MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Brandy Willis,
Appellant-Plaintiff,

v.

Billy Ringbauer,
Appellee-Defendant

January 23, 2024

Court of Appeals Case No. 23A-PL-1739

Appeal from the St. Joseph Probate Court

The Honorable Jason A. Cichowicz, Judge

Trial Court Cause No. 71J01-1909-PL-3

Memorandum Decision by Judge Vaidik
Judges Bradford and Brown concur.

Vaidik, Judge.

Case Summary

[1] Brandy Willis appeals the judgment against her in her action to set aside a deed. We affirm.

Facts and Procedural History

[2] While in a nursing home recuperating from injuries suffered in a fall, Diane Headley executed a quitclaim deed conveying her 20-acre farm to her son, Billy Ringbauer, with no payment required. Headley died four months later. Her will named her granddaughter, Willis, as the personal representative and sole heir of her estate. Willis submitted the will to probate. *See* No. 71J01-1908-ES-127. At the same time, she filed this separate action against Ringbauer seeking to have the deed set aside, claiming he had exercised undue influence over Headley. The trial court entered judgment for Ringbauer, concluding that Willis had the burden of proving the deed resulted from undue influence and that she failed to meet that burden.

[3] Willis now appeals.

Discussion and Decision

I. The trial court correctly concluded that Willis had the burden of proof

[4] Willis contends the trial court erred by concluding that she had the burden of proof. This is a question of law, so our review is de novo. *Harris v. Lafayette LIHTC, LP*, 85 N.E.3d 871, 876 (Ind. Ct. App. 2017).[1]

[5] Willis relies on the principle that when the parties to a transaction are in a "confidential relationship as a matter of law" and the dominant party benefits from the transaction, a presumption of undue influence arises and the dominant party has the burden of rebutting that presumption. *See, e.g., In re Estate of Blair*, 177 N.E.3d 84, 95 (Ind. Ct. App. 2021). Willis argues that Headley and Ringbauer, as parent and child, were in a "confidential relationship as a matter of law," with Ringbauer as the dominant party and therefore bearing the burden of proving the absence of undue influence. We disagree.

[6] We have recognized that "certain legal and domestic relationships" are "confidential" as a matter of law, including attorney and client, guardian and ward, principal and agent, pastor and parishioner, and, as relevant here, parent and child. *Id.* In a parent-child relationship, the parent is generally considered the dominant party. *See Scribner v. Gibbs*, 953 N.E.2d 475, 484 (Ind. Ct. App.

[1] Willis makes clear that she is not challenging the trial court's findings of fact, only its legal conclusion that the burden of proof was on her. Appellant's Reply Br. p. 9.

2011). Willis acknowledges this but argues a child "can be the dominant party under some circumstances." Appellant's Br. p. 16. She cites *In re Estate of Allender*, 833 N.E.2d 529 (Ind. Ct. App. 2005), *reh'g denied*, *trans. denied*, and *In re Trust of Rhoades*, 993 N.E.2d 291 (Ind. Ct. App. 2013). But in those cases, the only circumstance we identified in which the child is the dominant party as a matter of law is when the child is the parent's "caretaker." *Estate of Allender*, 833 N.E.2d at 533-34; *Trust of Rhoades*, 993 N.E.2d at 301 n.8. Willis cites no evidence, and makes no argument, that Ringbauer was Headley's caretaker.

[7] Instead, Willis asserts more generally that Ringbauer had "control" over Headley. Appellant's Br. p. 16. She cites three facts to support that claim: (1) Ringbauer was the joint owner of Headley's bank account; (2) Ringbauer moved Headley from one nursing facility to another; and (3) Ringbauer connected Headley with the attorney who drafted the deed. But those facts, without more, do not establish **as a matter of law** that Ringbauer was in control of Headley or otherwise in a dominant position over her. One entirely reasonable inference from these facts is that Ringbauer was simply a helpful son to his aging mother. That inference is consistent with the testimony of Ringbauer and other witnesses. *See* Tr. pp. 129-73, 186-87, 198-200, 209-10.

[8] Because Willis failed to show that Ringbauer was in a position of dominance over Headley as a matter of law, there is no presumption of undue influence, and the trial court didn't err by concluding that Willis had the burden of proof.[2]

II. The trial court's order was a final judgment

[9] Willis also argues that her complaint included claims relating to Headley's personal property, that the trial court's order didn't dispose of those claims, that as a result the order is not a final judgment, and that we should remand for further proceedings. Of course, if there were no final judgment, we would have to dismiss this entire appeal for lack of jurisdiction. *See In re Adoption of S.L.*, 210 N.E.3d 1280, 1282-84 (Ind. 2023). But the court's order did dispose of Willis's other claims by stating that "all other property owned by [Headley] at the time of her death will pass by her in accordance with her last will and testament," Appellant's App. Vol. II p. 5, that is, in the separately pending estate matter, No. 71J01-1908-ES-127. Willis does not dispute that any remaining claims can be resolved in the estate matter.

[10] Affirmed.

Bradford, J., and Brown, J., concur.

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[2] While Ringbauer has prevailed on this issue, we note that his argument improperly included citations to an unpublished memorandum decision from 2012, *Ferguson v. Watkins*, No. 28A01-1201-PL-7, 2012 WL 2866281 (Ind. Ct. App. July 13, 2012). Appellate Rule 65(D) was recently amended to allow citations to memorandum decisions, but it applies only to decisions issued "on or after January 1, 2023." We also note that Appellate Rule 22 was recently amended to provide the proper citation format for memorandum decisions, which must include the designation "(mem.)."