

ESTATE OF MARTHA M. SKONER

Submitted on Briefs October 21, 2010
Decided November 2, 2010

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Judith Skoner, a surviving niece of Martha M. Skoner, appeals from a judgment of the Cumberland County Probate Court (*Mazziotti, J.*) finding that Judith Skoner had failed to prove that Martha Skoner lacked testamentary capacity to execute a 2003 will and denying Judith Skoner's objection to probate of that will. Judith Skoner contends that (1) the Probate Court gave insufficient weight to her expert's testimony asserting lack of testamentary capacity, and (2) the evidence before the Probate Court compelled a finding that Martha Skoner lacked testamentary capacity.

The Probate Code assigns to the challenger of a will the burden of proving lack of testamentary capacity. 18-A M.R.S. § 3-407 (2009). As we have stated on many occasions, "the weight of evidence and credibility of witnesses are matters exclusively within the province of the fact-finder. That there is contrary evidence that would support a different result is not, without more, a basis for vacating the trial court's factual findings." *Estate of Fournier*, 2009 ME 17, ¶ 14, 966 A.2d 885, 889 (internal citations omitted). Testamentary capacity is a factual issue, and a determination that a will contestant failed to prove lack of testamentary capacity "will not be disturbed unless the evidence compelled a different result than that reached." *Estate of Siebert*, 1999 ME 156, ¶ 6, 739 A.2d 365, 367. The record demonstrates that the Probate Court carefully and thoroughly evaluated the evidence before it. That record supports the findings made by the Probate Court and did not compel it to find a lack of testamentary capacity.

The entry is:

Judgment affirmed.

Attorney for Judith Skoner:

Thomas F. Hallett, Esq.
75 Market Street, Suite 502
Portland, Maine 04112

Attorney for Jeffrey Worthing:

Daniel L. Cummings, Esq.
415 Congress Street
PO Box 4600
Portland, Maine 04112

Attorney for University of Maine System:

Patricia A. Peard, Esq.
Bernstein Shur Sawyer & Nelson, P.A.
100 Middle Street
PO Box 9729
Portland, Maine 04104-5029

Attorneys for the YWCA:

William C. Knowles, Esq.
Adrienne E. Fouts, Esq.
Verrill Dana, LLP
One Portland Square
Portland, Maine 04112