



IN RE THE MATTER OF BECK

2023 OK CIV APP 47

Case Number: 120941

Decided: 03/09/2023

Mandate Issued: 12/06/2023

DIVISION III

THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA, DIVISION III



Cite as: 2023 OK CIV APP 47, ___ P.3d ___

IN RE THE MATTER OF: HERMAN BECK, Deceased,

TRACY L. GIBBS, Petitioner/Appellant,

v.

STEPHANIE SALES BECK, Respondent/Appellee.

APPEAL FROM THE DISTRICT COURT OF
TULSA COUNTY, OKLAHOMA

HONORABLE RICHARD L. HATHCOAT, TRIAL JUDGE

AFFIRMED

Cordal Cephas, JOHNSON CEPHAS LAW, PLLC, Tulsa, Oklahoma, for Petitioner/Appellant,

Mark A. Zannotti, Tulsa, Oklahoma, for Respondent/Appellee.

THOMAS E. PRINCE, PRESIDING JUDGE:

¶1 This case arises from an Order of the trial court that granted summary judgment following the conclusion of a non-jury determination of heirs proceeding. Based on an Acknowledgment of Paternity executed in 1977 by the decedent, Herman Beck, the trial court determined that Respondent/Appellee, Stephanie Sales, is the daughter and sole heir of Beck. Petitioner/Appellant, Tracy L. Gibbs, appeals the Order. As shown herein, we disagree with the trial court on the limited issues of standing and the statute of limitations. Under 84 O.S. § 215, no statute of limitations bars Gibbs' challenge to the enforceability of the Acknowledgment of Paternity in this determination of heirs contest. These holdings do not, however, require a reversal in this case. We affirm the trial court's substantive finding on the issue of the validity of the Acknowledgement of Paternity. The only evidence here as to Beck's testamentary capacity was the jury verdict of October 14, 1979, in the criminal competency proceeding and the verdict in that case was insufficient to defeat the presumption favoring sanity and the capability to contract. Consequently, the trial court's finding on that issue was not clearly contrary to the weight of the evidence or to some governing principle of law. We also find that no abuse of discretion occurred in relation to the discovery-related complaints made by Gibbs. Thus, the trial court's Order of November 18, 2022, is affirmed.

BACKGROUND

¶2 Herman Beck died on August 1, 2021, and was, at the time of his death, a resident of Vinita, Oklahoma. His niece, Gibbs, filed a Petition for Administration of Estate and Determination of the Heirs on August 20, 2021. Gibbs alleged that Beck died intestate, was unmarried, had no children, and had no surviving parents. It was further alleged that his sole heir was his sister, Loyce Jean Manning (who also was Gibb's mother).¹ On September 14, 2021, Sales filed a Counter-Petition for Administration of Estate and Determination of the Heirs. She alleged that she was Beck's daughter and only potential heir.

Sales based her right to inherit from Beck on an Acknowledgment of Paternity that he signed at the time of her birth and that her birth certificate lists Beck as her father.² See 84 O.S. § 215 (establishing that an illegitimate child may claim an intestate share from his/her father if the father, in writing, and in the presence of a competent witness, acknowledges himself to be the father of the child).

¶3 At the request of Gibbs, the trial court entered an Order on November 10, 2021, approving a process for genetic testing to establish whether Beck was Sales' biological father. On April 21, 2022, Gibbs filed a Motion to Declare Genetic Testing Inadmissible and Invalid and Rule in Favor of Stephanie Beck. She alleged in that filing, in part, that the DNA testing was not properly performed due, in part, to the collection being performed by the funeral home without proper following required chain of custody protocols.

¶4 The issue of the Acknowledgment of Paternity was placed at issue on May 20, 2022, when Sales filed an instrument entitled "Motion for the Court to Take Judicial Notice of the Acknowledgment of Paternity Executed by the Decedent". A status conference was held on June 8, 2022, at which time Sales' Motion was set for hearing. The matter came on for hearing on August 19, 2022. The transcript begins with an announcement by the trial court that the hearing was being held for the purpose of "trial . . . on the Petition for Admission and [the] Counter-Petition of Admission . . . and in large part on the determination of paternity of Stephanie Sales Beck . . .". At the request of Sales and following argument of counsel, the trial court ruled that the DNA evidence was not admissible because it had been collected and would only be admissible in the event the Uniform Parentage Act applied and the trial court further determined that the UPA was inapplicable in light of the fact that the Acknowledgment of Paternity here was signed prior to the 2006 effective date of the UPA. See Okla. Sess. Laws, 2006, chp. 116, §§ 1, *et seq.* The evidentiary portion of the trial began with the trial court taking, at Sales' request, judicial notice of her birth certificate and the Acknowledgment of Paternity. At the request of Gibbs' counsel, the trial court took judicial notice of certain records from a criminal matter involving Beck, including a signed jury verdict form filed October 14, 1976, in Case No. CRF-76-1591, in the District Court of Tulsa County, in a matter styled "The State of Oklahoma v. Herman Beck". Beck had been charged with burglary and the jury verdict was issued in a criminal competency proceeding that did not involve the guilt or innocence of Beck but, rather, his competency to stand trial on the burglary charge. The jury verdict read as follows: "[w]e the jury, drawn, impaneled and sworn in the above entitled cause, do upon our oaths find the defendant, Herman Beck [sic] presently insane and incompetent to stand trial." Gibbs also argued to the trial court (but did not offer into evidence) certain documentary evidence purportedly showing that, following the entry of the jury verdict on October 14, 1976, Beck was ordered to receive appropriate care and treatment at Eastern State Hospital, in Vinita, Oklahoma.³ Gibbs further argued that other documentary evidence exists (that also was not offered into evidence) purportedly showing that Beck was released from that facility on June 15, 1977. The record is clear, however, that the Acknowledgment of Paternity was executed by Beck during the eight month period when he was receiving treatment, therapy or training.⁴

¶5 While Gibbs' counsel stated to the trial court on August 19, 2022, that Gibbs intended to present additional evidence of Beck's incapacity during the relevant period, no such additional evidence was presented and the evidentiary phase ended with Gibb's counsel advising the trial court that "I don't plan to introduce witnesses. I think the evidence . . . we've done [is] what we're going to do. Anything else that would be -- that we think is dispositive we would brief."⁵ After receiving argument of counsel, the trial court requested briefing from the Parties and continued the hearing to November 18, 2022. Near the conclusion of the hearing on August 19, 2022, the trial court stated on the record that:

Gentlemen, this case involves what I consider to be some sort of novel and obscure issues of law. So I'd certainly welcome any research or filings either side wanted to submit concerning what's at issue or what's relevant in this matter and what law controls in this matter. . . . I'd welcome any briefing you want to do on those issues in between now and the next time we're back in Court.

¶6 Sales filed a Motion for Summary Judgment on September 9, 2022, to which Gibbs filed a timely response on October 11, 2022. Gibbs did not raise an objection before the trial court with regard to the use of the summary judgment procedure at that stage of the case. Sales' argument was largely based on the statute of limitations, claiming that Gibbs was time-barred from challenging the Acknowledgment of Paternity. Gibbs argued in response that the Acknowledgment of Paternity was not valid because Beck was not competent to sign it because of his lack of mental capacity, as demonstrated by the jury verdict in the criminal competency proceeding.

¶ 7 On November 17, 2022, the trial court entered a Court Minute that struck the trial set on November 18, 2022. The next day, November 18, 2022, the trial court entered an Order that sustained Sales' Motion for Summary Judgment. The trial court wrote, in part, that:

There is no material fact at issue in this matter. . . . The Petitioner, Tracy Gibbs does not have standing to challenge the validity of the AOP . . . , and even if the Petitioner did have standing she did not (nor did anyone else) move to vacate or declare the AOP void within two years as required by statute. . . .

Finally, the Petitioner argues that Mr. Beck was found to be 'insane', based on the Criminal Verdict in Case No. CRF-76-1591 . . . some six months prior to the AOP execution in April, 1977. However, what the verdict demonstrates is that Mr. Beck was found incompetent to stand trial in a criminal matter, not that he was found not guilty by reason of insanity. As such, there is no evidence before the Court that Mr. Beck was 'insane' despite the language appearing on the jury verdict form, rather he was tried and found to be incompetent. All that is needed to execute a paternity acknowledgment is testamentary capacity, which every person is presumed to have. . . .

. . . As such, the Court GRANTS Sales' Motion for Summary Judgment, and finds that Stephanie Sales is the daughter and sole heir at law of Herman Beck, decedent. . . .

This timely appeal followed.

STANDARD OF REVIEW

¶ 8 The Exhibit "C" to the Petition in Error in this matter sets out eight separate issues. We have, however, reformulated the issues raised by Gibbs to five issues: i.e., (a) whether the trial court erred in determining that Gibbs does not have standing in the matter; (b) whether the trial court erred by granting "summary judgment" to Sales allegedly "mid-trial" while Gibbs arguably had witnesses and evidence yet to present; (c) whether it was error for the trial court to base its decision on a lack of evidence beyond or outside of the relevant time period surrounding the date that Beck signed the Acknowledgement of Paternity when, on the other hand, the trial court had allegedly limited discovery to the narrow time frame involving the period that Beck had signed the Acknowledgement of Paternity; (d) whether the trial court erred in determining that a two year statute of limitations applied here and by also finding that said limitations period began to run at the time of the signing of the Acknowledgement of Paternity; (e) whether the trial court erred, as a matter of law, in failing to equate the jury's finding in the criminal competency proceeding in 1976 (that Beck was then "presently insane and incompetent to stand trial") with having been adjudicated as insane and, similarly, that, pursuant to 15 O.S. § 24, because of said jury finding, Beck did not have testamentary capacity to sign the Acknowledgement of Paternity.

¶ 9 Probate proceedings are of equitable cognizance and we presume that the trial court's decision is legally correct and we will not disturb the trial court's decision unless it is "found to be clearly contrary to the weight of the evidence or to some governing principle of law." *Matter of Est. of Powers*, 2022 OK CIV APP 26, ¶ 10, 514 P.3d 1100, 1103, quoting *In re Estate of Fulks*, 2020 OK 94, ¶ 9, 477 P.3d 1143. Standing is a jurisdictional question and may be correctly raised at any level of the judicial process or by the Court on its own motion. *Matter of Adoption of J.M.B.*, 2018 OK CIV APP 47, ¶ 8, 420 P.3d 1044, 1046. Our review of the question of standing is *de novo* and, consequently, is plenary, independent, and non-deferential. *W. P. Bistro Tulsa, LLC v. Henry Real Est., LLC*, 2022 OK CIV APP 24, ¶¶ 10-11, 514 P.3d 1091, 1095. Additionally, an order that grants summary relief disposes of legal issues and, therefore, on appeal, it is subject to review *de novo*. *Hart v. Bertsch*, 2013 OK CIV APP 52, ¶ 3, 306 P.3d 585, 587. Lastly, a "trial court is vested with broad discretion to grant or deny discovery as the circumstances dictate, and its decision will not be disturbed unless affected by an abuse of discretion (citation omitted)." *Louisiana Mun. Police Employees' Ret. Sys. v. McClendon*, 2013 OK CIV APP 64, ¶ 12, 307 P.3d 393, 398. "To reverse a trial court on the ground of abuse of discretion it must be found that the trial judge made a clearly erroneous conclusion and judgment, against reason and evidence." *Abel v. Tisdale*, 1980 OK 161, ¶ 20, 619 P.2d 608, 612.

ANALYSIS

¶ 10 Standing in a probate proceeding generally requires a pecuniary interest in the estate of the deceased. See 84 O.S. § 240 (setting out the procedure to determine heirs and legatees in an intestate proceeding); 58 O.S. 2011 § 29 ("any person interested" may contest a will); 58 O.S. 2011 § 129 ("any person interested" may contest a petition for letters of

administration); 58 O.S. § 122 (listing persons entitled to letters of administration); 84 O.S. § 213 (setting out the order of intestate descent and distribution); and, *Mayweather v. Wallace*, 1945 OK 148, ¶¶ 16-18, 59 P.2d 529 (discussing the requirements for "standing" in a probate proceeding). Because Gibbs was nominated to serve as the Personal Representative by Beck's only sister and potentially the sole heir of the estate, Gibbs has standing to challenge the Acknowledgment of Paternity. See *In re Est. of Gentry*, 2004 OK CIV APP 34, ¶ 5, 90 P.3d 1015, 1017 (a determination of heirs contest in which the potential heirs litigated the enforceability of a "Paternity Affidavit" that had been executed by the decedent concerning an illegitimate son under the authority of 84 O.S. § 215). Thus, the trial court erred, as a matter of law in finding that Gibbs lacked standing to contest the Acknowledgment of Paternity. Our ruling on the standing issue does not, however, end our analysis.⁶ Consequently, we address each of the remaining issues raised by Gibbs.

¶11 The on-the-record agreement by Gibbs' counsel to conclude the evidentiary phase of the trial on August 19, 2022, without the submission of additional evidence is dispositive of the second issue in this appeal. The record here demonstrates that the trial court was willing to allow Gibbs the opportunity to present the witnesses that her counsel had identified. Notwithstanding the trial court's willingness to allow Gibbs the opportunity to offer additional evidence, Gibbs' counsel clearly waived that right and agreed to submit the case on the record that had been made, subject to additional briefing. The record shows that Gibbs' counsel stated near the end of the proceeding, in part, that "I don't plan to introduce witnesses. I think the evidence . . . we've done [is] what we're going to do. Anything else that would be -- that we think is dispositive we would brief." Moreover, the Motion for Summary Judgment filed by Sales did not attempt to identify any facts that had not previously been established during the evidentiary phase of the case. Thus, the trial court did not abuse its discretion in this matter by entertaining and ruling on the Motion for Summary Judgment and also in striking the hearing set for November 18, 2022. See *Nail By and Through Nail v. Oklahoma Children's Mem. Hosp.*, *supra.*, at ¶ 14; *Kerlin v. Hunt*, 2013 OK CIV APP 83, ¶ 25, 310 P.3d 1114, 1122 ("[a] trial court has wide discretion in conducting a jury trial and its conduct will not be a basis for reversal unless an abuse of discretion is shown.").

¶12 Gibbs' complaint that the trial court specifically limited discovery to the narrow time frame involving the period that Beck had signed the Acknowledgement of Paternity is not supported by the record on appeal. No discovery requests are included in the record and no discovery-related orders are included in the record. The only reference to any discovery-related issues that came up during the hearing on August 19, 2022, involved Gibbs' efforts to subpoena records from the United States Veterans' Administration. Despite the on-the-record discussion about the possibility that additional records on the mental capacity issue might be available from the Veterans' Administration, Gibbs did not take any steps before the trial court to preserve any discovery disputes as an issue for appeal and agreed to submit the case to the trial court on the record made on August 19, 2022. See *Brown v. Oklahoma Farm Bureau Mut. Ins. Co.*, 2011 OK CIV APP 99, ¶ 11, 261 P.3d 622, 626, *as corrected* (Sept. 27, 2011) (where the Court refused to hear discovery-related issues on appeal when the appellant had not "presented any record showing that he sought to compel discovery or to delay summary judgment pending discovery"). No abuse of discretion is demonstrated here in relation to the discovery-related complaints made by Gibbs.

¶13 Gibbs further argues on appeal that the trial court erred in determining that a two year statute of limitations applied here and by also finding that said limitations period began to run at the time of the signing of the Acknowledgement of Paternity. We agree that the trial court erred on the issue of the statute of limitations. Two appellate decisions exist in Oklahoma that have applied a statute of limitations to a challenge to an Acknowledgment of Paternity and both cases were extensively argued by the Parties before the trial court: i.e., *Hill v. Blevins*, 2005 OK 11, 109 P.3d 332; and, *Sprowles v. Thompson*, 2010 OK CIV APP 80, 239 P.3d 981. Neither case, however, arose in the context of a probate proceeding. *Hill*, a case decided prior to adoption of the Uniform Parentage Act⁷, involved a challenge to an Acknowledgment of Paternity on the basis of fraud and the Court held that the two year statute of limitations provided in 12 O.S. § 1038, applied there. *Id.*, at 335-336. *Sprowles* relied on then applicable version of 10 O.S. § 70, and held that, under the version of § 10 that applied to the facts of that case, a challenge could be maintained at any time. *Id.*, at 987.

¶14 Although the record contains extensive argument by counsel concerning the applicability of the UPA and § 70, the trial court ultimately upheld Sales' statute of limitations defense on the basis of the general statute of limitations provisions in 12 O.S. §§ 1031 & 1038. We hold, however, that § 215 establishes the specific right of Sales to assert an inheritance in this matter and, by implication, also establishes the converse right of Gibbs to challenge the Acknowledgement of Paternity. See *Matthews v. Gen. Motors*, 2009 OK CIV APP 4, ¶ 5, 217 P.3d 152, 154 ("[w]here two statutes may be construed to apply to the same subject matter, one specific and one general, the specific statute controls."). Consequently, §§ 1031 & 1038 do not bar

Gibbs' right in this case to challenge the Acknowledgement of Paternity. Moreover, § 215 notwithstanding, neither the UPA nor § 70 provide a valid basis for Sales' statute of limitations defense, in part, because Beck signed the Acknowledgment of Paternity at issue here in 1977, which predates the adoption of both the UPA and § 70. Section 215⁸ provides, in part, that:

For inheritance purposes, a child born out of wedlock stands in the same relation to his mother and her kindred, and she and her kindred to the child, as if that child had been born in wedlock. **For like purposes, every such child stands in identical relation to his father and his kindred, and the latter and his kindred to the child, whenever:** (a) **the father, in writing, signed in the presence of a competent witness acknowledges himself to be the father of the child**, (b) the father and mother intermarried subsequent to the child's birth, and the father, after such marriage, acknowledged the child as his own or adopted him into his family, (c) the father publicly acknowledged such child as his own, receiving it as such, with the consent of his wife, if he is married, into his family and otherwise treating it as if it were a child born in wedlock, or (d) the father was judicially determined to be such in a paternity proceeding before a court of competent jurisdiction.

(emphasis added). There is no reference or evidence in the record as to whether Beck and the mother of Sales were married. We note, however, that neither Party raised this as an issue in the trial court. In light of the nature and context of the challenge here by Gibbs and the absence of any record on the marital history of Beck, we assume, for purposes of our analysis, that Beck and the mother of Sales were never married. We, therefore, hold that § 215 applies in this case. See *In re Est. of Gentry*, 2004 OK CIV APP 34, ¶ 5, 90 P.3d 1015, 1017 (a determination of heirs contest proceeding in which the potential heirs litigated the enforceability of a "Paternity Affidavit" that had been executed by the decedent concerning an illegitimate son under the authority of 84 O.S. § 215).

¶15 We find that the trial court erred, as a matter of law, in rejecting Gibbs' challenge here on the basis of the statute of limitations issue and specifically hold that, under § 215, no statute of limitations bars Gibbs' challenge to the enforceability of the Acknowledgment of Paternity in this determination of heirs contest. See *In re Est. of Gentry*, 2004 OK CIV APP 34, ¶ 5, 90 P.3d 1015, 1017 (a determination of heirs contest in which the potential heirs litigated the enforceability of a "Paternity Affidavit" that had been executed by the decedent concerning an illegitimate son under the authority of 84 O.S. § 215). As with the standing issue, our ruling on the statute of limitations issue does not end our analysis.

¶16 Gibbs lastly challenges the enforcement of the Acknowledgment of Paternity on the basis of the jury verdict in 1976, that was entered in the criminal competency proceeding. On appeal, Gibbs argues that the trial court erred, as a matter of law, in failing to equate the jury's finding in the criminal competency proceeding in 1976 (that Beck was then "presently insane and incompetent to stand trial") with having been adjudicated as insane and, similarly, that, pursuant to 15 O.S. § 24, because of said jury finding, Beck did not have testamentary capacity to sign the Acknowledgment of Paternity. The argument by Gibbs fails, however, because "[c]ompetency is not the same as sanity." *Ellis v. Mullin*, 312 F.3d 1201, 1211 (10th Cir.), *opinion superseded on denial of reh'g*, 326 F.3d 1122 (10th Cir. 2002). Additionally, the test "to determine whether one accused is competent to stand trial [is] . . . whether the accused has sufficient ability to consult with his lawyer and has a rational as well as actual understanding of the proceedings against him." *Beck v. State*, 1981 OK CR 30, 626 P.2d 327, 328. This is not the same standard required for testamentary capacity. See *In re Est. of Gentry, supra.*, at 1019; 22 O.S. 1971 § 1162. In *Gentry*, one litigant challenged one of the party's right to inherit by arguing that the paternity affidavit executed by the decedent there was not enforceable because, at the time he signed the document, the decedent had been "'rated incompetent' and required the appointment of a guardian to release his money. . . [and that] a guardian [had been appointed for him] solely because [he] . . . was 'incompetent to manage his own business affairs . . .'" *Id.*, at 1019. In rejecting this challenge, the Court of Civil Appeals stated, in part, that:

No Oklahoma statutes or case law define what capacity is required to execute a paternity affidavit or to otherwise acknowledge a child. . . . Murphy argues that the statute governing competency to enter a contract should apply, while Rocky argues that no higher competency than testamentary capacity should be necessary. It is not necessary to resolve this conflict, however, because under either standard, **there was no evidence presented that J.B. was incapable of executing this paternity affidavit.** Taken in the light most favorable to Murphy, the most the evidence can establish is that J.B. had been rated 'incompetent' because he was unable to manage his business affairs. **There was no evidence that he was insane or delusional or that he did not know the significance of his act of acknowledging paternity.**

The Oklahoma Supreme Court has emphasized that an adjudication that a person was 'incompetent' was not the same as an adjudication of insanity, and there was no presumption that the person did not have testamentary capacity even though he or she was under a guardianship. (citation omitted).

Id., at 1019-1020 (emphasis added).

¶17 Similar to the facts in *Gentry*, the record in this case does not demonstrate that Beck was incapable of executing the Acknowledgment of Paternity. While the evidence in *Gentry*, in fact, detailed some facts demonstrating that the decedent there was able to manage his own affairs despite the entry of a guardianship order, the only evidence here as to Beck's testamentary capacity was the jury verdict in 1976 in the criminal competency proceeding. We agree that the 1976 jury verdict provides some evidence with respect to Beck's testamentary capacity. In that posture, however, standing alone and without any other evidence, the 1976 jury verdict was insufficient to defeat the presumption favoring sanity and the capability to contract. See *Robertson v. Robertson*, 1982 OK 108, 654 P.2d 600, 604 ("[t]here is a presumption favoring sanity."); 15 O.S. § 11 ("[a]ll persons are capable of contracting, except minors, persons of unsound mind . . ."); *Lynn v. Ada Lodge No. 146 of Indep. Ord. of Odd Fellows*, 1965 OK 3, 398 P.2d 491, 496 ("an adjudication of a testator's mental incompetency to manage his property is to be considered in the determination of his testamentary capacity, but such evidence is not conclusive proof thereof."); *Moore v. Glover*, 1945 OK 322, ¶ 15, 163 P.2d 1003, 1005 ("an adjudication of insanity either before or immediately after the execution of the will does not constitute conclusive evidence of mental incapacity of the testator.").

¶18 Based on the record here, we hold that the trial court's finding that "there is no evidence before the Court that Mr. Beck was 'insane' despite the language appearing on the jury verdict form, rather he was tried and found to be incompetent . . ." was not clearly contrary to the weight of the evidence or to some governing principle of law.

CONCLUSION

¶19 We disagree with the trial court on the limited issues of standing and the statute of limitations. Under 84 O.S. § 215, no statute of limitations bars Gibbs' challenge to the enforceability of the Acknowledgment of Paternity in this determination of heirs contest. These holdings do not, however, require a reversal in this case. We affirm the trial court's substantive finding on the issue of the validity of the Acknowledgement of Paternity. The only evidence here as to Beck's testamentary capacity was the jury verdict of October 14, 1979, in the criminal competency proceeding and the verdict in that case was insufficient to defeat the presumption favoring sanity and the capability to contract. Consequently, the trial court's finding on that issue was not clearly contrary to the weight of the evidence or to some governing principle of law. We also find that no abuse of discretion occurred in relation to the discovery-related complaints made by Gibbs. Thus, the trial court's Order of November 18, 2022, is affirmed.

MITCHELL, C.J., and BELL, J., concur.

FOOTNOTES

THOMAS E. PRINCE, PRESIDING JUDGE:

¹ Gibbs attached to her Petition a declination to serve as Personal Representative signed by Manning in which Manning requested the trial court to appoint Gibbs as the Personal Representative.

² The Acknowledgment of Paternity was executed by Beck on April 23, 1977, and by the child's mother on January 27, 1977. Both signatures were sworn and subscribed to in front of a notary public. The Acknowledgment of Paternity shows that Sales' date of birth was November 21, 1972.

³ While the record is devoid of the actual court order in the criminal proceeding that remanded Beck to custody of the Department of Mental Health, 22 O.S. 1971, § 1175.5 (the statute in effect concerning such remand orders) provides, in part, that "[i]f a person is found to be incompetent, but capable of achieving competence with treatment, therapy or training, the court shall remand the person to the Department of Mental Health or other appropriate state agency or private care provider for appropriate treatment, therapy or training."

⁴ The record does not contain any documents from the criminal proceeding regarding Beck's release from Eastern State Hospital in June, 1977, that Gibbs' counsel referenced during the trial. The Court notes that there is a reported case styled *Beck v. State*, 1981 OK CR 30, 626 P.2d 327, which originated from Tulsa County and involves a criminal defendant with the same name as the decedent here: i.e., "Herman Beck". That the case stemmed from a retrial on the charge of robbery with firearms, the first trial having resulted in a mistrial. *Id.*, at 328. The District Court Case No. there also showed that the charges were filed in 1977 (i.e., Case No. CRF-77-2815). The Parties' trial court submissions do not address this case or whether it involves the decedent. *Beck v. State*, however, sets out the test "to determine whether one accused is competent to stand trial [as] . . . whether the accused has sufficient ability to consult with his lawyer and has a rational as well as actual understanding of the proceedings against him." *Id.*, at 328.

⁵ The sole evidence of Beck's incapacity during the relevant time period that was admitted during that November, 2022, hearing and included in the appellate record is the jury verdict of October 14, 1976, that was entered in the criminal competency proceeding.

⁶ *Hall v. GEO Grp., Inc.*, 2014 OK 22, ¶ 17, 324 P.3d 399, 406 ("[i]f the trial court reaches the correct result but for the wrong reason, its judgment is not subject to reversal.").

⁷ The UPA was adopted in 2006 and, at that time, the 60 day rescission period was maintained, but the Legislature established that a challenge on the basis of fraud was available for a period of two years after the execution of an acknowledgment. See Okla. Sess. Laws, chp. 116, § 2, *et. seq.*; 10 O.S. § 7700-308. Significantly, "fraud" was defined as "an intentional misrepresentation of a material fact that could not have been discovered with reasonable diligence and was reasonably relied on by a person who signed an acknowledgment of paternity . . ." and the ability to initiate a challenge was limited to "a signatory of an acknowledgment of paternity or denial of paternity . . ." *Id.* The UPA was most recently updated in 2019 (without any impact on this case). See Okla. Sess. Laws, 2019, chp. 151, §§ 1, *et seq.*

Title 10 O.S. § 70, was adopted in 1985, and established, at that time, that paternity could be established in a district court proceeding. At the time of its initial passage, no limitation period was established for the commencement of a paternity action. See Okla. Sess. Laws, 1985, chp. 297, § 1. Section 70 was amended multiple times prior to the adoption of the Uniform Parentage Act in 2006, when § 70 was repealed. See Okla. Sess. Laws, 2006, chp. 116, § 62. In 1994, the Acknowledgment of Paternity procedure was established, with a two year limitation period for a contest thereto (without limitation on the possible grounds for a contest). In 1997, the limitation period for a contest was reduced to 60 days (again, with no limitation on the possible grounds for the contest). See Okla. Sess. Laws, 1997, chp. 402, § 1. In 1998, the term "contest" was replaced with the term "rescinded", providing that an Acknowledgment of Paternity could be rescinded by either the mother or acknowledging father. In 1999, § 70, was amended to allow a challenge after the 60 day rescission period had passed "only on the basis of fraud, duress, or material mistake of fact." See Okla. Sess. Laws, 1999, chp. 396, § 21. No limitation period was established for the challenge process created in 1999. Section 70 was again amended in 2002 (with no relevant impact on this case). See Okla. Sess. Laws, 2002, chp. 314, § 1. Consequently, if the then applicable version of § 70 were found applicable in this case, that would provide an additional basis to reject Sales' statute of limitations defense.

⁸ Title 84 O.S. § 215, was first adopted in 1910. Although the statute was amended in 1977, the 1977 amendment did not materially alter the statute for purposes of this case. See Okla. Sess. Laws, 1977, chp. 36, § 1.

Citationizer[®] Summary of Documents Citing This Document

Cite Name Level

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Cite Name	Level	
Oklahoma Court of Criminal Appeals Cases		
Cite	Name	Level
<u>1981 OK CR 30, 626 P.2d 327,</u>	<u>BECK v. STATE</u>	Discussed at Length
Oklahoma Court of Civil Appeals Cases		
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<u>2004 OK CIV APP 34, 90 P.3d 1015,</u>	<u>IN THE MATTER OF THE ESTATE OF GENTRY</u>	Discussed at Length
<u>2009 OK CIV APP 4, 217 P.3d 152,</u>	<u>MATTHEWS v. GENERAL MOTORS</u>	Discussed
<u>2010 OK CIV APP 80, 239 P.3d 981,</u>	<u>SPROWLES v. THOMPSON</u>	Discussed
<u>2011 OK CIV APP 99, 261 P.3d 622,</u>	<u>BROWN v. OKLAHOMA FARM BUREAU MUTUAL INSURANCE CO.</u>	Discussed
<u>2013 OK CIV APP 52, 306 P.3d 585,</u>	<u>HART v. BERTSCH</u>	Discussed
<u>2013 OK CIV APP 64, 307 P.3d 393,</u>	<u>LOUISIANA MUNICIPAL POLICE EMPLOYEES' RETIREMENT SYSTEM v. McCLENDON</u>	Discussed
<u>2013 OK CIV APP 83, 310 P.3d 1114,</u>	<u>KERLIN v. HUNT</u>	Discussed
<u>2018 OK CIV APP 47, 420 P.3d 1044,</u>	<u>IN THE MATTER OF THE ADOPTION OF J.M.B.</u>	Discussed
<u>2022 OK CIV APP 24, 514 P.3d 1091,</u>	<u>W. P. BISTRO TULSA v. HENRY REAL ESTATE</u>	Discussed
<u>2022 OK CIV APP 26, 514 P.3d 1100,</u>	<u>IN THE MATTER OF THE ESTATE OF POWERS</u>	Discussed
Oklahoma Supreme Court Cases		
Cite	Name	Level
<u>1945 OK 148, 159 P.2d 529, 195 Okla. 587,</u>	<u>MAYWEATHER v. WALLACE</u>	Cited
<u>1945 OK 322, 163 P.2d 1003, 196 Okla. 177,</u>	<u>MOORE v. GLOVER</u>	Discussed
<u>1965 OK 3, 398 P.2d 491,</u>	<u>LYNN v. ADA LOD. NO. 146, IND ORDER OF ODD FELLOWS</u>	Discussed
<u>2005 OK 11, 109 P.3d 332,</u>	<u>HILL v. BLEVINS</u>	Discussed
<u>2014 OK 22, 324 P.3d 399,</u>	<u>HALL v. THE GEO GROUP, INC</u>	Discussed
<u>1980 OK 161, 619 P.2d 608,</u>	<u>Abel v. Tisdale</u>	Discussed
<u>2020 OK 94, 477 P.3d 1143,</u>	<u>IN THE MATTER OF THE ESTATE OF FULKS</u>	Discussed
<u>1982 OK 108, 654 P.2d 600,</u>	<u>Robertson v. Robertson</u>	Discussed
Title 10. Children		
Cite	Name	Level
<u>10 O.S. 7700-308,</u>	<u>Proceeding to Challenge Acknowledgment or Denial of Paternity - Burden of Proof</u>	Cited
<u>10 O.S. 70,</u>	<u>Repealed</u>	Discussed
Title 12. Civil Procedure		
Cite	Name	Level
<u>12 O.S. 1031,</u>	<u>District Court, Power to Vacate or Modify its Judgments, When</u>	Cited
<u>12 O.S. 1038,</u>	<u>Proceedings to Vacate or Modify a Judgment, Decree or Order</u>	Cited
Title 15. Contracts		

Cite Name**Level**

Cite	Name	Level
<u>15 O.S. 11,</u>	<u>Persons Authorized to Contract</u>	Cited
<u>15 O.S. 24,</u>	<u>Capacity to Make Conveyance, Contract, or Will</u>	Discussed

Title 22. Criminal Procedure

Cite	Name	Level
<u>22 O.S. 1162,</u>	<u>Inquiry into Defendant's Sanity by Jury</u>	Cited
<u>22 O.S. 1175.5,</u>	<u>Questions to be Answered in Determining Competency</u>	Cited

Title 58. Probate Procedure

Cite	Name	Level
<u>58 O.S. 29,</u>	<u>Contest before Probate - Persons Entitled</u>	Cited
<u>58 O.S. 122,</u>	<u>Persons Entitled to Letters of Administration</u>	Cited
<u>58 O.S. 129,</u>	<u>Contest of Petition - Notice</u>	Cited

Title 84. Wills and Succession

Cite	Name	Level
<u>84 O.S. 213,</u>	<u>Intestacy - Descent and Distribution</u>	Cited
<u>84 O.S. 215,</u>	<u>Inheritance by and from Illegitimate Child</u>	Discussed at Length