

Schoonover

received 7.29.22

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

IN RE: ) Docket No. 1422-0162  
)  
The Estate of Robert A. Dobson, a/k/a )  
Robert Allen Dobson, Deceased )

FILED FOR RECORD  
CENTRE COUNTY, PA  
2022 JUN 27 A 10:43  
KRISTINE M. MILLINDER  
REGISTER OF WILL &  
CLERK OF ORPHANS COURT



COPY

OPINION AND ORDER

Marshall, J.

Presently before the Court are (1) Petitioner Glenda J. Thompson's Petitions to admit a three page, handwritten document as the Last Will and Testament of Decedent Robert Allan Dobson ("Decedent") and to be appointed administratrix of the estate of Decedent, and (2) Respondent Christy Wellar's Petition to be appointed administratrix of Decedent's estate. A full hearing on the above-captioned matter was held on June 30, 2022, the foci of which were whether Decedent's signature on the subject document was authentic or forged, and whether the document was intended to serve as Decedent's Last Will and Testament. After a thorough review of the record, the testimony of each party's witnesses, and of the relevant applicable law, it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

BACKGROUND

Decedent is alleged by Petitioner Glenda J. Thompson ("Petitioner") to have signed a handwritten document, prepared by Petitioner herself, which Decedent intended to serve as his Last Will and Testament. On March 22, 2022, Petitioner filed a petition seeking to admit said document as Decedent's Last Will and Testament and to be appointed administratrix of Decedent's estate. The document itself is in Petitioner's handwriting, and every signature by Decedent is dated March 1, 2021, over a month before the date Petitioner alleges the document was executed and notarized as a will. Additionally, only the first two pages are notarized and have a witness signature, and the witness signature itself has different dates on the first and

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second page. The notary's signature on the first two pages is dated April 24, 2021, while the witness signature is dated April 24, 2021, on the first page, and April 28, 2021, on the second. Finally, Decedent's signature only appears at the top of the third page, and is again dated March 1, 2021.

Respondent/Cross Petitioner Christy Wellar ("Respondent") filed her own Petition to be appointed administratrix of Decedent's estate and a Motion in Limine in response to Petitioner's filing, arguing that the handwritten document does not contain the requisite testamentary disposition for a writing to be considered a will and, therefore, that Petitioner should be precluded from introducing evidence of testamentary intent. Respondent also asserted that the signatures on the document were not authentic, and sought leave to have a forensics document analyst inspect the handwritten document for authenticity.

This Court denied Respondent's Motion in Limine on May 25, 2022, after determining that there was ambiguity as to whether the document was intended to serve as a will but granted Respondent's request for leave to pursue a non-destructive examination of the document.

A hearing was held on June 30, 2022, wherein both Petitioner and Respondent called witnesses and offered exhibits in support of their respective arguments. This Court first heard from Petitioner's witness, Lennie Thompson ("Ms. Thompson"). Ms. Thompson is a licensed notary in Huntingdon County, Pennsylvania, and notarized the handwritten document in question. Ms. Thompson initially testified that Decedent himself asked her to notarize the document in early March, and that she witnessed Decedent sign the will on April 24, 2021. Ms. Thompson then expressed confusion as to when Decedent made such a request of her, and her testimony as to the date of the request in Court was different than the date given during her deposition. When asked about her failure to stamp the third page of the document purported to be

Decedent's will, Ms. Thompson did not have an explanation for why she failed to do so and indicated that she must have simply missed that page. She also had no explanation as to why the witness, Jason McMahon, did not sign the third page of the will. Ms. Thompson further claimed that Mr. McMahon had misdated his signature on one of the two pages because he had copied the date of her notary seal expiration on one page while putting the actual date on the other. Ms. Thompson stated that she was unaware of this misdating until a picture of the will was later sent to her by Petitioner. Given Ms. Thompson's inability to remember pertinent dates and her inability to explain her failure to properly perform her duties as a notary on the day the document was notarized, the court finds her testimony to be not credible.

The Court then heard testimony from Petitioner, in which Petitioner indicated that the proposed will was written by her at the request of the decedent. Petitioner further indicated that Decedent intended to utilize the document when meeting with an attorney to execute his final will. Petitioner also testified that she never told any person that the Decedent did not have a valid will. However, after hearing credible testimony from Respondent and Beverly Rockey to the contrary the Court finds Petitioner to be not credible.

Respondent called expert witness Khody Detweiler, who testified as to the authenticity of Mr. Dobson's signatures on the will. Mr. Detweiler testified as to the dissimilarities between known signatures of Mr. Dobson's and the signatures on the will. Mr. Detweiler indicated that the questioned signatures, three on the will dated March 1, 2021, and one a bill of sale dated October 16, 2021, showed little variability among the four. Mr. Detweiler indicated that while a grouping of known signatures executed on the same day (June 2, 2014) showed normal, natural writing variation, the questioned signatures purportedly executed on March 1, 2021, and October 16, 2021, showed a marked lack of normal variation. Mr. Detweiler further testified that the

signatures on the will were unnaturally executed, showed signs of slowness/hesitations, and blunt beginning and ending strokes, while Mr. Dobson's known signatures were naturally executed. A signature on the will (Q-1(C)) was indicative of slow/unnatural writing movement. Mr. Detweiler also noted that there were signs of the signature having been either traced or drawn, but that he was unable to identify what signature would have been the origin of the trace. Finally, Mr. Detweiler testified that, after analyzing and evaluating numerous factors and over 200 authentic signatures of the Decedent in conjunction with the four questioned signatures, he had the highest degree of confidence beyond any doubt that the questioned signatures were not authentic.

Respondent next called Beverly Rockey ("Ms. Rockey"), Decedent's sister. Ms. Rockey testified that while Decedent was hospitalized, shortly before his death, she called Petitioner to inquire about whether Decedent had a will. Ms. Rockey testified that Petitioner told her Decedent did not have a will, and that Petitioner and Decedent had started to draft a will but had never finalized it.

Finally, the Court heard testimony from Respondent herself that Decedent never discussed the existence of a will with her, and that Petitioner and Ms. Rockey had both informed Respondent on separate occasions that there was no existing will.

### **DISCUSSION**

If a document is proven to have been properly executed and, by its terms, is an unambiguous disposition of property to take effect after the decedent's death, no evidence is required of publication or acknowledgment on the part of the decedent that said document is a will. *See Kisecker's Estate*, 42 A. 886, 190 Pa. 476 (1899); *see also Combs's Appeal*, 105 Pa. 155, 1884, affirming *Taylor's Estate*, 16 Phila. 274; and *Ginder v. Farnum*, 10 Pa. 98 (1849). To

be properly executed, the will must be signed or marked by the decedent, or else signed on his behalf by a named representative in the presence of witnesses. *See* 20 Pa.C.S. § 2502; *see also In re Milleman's Estate*, 203 A.2d 202, 209 (Pa. 1964); (quoting *Rosato's Estate*, 322 Pa. 229, 231 (1936) (“As we view the act the sufficiency of the reason for not signing his name is for the testator's determination; ‘any’ reason which moves him not to sign is sufficient provided there is compliance with the other requisities[sic] of the act.”)). However, where the signature’s authenticity is contested and a forgery alleged, “the party alleging forgery has the burden of proving the existence of the forged document by clear, direct, precise, and convincing evidence.” *In re Estate of Cruciani*, 986 A.2d 853, 855 (Pa. Super. 2009) (citing *In re Estate of Smith*, 314 A.2d 21 (Pa. 1974); *Cline Will*, 252 A.2d 657 (Pa. 1969)).

Because the issue of a forged signature is a question of fact, “the resolution of the issue necessarily turns on the court’s assessment of the witnesses’ credibility.” *Cruciani* at 855 (quoting *In re Estate of Heiney*, 318 A.2d 700 (Pa. 1974)). Expert testimony regarding a forged signature, standing alone, is not sufficient to overcome credible and direct evidence of a valid execution. *In Re Estate of Smith*, 314 A.2d 21 (1974); *Cline Will*, 252 A.2d 657 (Pa. 1969); *Elias Will*, 239 A.2d 393 (Pa. 1968); *Kadilak Will*, 174 A.2d 870 (1961). However, “just as well established is the principle that where the testimony of a handwriting expert is corroborated by probative facts and circumstances surrounding the will, such may overcome the testimony of the subscribing witnesses.” *In re Kirkander*, 474 A.2d 290, 293 (Pa. Super. 1984) (citing *Cline Will*, 252 A.2d 657 (Pa. 1969); *Snedeker Estate*, 84 A.2d 568 (Pa. 1951); *Young's Estate*, 32 A.2d 901 (Pa. 1943); *De Laurentiis's Estate*, 186 A. 359 (Pa. 1936)).

There is no law requiring that in cases such as this the evidence to be “corroborated” must be of such a “direct and positive” character as to consist of the testimony of some one who was with the decedent at all times when the questioned document could have been executed by [the decedent] and who positively swears that the decedent did not

execute the document. In such cases positive and direct evidence is the most nearly positive and direct evidence which the nature of the case will admit. *Young's Estate*, 32 A.2d at 904.

In the instant case, the document itself creates suspicion as to its authenticity due to the sloppy and incomplete notarization and the inconsistent dates below the three signatories' respective signatures. These doubts were further compounded by the inconsistent and unreliable testimony of Lennie Thompson, and by the incredible testimony of Petitioner. Moreover, the expert witness Khody Detweiler gave credible, clear, and convincing testimony as to the inauthentic nature of the signature, and explained in significant detail what methods and factors were used and considered in reaching his conclusion. Finally, the fact that Decedent's signature was the only signature to be dated March 1, 2021, across every page of the subject document casts legitimate doubts on the credibility of Ms. Thompson's and Petitioner's respective testimonies that Decedent signed the document on April 24, 2022.

Therefore, for all the foregoing reasons, this Court finds that Respondent met her burden by establishing through clear, direct, precise, and convincing evidence that Decedent's signatures on the document are not authentic. Accordingly, this court need not address whether the subject document has sufficient testamentary disposition, as a forgery cannot be upheld as a valid will.

### **ORDER**

AND NOW, this 26<sup>th</sup> day of July, 2022, for all the foregoing reasons, it is hereby

**ORDERED, ADJUDGED, and DECREED** as follows:

1. Petitioner's Petition to admit three pages of a handwritten document as the Last Will and Testament of Robert Allan Dobson is hereby DENIED.
2. Petitioner's Petition to be appointed administratrix of Robert Allan Dobson's estate is hereby DENIED.

This Court will issue a separate Order addressing Respondent's Petition to be appointed administratrix of the Robert Allan Dobson's estate.

BY THE COURT:

  
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Brian K. Marshall, Judge

Cc: Timothy A. Schoonover, Esquire  
Faith M. Lucchesi, Esquire

Certified from the records this 27<sup>th</sup>  
day of July, 2022

  
\_\_\_\_\_  
Christine M. Millinder, C.O.O.C.  
Division of Common Pleas Court of  
Centre County, PA