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IN THE
COURT OF APPEALS OF INDIANA

Izetta Dawn Davis-Roper,
Appellant,

v.

The Estate of Glenward August
Schroeder, Deceased,
Appellee.

November 9, 2021

Court of Appeals Case No.
21A-ES-556

Appeal from the Perry Circuit
Court

The Honorable M. Lucy Goffinet,
Judge

Trial Court Cause No.
62C01-2004-ES-17

Pyle, Judge.

Statement of the Case

- [1] Izetta Dawn Davis-Roper (“Davis-Roper”) appeals the trial court’s order, which concluded that she was not an heir in Glenward August Schroeder’s (“Grandfather”) estate because she failed to prove that she was the heir of Grandfather’s son (“Father”). Davis-Roper argues that the trial court abused its discretion and committed reversible error when it excluded her tendered Exhibit

H, a certified copy of an Alabama reciprocal support action that Mother had filed during Father’s lifetime wherein an Alabama trial court determined Father owed Davis-Roper a duty of support. We agree and reverse the trial court’s judgment.

[2] We reverse and remand for proceedings consistent with the opinion.

Issue

Whether the trial court abused its discretion and committed reversible error when it excluded Davis-Roper’s Exhibit H.

Facts

[3] Davis-Roper was born in Perry County in December 1980. Although her mother (“Mother”) and Father were not married, and Father was not identified on Davis-Roper’s birth certificate, the family lived together with Grandfather in Perry County until 1983, when Davis-Roper was three years old. At that time, Mother and Davis-Roper moved to Alabama. While living in Alabama, Davis-Roper visited Father every summer and during holidays and maintained regular communication with Father’s extended family.

[4] In 1996, Mother filed, in an Alabama court, a reciprocal child support action, which was supported by Mother’s notarized affidavit. In this affidavit, Mother identified Father as Davis-Roper’s father, acknowledged having sexual intercourse with Father during the period of Davis-Roper’s conception, and denied having sexual intercourse with any other men during the thirty days before and after Davis-Roper’s conception. Thereafter, the Alabama court

issued an order determining that Father owed Davis-Roper a duty of support and referred the matter to be enforced in Indiana where Father lived.

[5] Father passed away without a will in Perry County in July 2017. Davis-Roper, who also lived in Perry County, filed a petition asking the trial court to appoint her, Father's daughter and sole heir at law, as the personal representative for the unsupervised administration of Father's Estate. The trial court granted Davis-Roper's petition, and, shortly thereafter, Davis-Roper published in the Perry County News notice of her appointment as the personal representative of Father's Estate. In December 2017, Davis-Roper filed a verified statement to close Father's Estate, and, in September 2018, the trial court issued an order approving Davis-Roper's verified closing statement.

[6] Grandfather died without a will eighteen months later, in March 2020. In April 2020, Grandfather's oldest surviving son, Michael Schroeder ("Schroeder"), filed a petition for appointment as personal representative for the supervised administration of Grandfather's Estate. Schroeder listed in the petition Grandfather's known heirs, which included: (1) Schroeder; (2) Grandfather's surviving son, Patrick ("Patrick"); (3) Grandfather's surviving daughter, Sharon ("Sharon"); and (4) Davis-Roper, who was identified as Grandfather's granddaughter. In addition, Schroeder filed four consents signed by Schroeder, Patrick, Sharon, and Davis-Roper.

[7] Despite the contents of the petition and the consents, three months later, in August 2020, Schroeder, as the personal representative of Grandfather's Estate,

filed a petition to determine Davis-Roper's heirship. In the petition, Schroeder stated that Davis-Roper had previously been incorrectly identified as one of Grandfather's heirs. Schroeder further specifically explained that Davis-Roper's paternity had not been established through any procedure recognized in INDIANA CODE § 29-1-2-7, the statute dealing with inheritance for a child born out-of-wedlock. Schroeder, Patrick, and Sharon each signed consents to the petition to determine Davis-Roper's heirship.

[8] The trial court held a hearing on Schroeder's petition to determine Davis-Roper's heirship in March 2021. At the hearing, Schroeder, as the personal representative of Grandfather's Estate, argued that, although Davis-Roper claimed to be a biological child and heir of Father, Davis-Roper had failed to establish her paternity through any procedure recognized in INDIANA CODE § 29-1-2-7.

[9] Davis-Roper testified to the facts as set forth above. She also asked the trial court to admit Exhibit H, a certified copy of the Alabama reciprocal child support case that Mother had filed during Father's lifetime in which the Alabama court had determined that Father owed Davis-Roper a duty of support. Grandfather's Estate objected to the admission of Exhibit H. The trial court initially admitted the exhibit. However, upon further argument from Grandfather's Estate, the trial court excluded Exhibit H, concluding that "paternity ha[d] [not] been established by law, pursuant to 29-1-2-7[.]" (Tr. Vol. 2 at 25).

[10] Two days later, the trial court issued a short one-paragraph order concluding that Davis-Roper was not an heir in Grandfather’s Estate and should not inherit from Grandfather because she had failed to provide sufficient evidence to prove her paternity through the statutory elements set forth in INDIANA CODE § 29-1-2-7(b).

[11] Davis-Roper now appeals.

Decision

[12] At the outset, we note that, because Grandfather died intestate and without a spouse, pursuant to INDIANA CODE § 29-1-2-1(d)(1), his net estate should be distributed “[t]o [his] issue . . . , if they are all of the same degree of kinship to the intestate, they shall take equally, or if of unequal degree, then those of more remote degrees shall take by representation.” In the context of intestate succession, the term “issue” “includes all lawful lineal descendants except those who are lineal descendants of living lineal descendants of the intestate.” IND. CODE § 29-1-1-3(19).

[13] Here, because Father predeceased Grandfather, the question is whether Davis-Roper is a lawful lineal descendent, or an heir, of Father. Specifically, if Davis-Roper is Father’s lawful lineal descendant, or heir, then she is a lawful lineal descendant, or heir, of Grandfather and “shall take by representation.” *See* IND. CODE § 29-1-2-1(d)(1).

[14] Davis-Roper argues that the trial court abused its discretion in excluding Exhibit H. We review a trial court’s decision to exclude evidence for an abuse

of discretion. *State Farm Mutual Automobile Insurance Company v. Woodgett*, 59 N.E.3d 1090, 1093 (Ind. Ct. App. 2016). We will reverse a trial court’s decision to exclude evidence only if that decision is clearly against the logic and effect of the facts and circumstances before the court. *Id.* Even if a trial court errs in a ruling on the admissibility of evidence, this Court will reverse only if the error is inconsistent with substantial justice. *Id.*

[15] Exhibit H is a certified copy of an Alabama reciprocal support action that Mother filed during Father’s lifetime wherein an Alabama trial court determined that Father owed Davis-Roper a duty of support and then referred the matter to be enforced in Indiana where Father lived. The trial court should have admitted Exhibit H into evidence pursuant to the Full Faith and Credit Clause of the United States Constitution, which mandates that “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.” U.S. Const. art. IV, § 1. Full faith and credit means that judgment of a state court should have the same validity and effect in every state of the United States as it had in the state where it was made. *Hays v. Hays*, 49 N.E.3d 1030, 1037 (Ind. Ct. App. 2016). The trial court abused its discretion in excluding Exhibit H.

[16] Having determined that the trial court abused its discretion in excluding Exhibit H, we must now determine whether this error is inconsistent with substantial justice. As a child born out of wedlock, Davis-Roper was required to establish her paternity through INDIANA CODE § 29-1-2-7, which provides, in relevant part, as follows:

(b) For the purpose of inheritance (on the paternal side) to, through, and from a child born out of wedlock, the child shall be treated as if the child's father were married to the child's mother at the time of the child's birth, if one (1) of the following requirements is met:

(1) The paternity of a child who was at least twenty (20) years of age when the father died has been established by law in a cause of action that is filed during the father's lifetime

I.C. § 29-1-2-7(b)(1).

[17] The trial court concluded that Davis-Roper was not an heir in Grandfather's Estate and should not inherit from Grandfather because, according to the trial court, Davis-Roper had failed to provide sufficient evidence to prove her paternity through the statutory elements set forth in INDIANA CODE § 29-1-2-7(b). However, had the trial court admitted Exhibit H, the trial court would have had before it evidence that Davis-Roper, who was at least twenty years old when Father died, had established her paternity in a cause of action that was filed during Father's lifetime. Davis-Roper would therefore have been treated as if Father had been married to Mother at the time of her birth and would have been allowed to take by representation Father's share of Grandfather's Estate. *See* IND. CODE § 29-1-2-1(d)(1). The trial court's error is therefore inconsistent with substantial justice.

[18] Based on the foregoing, the trial court abused its discretion and committed reversible error when it excluded Exhibit H. We, therefore, remand this case to the trial court for proceedings consistent with this opinion.

[19] Reversed and remanded.¹

Bailey, J., and Crone, J., concur.

¹ Because we reverse, we need not address Davis-Roper's arguments related to issue preclusion and the constitutionality of INDIANA CODE § 29-1-2-7.