

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 16, 2002

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 01-1470

**Cir. Ct. Nos. 00-CV-24
00-PR-21**

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

00-CV-24

**LAVERN STEINLE, INDIVIDUALLY AND AS GUARDIAN
OF THE PERSON AND ESTATE OF CHRIS STEINLE,**

PLAINTIFF-RESPONDENT,

v.

**CHRIS STEINLE, VIOLA FRANK, DAVID STEINLE,
ALVINA STEINLE, PETER STEINLE, AND JERRY
STEINLE,**

DEFENDANTS,

RUBY REINHARDT AND CHRISTOPHER A. REINHARDT,

DEFENDANTS-APPELLANTS.

00-PR-21

**IN RE THE ESTATE OF CHRIS STEINLE A/K/A
CHRISTOPHER PETER STEINLE:**

RUBY REINHARDT,

APPELLANT,

V.

LAVERN STEINLE,

RESPONDENT.

APPEAL from a judgment of the circuit court for Jefferson County:
JACQUELINE R. ERWIN, Judge. *Affirmed.*

Before Roggensack, Deininger and Lundsten, JJ.

¶1 PER CURIAM. Ruby Reinhardt and her husband, Christopher Reinhardt, appeal a judgment which determined that several living trust documents and a will prepared by Christopher Reinhardt and executed by Ruby's brother, Chris Steinle, were invalid due to undue influence. Assuming that the estate planning documents were otherwise valid, the Reinhardts further claim that a certificate of deposit at the First Bank of Oconomowoc should have gone to Ruby according to the terms of one of the living trusts executed by Steinle, despite the fact that the certificate of deposit was titled as joint property with Steinle's wife, LaVern, at the time it was purportedly transferred into the trust as Steinle's individual property. The Reinhardts claim there was insufficient evidence to support the undue influence determination and that Steinle had the authority to unilaterally transfer the entire certificate of deposit into the living trust benefiting his sister. For the reasons discussed below, we affirm the trial court's determination that the estate planning documents were invalid on the basis of

undue influence, and we do not reach the alternate arguments regarding the certificate of deposit.

BACKGROUND

¶2 In November of 1996, shortly after being diagnosed with cancer, octogenarian Chris Steinle executed two revocable living trusts and placed his house, bank accounts, certificates of deposit, a car, a boat and assorted tools in the trusts for the equal benefit of his four siblings upon his death. He also executed a will at the same time, leaving the remainder of his estate to his siblings in equal parts. Steinle's brother-in-law, Christopher Reinhardt, a retired accountant who had prepared tax returns for the Steinles in the past, prepared the documents at Steinle's request.

¶3 In October of 1998, Steinle married LaVern, the woman he had been living with for more than twenty years. A week before the wedding, Steinle retitled several assets, including a First Bank of Oconomowoc certificate of deposit, as joint property with LaVern.

¶4 In April of 1999, Steinle revised his estate planning documents, again with the assistance of his brother-in-law. He executed a new will and new revocable living trusts placing the house in trust for his wife LaVern and several bank accounts and a car in trust for his sister Ruby. The new documents excluded Steinle's other sisters and brother as beneficiaries. At Reinhardt's suggestion, the terms of the First Bank of Oconomowoc trust also required Ruby's signature for revocation or amendment. In the weeks following the execution of the new estate documents, Steinle returned to the bank twice and saw a lawyer, expressing some dissatisfaction and confusion with the way things were set up. He asked the lawyer how much it would cost to have new documents drawn up to clarify where

his various bank accounts would go if he predeceased LaVern, but he did not want to pay the quoted price.

¶5 In the fall of 1999, following several hospitalizations, Steinle was admitted to a nursing home and was declared incompetent. He died March 22, 2000.

STANDARD OF REVIEW

¶6 We will not upset the factual findings underlying a determination of undue influence unless they are clearly erroneous. WIS. STAT. § 805.17(2) (1999-2000);¹ *Odegard v. Birkeland*, 85 Wis. 2d 126, 134, 270 N.W.2d 386 (1978).

ANALYSIS

¶7 There is no dispute regarding the analysis to be employed in undue influence cases. As we have previously explained:

There are two avenues by which an objector to a will may challenge its admission on the theory of undue influence. One is called the two-element test. Under this test, the objector must prove the existence of: (1) a confidential or a fiduciary relationship between the testator and the favored beneficiary, and (2) suspicious circumstances surrounding the making of the will.

The other is known as the four-element test. These elements are: (1) susceptibility to undue influence, (2) opportunity to influence, (3) disposition to influence, and (4) coveted result. When the objector has established three of the four elements by clear and convincing evidence, only slight evidence of the fourth is required.

¹ All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

Only one test need be met for the objector to prevail.

Hoefl v. Friedli, 164 Wis. 2d 178, 184-85, 473 N.W.2d 604 (Ct. App. 1991) (citations omitted). The trial court concluded that LaVern had established undue influence under both theories.

¶8 With regard to the two-part test, the trial court found that Christopher Reinhardt had a fiduciary relationship with the decedent based on Reinhardt's undertaking to prepare the estate planning documents on Steinle's behalf. The Reinhardts do not challenge that finding as clearly erroneous, but instead they argue that it is irrelevant because it was Ruby, rather than Christopher Reinhardt, who was the "favored beneficiary" under the living trusts and will. The Reinhardts contend the relevant question should have been whether Ruby had a fiduciary or confidential relationship with her brother, and the trial court made no factual findings in that regard. We agree. We need not remand for further findings on this issue, however, because we conclude that the trial court properly determined Christopher Reinhardt had exerted undue influence under the alternate four-part test.

¶9 Susceptibility to influence has been defined as "receptiveness to others' suggestions." *Kehrberg v. Pribnow*, 46 Wis. 2d 205, 213, 174 N.W.2d 256 (1970). Factors to take into account when considering a person's susceptibility to influence include the person's age, personality, physical and mental health, and ability to handle business affairs. *Lee v. Kamesar*, 81 Wis. 2d 151, 159, 259 N.W.2d 733 (1977). The trial court found that Steinle was susceptible to influence due to "declining mental acumen, lack of financial sophistication and dislike for lawyers." This finding was supported by the record. Steinle was in his eighties and battling cancer and other health problems when he

executed the contested documents. There was testimony that Steinle began having memory lapses and living in the past after his cancer surgery, and that his gradual decline had accelerated by the summer of 1999. He exhibited confusion over the estate planning documents by returning to the bank and consulting a lawyer. The fact that Steinle had been considered a strong-willed and stubborn individual did not prevent the trial court from finding that he had become susceptible to influence by the time the 1999 estate planning documents were executed. It was for the trial court to weigh these conflicting factors, and its determination is not clearly erroneous.

¶10 The Reinhardts do not contest that Christopher Reinhardt had the opportunity to influence Steinle's disposition of his property when preparing the estate planning documents.

¶11 The coveted result element goes to the naturalness or expectedness of the result. *Lee*, 81 Wis. 2d at 162. Although Reinhardt was not a named beneficiary, the circuit court found that he would benefit practically from his wife's inheritance, to the detriment of the decedent's wife, adopted son and other siblings. The trial court acknowledged that Steinle had given a reason for disinheriting his adopted son. However, the trial court was not required to give weight to Christopher Reinhardt's explanation as to why Steinle wanted to disinherit his other siblings two years after he had divided everything equally among them, and the court could reasonably consider it unnatural for personal property such as household furnishings not to go to the decedent's wife. It was not clearly erroneous for the trial court to find that the increased inheritance for Reinhardt's spouse, to the detriment of the decedent's spouse and the exclusion of the decedent's other siblings, was a coveted result.

¶12 Finally, having established three of the four elements by clear and convincing evidence, LaVern needed to show only slight evidence of the remaining element—disposition to influence. Reinhardt’s testimony that he himself had proposed making his wife a co-trustee of the First Bank of Oconomowoc living trust satisfies the reduced evidentiary burden on this point.

¶13 It follows, once the 1999 estate planning documents were invalidated, that the trial court properly disposed of the First Bank of Oconomowoc certificate of deposit based on the preexisting joint tenancy. We therefore do not address whether Steinle would otherwise have had the authority to transfer the certificate of deposit into a living trust.

By the Court.—Judgment affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5.

