

CALIFORNIA COURT OF APPEALS, FIRST DISTRICT, FIRST DIVISION

Newman v. Casey

Newman v. Casey, A165210 (Cal. App. Jan 30, 2024) · No. A165210

SUMMARY

The court held that sufficient evidence supported elder abuse restraining orders (EAROs) under Welfare and Institutions Code § 15657.03 based on undue influence in a property transfer, but the trial court exceeded its statutory authority by ordering the deed void ab initio, as the statute only authorizes specific enumerated restraining orders, not permanent rescission of property transfers. The case addresses financial elder abuse, undue influence factors, and the limited scope of remedies available under the EARO summary procedure.

CASE DETAILS

COURT	California Court of Appeals, First District, First Division
WRITING FOR THE COURT	Banke, J.; Humes, P.J.; Castro, J.
JURISDICTION	California
DOCKET	A165210
DISPOSITION	affirmed in part, reversed in part
PROCEDURAL POSTURE	Appeal from elder abuse restraining orders and order voiding deed
STANDARD OF REVIEW	Substantial evidence for restraining orders; de novo for statutory construction of order voiding deed
PRECEDENTIAL VALUE	published
PARTIES	Marina Casey v. Richard Newman, as Executor, etc.

TOPICS

- elder law
- elder abuse
- undue influence
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- Elder Law
- Appellate Practice
- Civil Procedure

QUESTIONS PRESENTED

- Whether sufficient evidence supported the elder abuse restraining orders under Welfare and Institutions Code section 15657.03.

2. Whether the trial court had authority under section 15657.03 to declare the deed void ab initio.

HOLDINGS

1. Sufficient evidence supports the restraining orders because there is substantial evidence of undue influence under the four-factor test of section 15610.70.
2. The trial court exceeded its statutory authority because section 15657.03 only authorizes enumerated restraining orders, not a permanent order voiding a deed.

KEY QUOTATIONS

“section 15657.03 establishes a summary and initially provisional remedy to secure the immediate protection of elders from further abuse.” (2)

“None of these enumerated-and carefully defined-restraining orders embrace an order declaring a document 'void ab initio.'” (21)

“The order declaring the deed void ab initio is at odds with the statutory language.” (21)

“the legislative history reinforces the plain language of the statute-that courts may, pursuant to the summary procedure set forth in section 15657.03, issue any of the specified restraining orders to secure, for a specified period of time not to exceed five years, the immediate safety of an elder and prohibit any further act of abuse.” (33)

FACTUAL BACKGROUND

Gracia Bovis, an 86-year-old elder, transferred title to her home to her daughter Marina Casey by grant deed, allegedly after Casey misled her about Proposition 19 tax consequences. Bovis testified she did not understand she was giving away her home and that Casey threatened to put her in a nursing home. Casey claimed the transfer was a legitimate estate planning measure. The trial court found financial abuse by undue influence and issued restraining orders, later voiding the deed.

PROCEDURAL HISTORY

Gracia Bovis filed a request for elder abuse restraining orders against her daughter Marina Casey in San Mateo Superior Court (case No. 22PRO00138). The trial court issued restraining orders and later ordered the deed transferring Bovis's property to Casey void ab initio. Casey appealed.

DISPOSITION

affirmed in part, reversed in part

CASES CITED

- Mahan v. Charles W. Chan Ins. Agency, Inc., 14 Cal.App.5th 841 (2017)
- Gdowski v. Gdowski, 175 Cal.App.4th 128 (2009)
- Bookout v. Nielsen, 155 Cal.App.4th 1131 (2007)

- White v. Wear, White v. Wear, 76 Cal.App.5th 24 (2022)
- In re Marriage of F.M. & M.M., 65 Cal.App.5th 106 (2021)
- Plastic Pipe & Fittings Assn. v. California Building Standards Com., 124 Cal.App.4th 1390 (2004)
- Building a Better Redondo, Inc. v. City of Redondo Beach, 203 Cal.App.4th 852 (2012)
- Environmental Charter High School v. Centinela Valley Union High School Dist., 122 Cal.App.4th 139 (2004)
- In re Naomi P., 132 Cal.App.4th 808 (2005)
- In re Sheila B., 19 Cal.App.4th 187 (1993)
- Cameron v. Las Orchidias Properties, LLC, 82 Cal.App.5th 481 (2022)
- Winn v. Pioneer Medical Group, Inc., 63 Cal.4th 148 (2016)
- Royals v. Lu, Royals v. Lu, 81 Cal.App.5th 328 (2022)
- Keading v. Keading, 60 Cal.App.5th 1115 (2021)
- City of Monterey v. Carrnshimba, 215 Cal.App.4th 1068 (2013)
- Conservatorship of Kayle, 134 Cal.App.4th 1 (2005)
- Levin v. Winston-Levin, 39 Cal.App.5th 1025 (2019)
- Arace v. Medico Investments, LLC, 48 Cal.App.5th 977 (2020)
- Munoz v. Patel, 81 Cal.App.5th 761 (2022)

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