor participated in procuring the will, and his presence at execution, without evidence that he exerted influence, did not create a presumption of undue influence.

KEY QUOTATIONS

“Conceptions that originate spontaneously in the mind without evidence of any kind to support them, and can be accounted for on no reasonable hypothesis.” (at 399)

“A mere error in judgment upon proven or admitted facts does not constitute a delusion, however much it may be at variance with the conclusion reached by unprejudiced minds from the same facts.” (at 400)

FACTUAL BACKGROUND

Margaret Walther, age eighty-one, suffered a cerebral injury in July 1942 and thereafter experienced periods of confusion and hallucinations, although witnesses also observed periods of rationality and mental improvement. On August 26, 1942, she executed a new will at the home of Rose Jacobs, leaving her entire estate to Ulrich Wyss, whom she had taken into her household as a child and with whom she had maintained a close, affectionate relationship for many years. The will was prepared and explained by attorney E.J. Claussen and witnessed by Claussen and banker W.J. Riechers; Wyss was present but did not participate in procuring or preparing the will. Relatives who would have benefited under an earlier will contested the new will for lack of testamentary capacity and undue influence.

PROCEDURAL HISTORY

The 1942 will was admitted to probate in common form on March 26, 1943. Margaret Walther's relatives thereafter challenged the will on grounds of testamentary incompetency and undue influence. The circuit court disallowed the contest, and the Oregon Supreme Court affirmed.

DISPOSITION

CASES CITED

- In re Dougan's Estate, 152 Or. 235, 53 P.2d 511
- Clark v. Clark, 125 Or. 333, 267 P. 534
- In re Phillips' Will, 107 Or. 612, 213 P. 627
- In re Sturtevant's Estate, 92 Or. 269, 178 P. 192, 180 P. 595
- Mason v. Bowen, 122 Ark. 407, 183 S.W. 973
- Kleinlein v. Krauss, 209 S.W. 933 (Mo.)
- In re Heaton's Will, 224 N.Y. 22, 120 N.E. 83
- In re Latta's Estate, 129 Minn. 248, 152 N.W. 541
- Gilliam v. Schoen, 176 Or. 356, 157 P.2d 682
- McGreal v. Culhane, 172 Or. 337, 141 P.2d 828
- In re Robert Carr's Will, 121 Or. 574, 256 P. 390
- Greenwood v. Cline, 7 Or. 17
- Holman's Will, 42 Or. 345, 70 P. 908
- Turner's Will, 51 Or. 1, 93 P. 461
- In re Diggins' Estate, 76 Or. 341, 149 P. 73
- In re Dale's Estate, 92 Or. 57, 179 P. 274
- In re DeHaas' Will, 135 Or. 392, 296 P. 42
- Page v. Phelps, 108 Conn. 572, 143 A. 890
- In re Stephenson's Estate, 132 Or. 234, 285 P. 224
- Taylor v. McClintock, 87 Ark. 243, 112 S.W. 405
- In re Russell's Estate, 189 Cal. 759, 210 P. 249
- Erickson v. Lundgren, 37 S.W.2d 629 (Mo.)
- In re Knutson's Estate, 201 Wis. 526, 230 N.W. 617
- Morley v. Silverton Hospital, 138 Or. 75, 5 P.2d 92
- In re Murray's Estate, 173 Or. 209, 144 P.2d 1016
- Potter v. Jones, 20 Or. 239, 25 P. 769, 12 L.R.A. 161
- In re Faling Will, 105 Or. 365, 208 P. 715
- Snyder v. De Remer, 143 Or. 414, 22 P.2d 877
- In re Cline's Will, 24 Or. 175, 33 P. 542
- Stevens v. Myers, 62 Or. 372, 121 P. 434, 126 P. 29