

ESTATE OF PHYLLIS RING

Submitted on Briefs November 3, 2004
Decided November 30, 2004

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, and ALEXANDER,
JJ.

MEMORANDUM OF DECISION

Tammy LaVallee appeals from a judgment of the Oxford County Probate Court (*Hanley, J.*) disallowing Phyllis Ring's will and codicil on the basis of undue influence. Patricia Ring Monroe, the decedent's daughter, cross-appeals from the Probate Court's finding that Phyllis Ring was competent to execute the will and codicil. The Probate Court rendered its judgment after a full hearing in a thorough and carefully considered opinion. The record supports the court's conclusion that undue influence was established by clear and convincing evidence, *Estate of Lewis*, 2001 ME 74, ¶ 7, 770 A.2d 619, 622, and that the will and codicil should be disallowed.

Because proper execution of the will was established, the court did not err in allocating the burden of proof on lack of testamentary capacity to Monroe, the will contestant. *See* 18-A M.R.S.A. § 3-407 (1998). A finding regarding testamentary capacity is an issue of fact that we review for clear error. *Estate of Siebert*, 1999 ME 156, ¶ 6, 739 A.2d 365, 366-67. There is sufficient evidence in the record to support the Probate Court's finding regarding testamentary capacity.

The entry is:

Judgment affirmed.

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