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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-796

Filed: 18 July 2017

Wilson County, No. 16-E-65

IN THE MATTER OF THE ESTATE OF JOHN TIMOTHY MEETZE, Deceased.

Appeal by Respondent from an order entered 24 February 2016 by Judge Reuben F. Young in Wilson County Superior Court. Heard in the Court of Appeals 25 January 2017.

Farris & Farris, P.A., by Robert A. Farris, Jr. and Rhyan A. Breen, for Petitioner-Appellee.

Narron & Holdford, P.A., by Ben L. Eagles, for Respondent-Appellant.

INMAN, Judge.

Carol Meetze (“Respondent”) appeals from an order setting aside the allocation of a year’s allowance to her from the estate of John Timothy Meetze (“Decedent”). Respondent asserts on appeal that the trial court erred in setting aside her year’s allowance because a document entered into evidence, a license and certificate for marriage between Decedent and Candee Peacock (“Petitioner”), was not authenticated. After careful review, we affirm the trial court’s order.

Factual and Procedural History

Decedent was a resident of Wilson County, North Carolina. He died on 11 January 2016. On 29 January 2016, Respondent filed an application with the Wilson County Clerk of Court identifying herself as Decedent's surviving spouse and requesting assignment of the year's allowance to which a spouse is entitled under N.C. Gen. Stat. § 30-15 (2015). The Wilson County Clerk of Court granted Respondent's assignment application.

On 5 February 2015, Decedent's son from a previous marriage, John E. Meetze, filed a motion to set aside the assignment of the year's allowance to Respondent, claiming that the marriage between Respondent and Decedent was void under North Carolina law because Decedent had a living wife—Petitioner—when she married Decedent.

On 15 February 2015, Petitioner filed an application requesting assignment of the year's allowance to herself, alleging that she was the Decedent's surviving spouse. Petitioner joined the Decedent's son in the motion to set aside Respondent's allowance, and the matter was heard on 22 January 2016 before the Wilson County Superior Court.

Evidence submitted at the hearing tended to show the following:

Decedent married Petitioner, his third wife, on 13 April 1997 in South Carolina. In 1998, Petitioner separated from Decedent and filed a complaint seeking

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divorce in a South Carolina court. That complaint was dismissed after neither party appeared in court. In 2015, Petitioner filed a complaint seeking divorce in Virginia; that action was pending at the time of Decedent's death and Petitioner dismissed the action upon learning of Decedent's death.

Respondent married Decedent on 4 August 2001, and she "never knew [Decedent] was married to [Petitioner]."

Petitioner offered documentary evidence to support her testimony that she married Decedent in 1998 and never divorced him. Over the objection of Respondent, the trial court admitted two documents which counsel for Petitioner asserted were certified public records and self-authenticating: (1) a South Carolina marriage license and certificate from Petitioner and Decedent's 1997 marriage (the "South Carolina Marriage License"), and (2) a Virginia court's order dismissing Petitioner's 2015 divorce complaint. Other documents admitted without objection included copies of Petitioner's first complaint seeking divorce, the South Carolina court's dismissal of that case, and the subsequent complaint seeking divorce in Virginia.

Following the hearing, the trial court entered an order setting aside the year's allowance allocated to Respondent and decreeing the marriage between Respondent and Decedent void *ab initio* because Decedent had a living wife at the time of the marriage. Respondent timely appealed.

Analysis

Respondent contends that the trial court erred in setting aside the year's allowance allocated to Respondent because it improperly admitted the South Carolina Marriage License without authentication. After careful review, we disagree.

“When a defendant objects to the admission of evidence, we consider, whether the evidence was admissible as a matter of law, and if so, whether the trial court abused its discretion in admitting the evidence.” *State v. Moultry*, ___ N.C. App. ___, ___, 784 S.E.2d 572, 574 (2016) (citation omitted). “An abuse of discretion will be found only when the trial court’s decision was so arbitrary that it could not have been the result of a reasoned decision.” *Brown v. City of Winston–Salem*, 176 N.C. App. 497, 505, 626 S.E.2d 747, 753 (2006) (citation omitted). In addition to demonstrating an evidentiary error, “[t]he party asserting error must show . . . that the aggrieved party was prejudiced as a result.” *Westlake v. Westlake*, 231 N.C. App. 704, 706, 753 S.E.2d 197, 200 (2014) (quoting *Lawing v. Lawing*, 81 N.C. App. 159, 162, 344 S.E.2d 100, 104 (1986)) (citing N.C. Gen. Stat. § 1A–1, Rule 61 (2011)); *see also Wilson Cty. Bd. of Educ. v. Lamm*, 276 N.C. 487, 492-493, 173 S.E.2d 281, 285 (1970) (“Not every erroneous ruling on the admissibility of evidence . . . will result in a new trial. The burden is on the appellant not only to show error but to enable the court to see that he was prejudiced . . . thereby.”)

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“Under the North Carolina Rules of Evidence, ‘[e]very writing sought to be admitted must be properly authenticated’ in order to establish the foundation for the document’s admissibility.” *In re Lucks*, __ N.C. __, __, 794 S.E.2d 501, 509 (2016) (quoting *Inv’rs Title Ins. Co. v. Herzig*, 330 N.C. 681, 693, 413 S.E.2d 268, 274 (1992)) (citations omitted). “The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.” N.C. Gen. Stat. § 8C-1, Rule 901(a). Rule 901 lists several methods by which evidence may be authenticated or identified. N.C. Gen. Stat. § 8C-1, Rule 901(b). Rule 902 allows for self-authentication of public documents meeting certain criteria, providing that “extrinsic evidence of authenticity as a condition precedent to admissibility is not required.” N.C. Gen. Stat. § 8C-1, Rule 902(1)-(2).

Respondent claims that the South Carolina Marriage License introduced by Petitioner was improperly admitted because although Petitioner’s counsel assured the trial court that a witness would authenticate the document consistent with Rule 901(b), “[n]o testimony of any kind was presented regarding the document.” Respondent misconstrues the basis for the trial court’s admission of the document.

The South Carolina Marriage License was offered in evidence as a self-authenticating certified public record within the scope of Rule 902. It was on this basis that the trial court admitted it.

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Regardless of the admissibility of the South Carolina Marriage License, Respondent cannot prevail on appeal because she has failed to show that she was prejudiced by the document's admission in evidence. Other evidence abundantly supports the trial court's conclusion that Decedent was still married to Petitioner at the time of his death. *See Wilson Cty. Bd. of Educ.*, 276 N.C. at 493, 173 S.E.2d at 285 ("The admission of incompetent testimony will not be held prejudicial when its import is abundantly established by other competent testimony, or the testimony is merely cumulative or corroborative.")

At trial, Petitioner testified about the South Carolina Marriage License without objection, and her testimony confirmed the same information contained therein, including the exact location, date, and other circumstances of the marriage ceremony between her and Decedent. Respondent also did not object to the admission of documents relating to Petitioner's two dismissed divorce cases against Decedent, which further supported the trial court's finding that a marriage between Decedent and Petitioner existed.

Conclusion

Because evidence not challenged by Respondent supported the trial court's finding that Decedent was still married to Petitioner at the time he married Respondent, we affirm the trial court's order setting aside the year's allowance

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allocated to Respondent and concluding that the marriage between Carol Meetze and John Timothy Meetze was void *ab initio*.

AFFIRMED.

Judges CALABRIA and ZACHARY concur.

Report per Rule 30(e).