Rel: March 22, 2024

SUPREME COURT OF ALABAMA

OCTOBER TERM, 2023-2024

SC-2023-0549

Sherman Dallas, Tanyanita Dallas, Chadrick Dallas, Glenda Freeman, and Louis Freeman

v.

Nicole Hicks, as administrator of the Estate of Willie Louis Hicks, deceased

Appeal from Tallapoosa Circuit Court
(CV-21-900031)

MITCHELL, Justice.

After Willie Louis Hicks died, several self-described relatives sought to intervene in the administration of his estate. Those individuals

-- Sherman Dallas, Tanyanita Dallas, Chadrick Dallas, Glenda Freeman, and Louis Freeman ("the purported heirs") -- all claimed to be Willie's biological children and thus entitled to a portion of his estate. Following a bench trial, the Tallapoosa Circuit Court found that the purported heirs were not lawful heirs of Willie and held that they could not intervene. The purported heirs appealed. We affirm the circuit court's judgment.

Facts and Procedural History

Willie died without a will in 2020. After his death, the Tallapoosa Probate Court appointed his widow, Nicole Hicks, as the administrator of his estate.

The purported heirs then tried to obtain what they said was their share of Willie's estate. Sherman, alleging that he was Willie's heir, petitioned to remove the administration of Willie's estate to the circuit court. Later, Tanyanita, Chadrick, Glenda, and Louis attempted to intervene in the administration proceeding concerning the estate. In their petition to the circuit court, the purported heirs alleged that Willie was their biological father and argued that they were therefore each entitled to a portion of Willie's estate. See § 43-8-42(1), Ala. Code 1975.

The circuit court held a bench trial and heard ore tenus evidence. Lucy Freeman testified that she had lived and had been in an exclusive relationship with Willie during the late 1960s and 1970s, which resulted in the birth of Louis and Glenda. She stated that she never married Willie. Jeanette Boyd testified that she had been in a romantic relationship with Willie in the 1970s and 1980s. During that time, Jeanette said, they had lived together and she had given birth to Sherman, Tanyanita, and Chadrick. She also said that she and Willie never married. Nicole, who was married to Willie for 17 years, testified that she was Willie's fourth wife and that Neveah, their daughter, was his only child.

After hearing the evidence, the circuit court concluded that the purported heirs had "failed to prove by clear and convincing evidence that they [were] the biological children of Willie Louis Hicks." Consequently, the court entered a judgment holding that the purported heirs could not intervene, compel a final settlement of the estate, or receive a share of Willie's estate. The purported heirs appealed.

Standard of Review

"'[W]here a trial court has heard ore tenus testimony, … its judgment based upon that testimony is presumed correct and will be reversed only if, after consideration of the evidence and all reasonable inferences to be drawn therefrom, the judgment is found to be plainly and palpably wrong.'" LaFlore v. Huggins, [Ms. SC-2023-0254, Oct. 20, 2023] ___ So. 3d ___, ___ (Ala. 2023) (quoting Robinson v. Hamilton, 496 So. 2d 8, 10 (Ala. 1986)).

Analysis

At trial, the purported heirs -- all undisputedly born out of wedlock -- attempted to prove that Willie was their biological father through (1) their and their mothers' testimony, (2) photographs, (3) child-support documents, and (4) Nicole's testimony. The purported heirs argue that this evidence provided clear and convincing proof of paternity and that the circuit court erred by finding that they had failed to satisfy their evidentiary burden. As discussed below, these arguments are without merit, and the circuit court's judgment is due to be affirmed.[1]

[1]The purported heirs also assert that the circuit court "incorrectly applied the law to the facts." The purported heirs' brief at 20. But they state only that "the overwhelming evidence of paternity" compelled a

Under Alabama law, the surviving spouse of a person who dies without a will receives a portion of the estate, and the remainder of the estate passes to the decedent's surviving issue.[2] § 43-8-41, Ala. Code 1975. If a father-child relationship is in dispute, as it is here, the child must establish that the decedent is his father "by an adjudication before the death of the father" or "thereafter by clear and convincing proof." § 43-8-48(2)b., Ala. Code 1975. "[C]lear and convincing proof is more than a preponderance of the evidence" and "requires a stronger showing than merely substantial evidence." Reid v. Flournoy, 600 So. 2d 1024, 1026 (Ala. Civ. App. 1992). The purported heirs contend that they satisfied their burden.

First, they point to their mothers' testimony about their births and their own testimony about their childhood recollections. But the circuit court discounted that testimony because "there was much uncertainty regarding dates, years, and times" spent with Willie and because "there was no mention of any specific activities with [Willie]." We give

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ruling in their favor. Id. That is the same argument as their sufficiency-of-the-evidence challenge, which we address.

[2]A person's issue are the person's children, grandchildren, and so on. § 43-8-1(15), Ala. Code 1975.

significant deference to the circuit court's assessment because this Court cannot "'"observe the witnesses and … assess their demeanor and credibility."'" Espinoza v. Rudolph, 46 So. 3d 403, 412 (Ala. 2010) (citations omitted). Applying this deference, we cannot say that the circuit court erred by disbelieving the testimony of the purported heirs and their mothers.

Second, the purported heirs argue that the photographs of Louis, Louis's family, and Willie together for Christmas in 2019 indicate that Willie was Louis's father. But those photographs -- even when coupled with the other evidence -- are not persuasive, let alone "clear and convincing." § 43-8-48(2)b. As the circuit court noted, this was only one set of photographs taken about a year before Willie passed away. Despite claiming that they had a relationship with Willie since their childhood, the purported heirs did not produce any other photographs. And while photographs of Louis and Willie together could indicate a familial relationship, inferring paternity from a single set of photographs is speculative.

Next, the purported heirs point to documents from the Elmore Juvenile Court and the Cuyahoga County Child Support Enforcement

Agency in Ohio. Those documents show that Sherman, Tanyanita, and Chadrick's mother petitioned for child support from Willie in 1995 and received $240 in child-support payments in 2000.[3] This, the purported heirs say, establishes that Willie accepted that Sherman, Tanyanita, and Chadrick were his children. But the purported heirs do not explain why Willie would have paid child support for one month in 2000 and never again. And Nicole testified that Willie never paid child support. The circuit court did not mention the child-support documents in its final-judgment order. Given the inconclusive nature of this documentation, the circuit court could have chosen to believe Nicole's testimony. We must give the court's decision deference here. See Espinoza, 46 So. 3d at 412.

Finally, the purported heirs argue that Willie acknowledged Louis and Tanyanita as his biological children. In a deposition, Nicole testified that Willie had said that he "thought he might be the father of [Louis and Tanyanita]." At trial, Nicole clarified that Willie had told her "that [Louis

[3]To the extent that the purported heirs introduced those documents as evidence of "an adjudication before the death of the father," that argument fails. § 43-8-48(2)b. None of those documents show that Willie was adjudicated the father of any of the purported heirs.

and Tanyanita] were supposed to be his children." But that ambiguous statement does not establish paternity. While such a statement could mean that Willie acknowledged the two as his children, it could also mean that Willie had merely been told that the pair were his children. Because the latter is a "'reasonable inference[]'" from Nicole's testimony, we defer to the circuit court's finding that Nicole's statement was not an admission. LaFlore, ___ So. 3d at ___.

In sum, the purported heirs have not put forward "clear and convincing proof" that Willie is their father. § 43-8-48(2)b. As the circuit court observed, they did not produce any physical evidence of paternity -- such as DNA tests, birth certificates naming Willie as the father, joint leases, or utility bills. That lack of evidence effectively makes this a case of "he said, she said." And the circuit court was within its discretion to believe Nicole and to disbelieve the purported heirs.

Conclusion

Because the purported heirs have not shown that the circuit court's judgment was "'plainly and palpably wrong,'" we affirm. LaFlore, ___ So. 3d at ___.

AFFIRMED.

Parker, C.J., and Shaw, J., concur.

Bryan and Mendheim, JJ., concur in the result.