

Family and Probate Law

Case 20:
To Will or
Not to Will

American Heart Association v. County of Greenville

Is a Will “Probate Property”?

OBJECTIVE

To understand what “probate property” is for purposes of distribution under a decedent’s Last Will and Testament.

TOPICS COVERED

- Last Will & Testament
- Probate
- Executor
- Probate Property/Estate
- Public Document

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BACKGROUND

- Shoeless Joe Jackson, one of the greatest baseball players in the early 1900s, was involved in the infamous “Black Sox” scandal when he, along with seven other players, was accused of “throwing” the 1919 World Series as they allegedly accepted money to intentionally lose the series.
- Shoeless Joe died in 1951 from a heart attack, and in his Last Will and Testament, he left all of his property to his wife, Katie, who upon her death, in turn, left all of her possessions to two charities: the American Heart Association and the American Cancer Society.
- The charities are suing the County of Greenville to release Jackson’s Will arguing that the Will was the personal property of Katie Jackson when she died, and as the beneficiaries of that Will, the charities should take possession for resale to the highest bidder.
- The County of Greenville argues that once Shoeless Joe’s Will was filed in the probate court, it became a public document that was not the personal property of his beneficiary.

BEFORE YOU BEGIN

What is a Last Will & Testament?

A last will and testament is a legal declaration by which a person names one or more persons to manage his or her estate, called an executor, and provides for the transfer of his or her property at death to his beneficiaries.

What is Probate?

Probate is the process of proving the validity of a will and thereafter administering the estate of the decedent (dead person) according to the terms of the will. The first step is to file the purported will with the appropriate court located in the city/town or county where the deceased person lived. Accompanying the will, the attorney will file a petition to have the court approve the will and appoint the executor named in the will. If the court determines the will is valid, the court then “admits” the will to probate and follows its instructions.

What is an Executor?

An executor is the person named by the decedent who is in charge of gathering the decedent’s personal and real property (probate property), paying off any debts of the estate, and distributing the remaining money to beneficiaries of the will.

What is Probate Property/Estate?

Probate property or probate estate includes, with certain exceptions, a person’s personal and real property, i.e., house or land at the time of his or her death.

What is a Public Document?

A public document includes all papers or other documentary materials, regardless of physical form or characteristics, which are prepared, owned, used, or in the possession of a public body.

ISSUE BEFORE THE COURT

Whether a person's will is the personal property of the estate and is owned by the beneficiaries of the estate.

THE FACTS

Baseball legend Shoeless Joe Jackson's signature is among the most valuable in the world—so rare that the American Cancer Society and American Heart Association sued the County of Greenville and State of South Carolina for possession of his Last Will and Testament. At the time of this lawsuit in 1997, the charities, beneficiaries of Jackson's estate, hoped to auction it for more than \$100,000.

Jackson was one of the greatest baseball players in the early 1900s with a .356 batting average. He was a controversial subject, however, because Jackson was expelled from baseball with seven Chicago White Sox teammates for allegedly accepting gamblers' bribes and throwing the 1919 World Series. The scheme became known as the "Black Sox" scandal. Jackson could not be elected to the Baseball Hall of Fame because of his expulsion.

Although Jackson admitted to the team attorney to taking \$5,000 of a \$20,000 bribe, the facts surrounding the confession were considered controversial. Allegedly, to get Jackson to admit his role in the scandal, the team lawyer poured large amounts of whiskey down Jackson's throat. The other seven players implicated in the scandal confirmed that Jackson was never at any of the meetings. One player, Williams, said that they only mentioned Jackson's name to give their plot more credibility. Jackson himself recanted his confession and swore innocence until the day of his death. The movies "Field of Dreams" and "Eight Men Out" helped elevate him to an American Legend.

Jackson died in 1951 in Greenville. Upon his death his Last Will and Testament was filed in the Greenville County Probate Court. His wife, Katie, upon her death in 1959, left the Jackson probate estate to two charities, the American Heart Association and the American Cancer Society, because Joe had died of heart failure and she suffered from cancer. The value of the Will became a sensation when, in 1991,

There can be substantial costs involved in probating an estate. Although fees vary, executor and attorney fees range from 2 to 4 percent of the assets subject to probate.

an attorney for one of the charities noticed a newspaper article about Jackson's signature selling for \$23,100 at a Sotheby's auction—the second-highest amount ever paid for a signature not attached to a document. Only six Jackson signatures were known to exist, as Shoeless Joe was illiterate and usually refused to sign baseballs for his fans.

The charities argued that Shoeless Joe Jackson's Will was his wife's personal property since individuals may, during their lifetime, own, possess, use, enjoy, and dispose of their Will anyway they see fit and, upon death, the Will becomes part of one's estate passing directly to the beneficiaries. The County argued that the Will was a public document and was the property of the State of South Carolina. The County stated that the records retention policy of the State of South Carolina provided for the permanent retention of original documents from decedents' estates.

Since the lawsuit was filed, several people were interested in paying more than \$100,000 for the Will!

Non-probate property can be distributed automatically to the deceased individual's beneficiaries.

401(k) plans, pensions, life insurance, and property in trust are examples of non-probate property.

Sources

The case briefing above contains excerpts and direct extractions from the sources noted below that have been combined with the author's own expert legal input. The case has been condensed and formatted from its original content for purposes of this workbook.

American Heart Association v. County of Greenville, 331 S.C. 498, 489 S.E.2d 921 (S.C. 1997).
Supreme Court of South Carolina

September 2, 1997. Opinion written by the Honorable Justice Ernest A. Finney, Jr.

Shoeless Joe's Will, Valuable Name On It Not For Sale, Court Says

September 3, 1997. Published by the Charlotte Observer.

You Be the Judge!

NAME

DATE

Review the Case

After reading American Heart Association v. County of Greenville, answer the following:

1. Identify the Plaintiff(s) in the case.

2. Identify the Defendant(s) in the case.

3. Who was Shoeless Joe Jackson, and why is he famous?

4. Why did scholars believe Shoeless Joe may have been innocent?

5. Could Shoeless Joe be voted into the Baseball Hall of Fame?

6. How many Shoeless Joe Jackson signatures were known to exist?

NAME _____

DATE _____

Review the Case (continued)

7. What is the reason for the low number of signatures?

8. How did the worth of the Will become a sensation, and what was the estimated worth of the signed Will?

9. Explain the Plaintiffs' arguments that Jackson's Will was incorrectly retained by the State of South Carolina and should have been returned to the estate?

10. Explain the County's arguments that Jackson's Will was correctly in the possession of the State of South Carolina and was not part of the estate.

NAME

DATE

Make the Argument

In order for the judge or jury to render a decision, the following are some of the questions that must be considered:

1. Was Jackson's Last Will and Testament filed in probate court after his death? Explain.

2. Did Shoeless Joe Jackson's wife have possession of the Will at the time of her death in 1959?

3. Is the Will a public document? Explain.
