

COURT OF APPEALS OF MARYLAND

Castruccio v. Estate of Castruccio

456 Md. 1 (2017) · No. No. 79, September Term, 2016 · Decided August 26, 2017

SUMMARY

The Maryland Court of Appeals held that a will is not invalid merely because the testator and witnesses signed on different pages or because the pages were not physically connected at signing. The court further held that a complete attestation clause and testator initials on each page are not required for valid execution or for the presumption of due execution to attach. The court affirmed summary judgment in favor of the estate.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Getty, J.; Barbera, C.J.; Adkins, J.; McDonald, J.; Watts, J.; Hotten, J.; Rodowsky, Senior Judge, specially assigned
JURISDICTION	Maryland
DECIDED	August 26, 2017
DOCKET	No. 79, September Term, 2016
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sadie Castruccio petitioned to caveat Peter Castruccio's 2010 will. After the Orphans' Court transmitted seven issues to the Circuit Court for Anne Arundel County, the circuit court granted the Estate's motion for summary judgment on all issues and denied Sadie's cross-motion concerning attestation. The Court of Special Appeals affirmed, and the Court of Appeals of Maryland granted certiorari and affirmed.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The appellate court independently determines whether the parties generated a genuine dispute of material fact and, if not, whether the moving party was entitled to judgment as a matter of law, viewing the record in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	Published, precedential opinion of the Court of Appeals of Maryland
PARTIES	Sadie M. Castruccio v. The Estate of Peter A. Castruccio, Darlene Barclay

TOPICS

will contests probate procedure probate statutory interpretation plain meaning rule

PRACTICE AREAS

Probate and estates Wills and trusts Civil procedure Summary judgment

QUESTIONS PRESENTED

1. Whether a multi-page will is validly attested when the testator and witnesses sign different pages that are not physically connected.
2. Whether a complete attestation clause or the testator's initials on every page is required for valid execution of a will.
3. Whether an imperfect attestation clause and the absence of page initials prevent the presumption of due execution from attaching.
4. Whether the witnesses' recollections that the will was stapled and initialed created a genuine dispute of material fact sufficient to defeat summary judgment.

HOLDINGS

1. A will is not invalid merely because the testator and witnesses sign on different pages of a multi-page will and the pages are not physically connected at the time of signing. Attestation requires two or more credible witnesses to sign the will in the testator's presence, after observing the testator sign or receiving the testator's acknowledgment of the signature or document as his will.
2. A formal or complete attestation clause is not a statutory requirement for valid execution of a will.
3. The testator's initials on every page are not required by Maryland law. An erroneous statement that the pages were initialed does not invalidate an otherwise valid will or prevent the presumption of due execution from attaching when other indicia of due execution exist.
4. The witnesses' inaccurate recollections that the will was stapled and that Peter initialed each page did not create a genuine dispute of material fact because those matters were not legally material to the will's validity and did not provide evidence upon which a jury could reasonably find for Sadie.

KEY QUOTATIONS

“For all of these reasons, we conclude that attestation does not require the witnesses to sign on the same page as the testator, or on physically connected pages.” (24-25)

“When the testator and the witnesses sign on separate pages of a multi-page will, attestation does not require that the pages be “physically connected” at the time of signing.” (32)

“Furthermore, neither a complete attestation clause nor having the testator initial each page of the will are requirements for valid execution.” (32)

FACTUAL BACKGROUND

Peter Castruccio signed a six-page will on September 29, 2010, after identifying the document as his will and signing it in the presence of three witnesses. The witnesses then signed the will in Peter's presence and in each other's presence, but their signatures appeared on page six while Peter's signature appeared on page five. The pages were not physically connected when the will was later examined, the will contained an imperfect attestation clause, and it stated that Peter had initialed each page even though no initials appeared. After Peter's death, the will was admitted to probate, and Sadie challenged its validity.

PROCEDURAL HISTORY

Peter Castruccio's 2010 will was admitted to administrative probate after his death. Sadie filed a caveat, challenging execution, attestation, testamentary capacity, undue influence, fraud, and the authenticity and contents of the document. The circuit court granted summary judgment for the Estate, concluding that the will satisfied the statutory execution requirements and that the presumption of due execution applied. The Court of Special Appeals affirmed, and the Court of Appeals affirmed that judgment.

DISPOSITION

affirmed

CASES CITED

- Waters v. Waters, 35 Md. 531, 536 (1872)
- Casson v. Swogell, 304 Md. 641, 648-50, 654-57 (1985)
- Slack v. Truitt, 368 Md. 2, 7-8, 12-18 (2002)
- Van Meter v. Van Meter, 183 Md. 614, 617-18 (1944)
- Groat v. Sundberg, 213 Md. App. 144, 152, 156-62 (2013)
- Shane v. Wooley, 138 Md. 75, 76-80 (1921)
- Brengle v. Tucker, 114 Md. 597, 599-602 (1911)
- In re Baldwin's Will, 59 S.E. 163, 164-65 (N.C. 1907)
- In re Estate of Beale, 113 N.W.2d 380 (Wis. 1962)
- In re Covington's Estate, 33 A.2d 235 (Pa. 1943)
- In re Swaim's Will, 78 S.E. 72, 73 (N.C. 1913)
- Goroum v. Rynarzewski, 89 Md. App. 676, 680-84 (1991)
- Carney v. Kosko, 229 Md. 112, 117 (1962)
- Boland v. Boland, 423 Md. 296, 366 (2011)
- Haas v. Lockheed Martin Corp., 396 Md. 469, 479 (2007)
- King v. Bankerd, 303 Md. 98, 111 (1985)
- Blackburn Ltd. P'ship v. Paul, 438 Md. 100, 108 (2014)
- Beatty v. Trailmaster Prods., Inc., 330 Md. 726, 738-39 (1993)

