

IN THE IOWA SUPREME COURT

Supreme Court No. 24-1053

Dis. Ct. Case No. ESPR021020

IN THE MATTER OF THE ESTATE OF REX FELTEN, Deceased

KATHY FELTEN
Plaintiff/Appellant,

v.

KAREN HOFFMAN, Individually
and as Executor of the Estate of Rex Felten
Defendant/Appellee.

APPEAL FROM THE DISTRICT COURT FOR CLINTON COUNTY
HON. STUART P. WERLING

APPELLEE KAREN HOFFMAN'S REPLY BRIEF AND
REQUEST FOR ORAL ARGUMENT

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PROOF OF SERVICE

I hereby certify that on the 2nd day of December 2024, I, the undersigned, did serve a copy of this Appellee's Reply Brief on all other parties to this Appeal by EDMS.

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CERTIFICATE OF FILING

I, Susan M. Hess and Sahil Kumar, hereby certify that I filed this brief with the Clerk of the Iowa Supreme Court by EDMS on December 2, 2024. Participants in the case who are registered with the EDMS will be served by EDMS.

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

ISSUE I: THE DISTRICT COURT CORRECTLY ENFORCED THE NO-CONTEST PROVISION IN REX FELTEN’S WILL, AS KATHY FELTEN FAILED TO SHOW PROBABLE CAUSE OR GOOD CAUSE.

STATEMENT OF FACTS

Background: Rex Felten, a farmer from Iowa, had a complex family dynamic that significantly influenced his estate planning. Over the years, he made several revisions to his will, reflecting his evolving relationships with his children:

Kenneth, Kathy, and Karen. D0192, Tr. pg. 280:1-3 (Atty. Coakley), 8.13.24. Karen Hoffman, the middle child, played a pivotal role in Rex’s later years, particularly after moving in with him in December 2019. D0192, Tr. pg. 201:13-19 (Karen), 8.13.24.

Karen’s Role and Contributions: In December 2019, Karen moved in with Rex to assist him after his cataract surgery, and her involvement in his daily life increased significantly, especially during the COVID-19 pandemic. D0192, Tr. pg. 202:1-8 (Karen), 8.13.24. This made her a trusted advisor for Rex. D0192, Tr. pg. 288:22-24 (Atty. Coakley), 8.13.24. Kathy also acknowledged that Rex paid more attention to Karen’s advice, partly because of her medical background. D0192, Tr. pg. 126:19,20 (Kathy), 8.13.24. Kenneth acknowledged that Rex dealt with many physical problems. D0192, Tr. pg. 55:2-5 (Kenneth), 8.13.24.

Financial Management and Power of Attorney: In January 2020, Rex appointed Karen as his Power of Attorney, replacing Kathy. D0192, Tr. pg.

172:3-5,21-23 (Kathy), 8.13.24. This decision reflected Rex's growing trust in Karen. D0192, Tr. pg. 248:1-5 (Karen), 8.13.24.

Estate Planning and Drafts of the Will: Throughout 2020, Rex dictated several drafts of his will to Karen, which reflected his changing thoughts on how to distribute his assets. D0192, Tr. pg. 277:14-18 (Atty. Coakley), 8.13.24. These drafts included provisions such as splitting the farm between Karen and Kenneth, with income from the pasture designated for Kathy. This distribution reflected Rex's evolving relationships with his children. D0192, Tr. pg. 212:1-11 (Karen), 8.13.24. Karen's careful record-keeping ensured that Rex's wishes were clearly documented and reflected in the drafts. D0192, Tr. pg. 442:15-21 (Karen), 8.13.24. Rex was known to be decisive when he had made up his mind, often saying he would "stand tall." D0192, Tr. pg. 227:2,3 (Atty. Coakley), 7.31.23.

In his final will, Rex made specific provisions for Kathy's children, Matthew, and Melissa, naming them beneficiaries of real property, free from any estate claims, unlike Kenneth or his children. D0141, Ex.1 (Last Will and Testament Rex L. Felten), 7.31.23. Kathy was also designated as a beneficiary of a trust created by Rex, with Karen serving as the trustee. This trust was designed to provide for Kathy while maintaining her ability to receive disability benefits. *Id.* The *in terrorem* clause in the will was included to avoid conflicts, which reflected similar provisions in Rex's earlier wills, particularly concerning Kenneth. D0192, Tr. pg. 93:4-11 (Kenneth), 8.13.24. Given Kathy's long involvement in managing Rex's

affairs for over 12 years, she should not have been surprised by the provisions in his will. D0192, Tr. pg. 169:13-16 (Kathy), 8.13.24.

Concerns About Kathy's Financial Management: Karen raised concerns about Kathy's financial management. D0152, Ex. 12 (Letter from Karen), 8.1.23; D0192, Tr. Pg. 248:1-5 (Karen), 8.13.24. In April 2021, she wrote a letter to Rex highlighting these concerns, emphasizing the need for careful estate planning to protect Rex's assets and ensure they were managed responsibly. *Id.*

Final Will and Execution: On June 23, 2021, just nine days before executing his final will, Rex underwent an evaluation by Dr. Thompson, his general practitioner, who confirmed Rex's testamentary capacity. D0153, Ex. A, pg. 35-39 (Medical Associates Records), 8.2.23.

On July 2, 2021, Rex executed his final will, which significantly altered the distribution of his assets. D0141, Ex.1 (Last Will and Testament Rex L. Felten), 7.31.23. The will left the farm and most of Rex's assets to Karen, with instructions to exclude Kenneth and Kathy if they contested the will. This decision reflected Rex's trust in Karen's ability to manage his affairs and concerns about the financial stability and reliability of his other children. However, Rex also ensured Kathy was provided for by creating a trust for her, with Karen named as the trustee. Rex further expressed his ongoing concern for Kathy by stipulating that he be buried next to her and providing for her children, Mathew Kinion and Melissa Kinion. *Id.*

Karen's Integrity and Commitment: Karen's actions throughout this period were driven by a genuine concern for her father's well-being and the responsible

management of his money. For example, Karen installed surveillance cameras inside the house to ensure Rex's safety and address his concerns about potential theft and paranoia, at Kathy's insistence. D0192, Tr. pg.147:7-16 (Kathy), 8.13.24. Karen testified that Rex specifically requested she install the cameras after Kathy had been yelling at him. D0192, Tr. pg. 246:1,2 (Karen), 8.13.24. Her vigilance in managing his financial and personal affairs was in line with the trust Rex had placed in her.

Karen Hoffman played a vital role in Rex Felten's life. Her unwavering dedication, reliability, and responsible financial management earned her Rex's trust, which was reflected in his final will. The changes in the will were a result of Rex's trust in Karen and his concerns about the financial stability and unreliability of his other children. Karen's actions throughout this period, driven by her genuine concern for her father's well-being, exemplified her commitment to both his care and management of his day-to-day life.

ARGUMENT

Rex Felten made several revisions to his will over the years. While the final change to the will was significant, Rex took substantial steps to ensure his last will and testament would be honored, including undergoing assessments of his mental capacity. The will did not revoke all property rights of Kathy; she was still to receive a portion of the estate, through a trust, and here children were also taken care off, unlike Kenneth Felten.

Karen acknowledged that there was a factual dispute regarding Rex's testamentary capacity, but she maintained the belief that he did, in fact, possess the necessary capacity to execute his will. In an adversarial system, it is not unusual for parties to take opposing positions. The statement of disputed facts clearly outlines the nature of the disagreement. Throughout the case, the parties exchanged discovery materials and received reports from both general practitioners and specialists. These reports confirmed that Rex's diagnosis of "mild dementia" did not impair his testamentary capacity.

The factual statements highlighted by Kathy in her appeal hold little weight, given that the jury heard the same testimony during the trial. The questions concerning testamentary capacity, undue influence, and allegations of tortious interference with the will were all addressed and deliberated upon by the jury, who chose to disregard these assertions. Kathy lost on all counts. The primary dispute in the case centered on Kathy's insistence on a larger share of Rex's estate, rather than a good faith challenge based on the merits of the case.

Following the jury trial, a hearing was held regarding Kathy's good faith assertion and her exclusion from the estate due to the in terrorem clause. Kathy failed to show good cause and chose not to provide any evidence demonstrating her good faith. Her argument was that, simply by bringing the case to trial, she acted in good faith. The District Court disregarded this statement and denied her challenge to the closing of Rex's estate. When a party fails to present any evidence showing

good cause, they should not be allowed to mask their lack of evidence by requesting appellate courts to revisit well-established legal principles.

ISSUE I: THE DISTRICT COURT CORRECTLY ENFORCED THE NO-CONTEST PROVISION IN REX FELTEN'S WILL, AS KATHY FELTEN FAILED TO SHOW PROBABLE CAUSE OR GOOD CAUSE.

Kathy should not be entitled to invoke the probable cause and good cause exception to challenge the will, as her challenge lacks sufficient legal grounds and undermines the testator's clear intent. While the policy behind Iowa's good faith and probable cause exception aims to promote truth-seeking and ensure proper scrutiny of wills, it must be applied cautiously.

"It is well settled law (1) the testator's intent is the polestar and must prevail; (2) his intent must be gathered from [*147] a consideration of (a) all the language contained in the four corners of his will [...] (c) the circumstances surrounding him at the time he made his will, and (d) the existing facts; and (3) technical rules or canons of construction should be resorted to only if the language of the will is ambiguous or conflicting or the testator's intent is for any reason uncertain."

In re Estate of Thompson, 164 N.W.2d 141, 146-47 (Iowa 1969).

Technical rules should only be used when the will's language is ambiguous or conflicting. Kathy's attempt to invoke this exception seeks to create a broad avenue for will contests without regard for the clarity of the testator's intent, especially when there is no ambiguity in the will's clauses. Allowing such a broad application of the exception could undermine the very purpose of a will, which is to honor the

testator's wishes. When a challenger fails to present evidence showing probable cause or good cause, they should not be permitted to mask their lack of evidence by requesting appellate courts to revisit well-established legal principles.

A. Kathy's Undue Influence Claim.

In order to set aside a will on grounds of undue influence, contestants must prove that: (1) the testator was susceptible to undue influence; (2) defendants had an opportunity to exercise undue influence and effect the wrongful purpose; (3) defendants had a disposition to influence unduly to procure an improper favor; and (4) the result, reflected in the will, was clearly the effect of undue influence [...]. The party contesting a will bears the burden of proving all four elements [...]. *Bayer v. Schenkelberg (In re Estate of Bayer)*, 574 N.W.2d 667, 671 (Iowa 1998).

For influence to be considered undue, it must be the "equivalent to moral coercion." [...] Direct proof of undue influence is not required, and circumstantial evidence may be sufficient [...] However, more than a "scintilla" of evidence is required [...]. "An unnatural disposition of property will not of itself carry the issue of undue influence to the jury." [...] "Mere suspicion, surmise, conjecture, or speculation is not enough to warrant a finding of undue influence, but there must be a solid foundation of established facts upon which to rest an inference of its existence." [...] (condensed). *Id.*

Rex was Not Susceptible to Undue Influence; Karen Did Not Have the Opportunity to Influence Him. He was an older gentleman and a Veteran, was known for his strong convictions, as described by his attorney, Billy Coakley (Atty.

Coakley), noting that Rex was a man of firm principles. Kathy and Kenneth both testified to Rex's friendly nature, but Atty. Coakley emphasized that Rex would "stand tall" once he made up his mind. D0192, Tr. pg. 227:2,3 (Atty. Coakley), 8.13.24. When Rex executed his will, Atty. Coakley went to great lengths to ensure Rex fully understood the terms, and no one was present in Rex's home during the will signing. D0192, Tr. pg. 296-7 (Atty. Coakley), 8.13.24. Kathy, being aware of her father's demeanor, had reason to know that Rex executed the will freely and independently, which should have deterred her from contesting it.

Kathy's claim that Karen influenced Rex is rooted primarily in his physical health issues. Kathy admitted that her father paid more attention to Karen due to Karen's medical background, but Rex's physical ailments were well known, and both Kathy and Kenneth acknowledged his numerous health issues. D0192, Tr. pg. 126:19,20 (Kathy), 8.13.24.

Kathy also failed to mention that she herself encouraged the installation of cameras at Rex's home to monitor his increasing paranoia, as he feared someone was stealing his property. D0192, Tr. pg. 147:7-16 (Kathy), 8.13.24. Karen testified that Rex had specifically asked her to install the cameras after Kathy had been yelling at him. D0192, Tr. pg. 246:1,2 (Karen), 8.13.24.

Lastly, Rex's attorney also testified that Karen was conflicted about receiving the bulk of her father's estate. He had to reassure her that it was her father's choice to leave the property to her when she was conflicted, "almost to the point of tears." D0192, Tr. pg. 284:1-13 (Atty. Coakley), 8.13.24. He goes on to note that Karen tried

her best to stay out of it(Estate planning). D0192, 8.13.24, Tr. pg. 290:13 -16 (Atty. Coakley), 8.13.24. There was no indication that Karen had any undue influence over Rex.

Contrary to Kathy's claims, the will did not reflect any undue influence. Kathy's brother, Kenneth, admitted at trial that Kathy had "moved into a win-win situation." D0192, Tr. pg. 61:4 (Kenneth), 8.13.24. She received significant benefits during Rex's lifetime, during Rex's lifetime, receiving numerous loans and financial support from him. D0192, Tr. pg. 127:23-25, 128:1-9 (Kathy), 8.13.24. Rex even bought a home for Kathy in Maquoketa. D0192, Tr. pg. 156:5,7 (Kathy), 8.13.24. Kathy had a limited income, making only approximately \$13,000 a year. D0192, Tr. pg. 148:22-25 (Kathy), 8.13.24.

Kathy's children, Matthew and Melissa, were named beneficiaries in Rex's will, receiving real property free of any estate claims. Unlike Kenneth Felten or his children. D00141, Ex.1(Last Will and Testament Rex L. Felten), 7.31.23. Kathy was also designated as the beneficiary of a trust created by Rex, with Karen serving as the executor. The trust addressed Kathy's needs, including maintaining her disability benefits. *Id.* Furthermore, Rex expressed a desire to be buried next to Kathy. *Id.*

Kathy's issue with the will appears to stem from her personal animosity toward Karen. When asked about the trust during trial, Kathy acknowledged that her father had left a trust for her but commented, "Under Karen's discretion." D0192, Tr. pg. 144:24,25; 145:1 (Kathy), 8.13.24. Kathy admitted to knowing the terms of

the will prior to Rex's passing, even confronting Rex and/or Karen with profanities. D0192, Tr. pg. 167:22-25; 168:1-6 (Kathy), 8.13.24. This occurred before Kathy was aware of any letters allegedly written by Karen to Rex accusing Kathy of stealing and financial mismanagement. Kathy only learned of these letters after filing the lawsuit. D0192, Tr. pg. 129:17-22; 130:1-9 (Kathy), 8.13.24.

Additionally, the *in terrorem* clause in the will emphasized the desire to avoid conflict over the will and aligns with similar provisions in Rex's earlier wills, especially concerning Kenneth Felten. D0192, Tr. pg. 93:4-11 (Kenneth), 8.13.24. Kathy should not have been surprised by the provisions in her father's will, as she had handled most of his affairs for approximately 12 years. D0192, Tr. 169:13-16 (Kathy), 8.13.24.

While Karen did receive significant benefits, the will also provided for Kathy, ensuring she was accounted for in a meaningful way. D0141, Ex.1 (Last Will and Testament Rex L. Felten), 7.31.23. There is nothing in the will to suggest that it was created with the intent to exclude any family members or to further any unlawful purpose. Kathy's assertion in the suit appears to be motivated more by her personal animosity toward the executor, Karen Hoffman, than by any legitimate legal grounds.

B. Kathy's Lack of Testamentary Capacity Claim.

In order for a decedent to have general mental capacity to make a will, he must know and understand 1) the nature of the instrument then being executed; 2) the nature and extent of his property; 3) the natural objects of his bounty; and 4) the

distribution he desires to make of his property [...] All of the above four elements must exist coextensively at the time the will is executed [...] The will is invalidated if any one of such tests is not met [...] *In re Estate of Henrich*, 389 N.W.2d 78, 81 (Iowa Ct. App. 1986).

Courts have repeatedly pointed out the law is slow to deny the right of anyone to dispose of his property by will as he sees fit. No mere impairment of his mental or physical powers, so long as he retains mind and comprehension sufficient to meet the tests above set forth, invalidates his will. It is not essential to testamentary capacity that the maker be able to make contracts or carry on business generally. *Drosos v. Drosos*, 251 Iowa 777, 786, 103 N.W.2d 167, 172 (1960).

The legal standard for testamentary capacity is not overly stringent. Courts recognize that even if a person has impairments, as long as they understand the nature and extent of their property, the disposition of it, and the beneficiaries involved, they can still execute a valid will. Importantly, a testator is not required to have the ability to manage business affairs or enter into contracts to demonstrate testamentary capacity.

When Rex executed his will, Atty. Coakley took extensive steps to ensure that Rex fully understood the terms of the will. D0192, Tr. pg. 296, 297 (Atty. Coakley), 8.13.24. Rex was aware of the nature and extent of his property, including the obligation to manage Kathy's government benefits and his possession of a yellow toolbox. D0141, Ex.1 (Last Will and Testament Rex L. Felten), 7.31.23. He was also mindful of his responsibility to ensure that his son Kenneth moved one of his buried

children so that Kathy would be laid to rest next to him. This demonstrates Rex's awareness of both his property and his intentions for its distribution.

Rex's distribution plan was clear and consistent. At no point did Atty. Coakley express concern about Rex's capacity. In fact, Atty. Coakley arranged for a medical evaluation to confirm that Rex understood the consequences of his will. D0192, Tr. pg. 291:3-7 (Atty. Coakley), 8.13.24.

On June 23, 2021, just nine days before executing his will, Rex underwent an evaluation by Dr. Thompson, his general practitioner, who found him to be competent. During the discovery process, the parties exchanged medical records, including Dr. Thompson's letter, which confirmed Rex's testamentary capacity. D0153, Ex. A, pg. 35-39 (Medical Associates Records). This evaluation followed testimony from Dr. Thompson, who noted that Rex had raised concerns that "other family members may not be in agreement with the choices he is going to make." *Id.*; D0192, Tr. pg. 361:2-5 (Dr. Thompson), 8.13.24.

It is surprising that Kathy believed Rex lacked the mental capacity to execute a will while maintaining that he had the mental capacity to enter into a contract with her. On May 11, 2021, Rex signed a contract—witnessed by a notary—to allow Kathy to retrieve her furniture and chain-link dog pens. D0192, Tr. 169:2-9 (Kathy), 8.13.24. Kathy later argued that Rex had lost all mental capacity by July 2021, despite his ability to enter into the contract in May. This inconsistency raises serious doubts about the claim that Rex lacked the capacity to execute his will.

Based on the evidence, it is clear that Rex possessed the mental capacity required to execute his will. Kathy's argument that Rex lacked the requisite capacity is inconsistent with the medical evaluations, his own clear understanding of his property, and his contractual obligations towards Kathy.

C. Kathy Lacked Probable Cause & Good Faith in maintaining and instituting the Will Contest.

Iowa has recognized a probable cause **and** good faith standard to contest wills. A *in terrorem* clause "will not be enforced against one who contests the will in good faith **and** for probable cause." *In re Estate of Cocklin*, 236 Iowa 98, 17 N.W.2d 129, 135 (Iowa 1945) (emphasis added); see also *Geisinger v. Geisinger*, 241 Iowa 283, 41 N.W.2d 86, 93 (Iowa 1950).

One has probable cause for initiating civil proceedings against another if he reasonably believes in the existence of facts upon which his claim is based and reasonably believes that, under such facts, the claim may be valid at common law or under an existing statute, or so believes in reliance upon the advice of counsel received and acted upon as stated in the foregoing authorities. *Geisinger v. Geisinger*, 241 Iowa 283, 295, 41 N.W.2d 86, 93 (1950).

1. Kathy's Probable Cause regarding The Undue Influence Claim.

Rex was not susceptible to undue influence, nor did Karen have the opportunity to unduly influence him. Rex, a man known for his firm convictions, executed his will independently, without anyone present during the signing D0192, Tr. pg. 296:23 -25, 297:1 (Atty. Coakley), 8.13.24. Atty. Coakley, testified that Rex fully understood the terms of his will and made changes to it with regularity,

further emphasizing that Rex acted of his own free will. D0192, Tr. pg. 297:3-5 (Atty. Coakley), 8.13.24. Kathy's claim that Karen exerted undue influence is based on Rex's physical health issues, yet both Kathy and Kenneth acknowledged Rex's well-known health problems. D0192, Tr. pg. 109:11-16 (Kathy), 8.13.24; D0192, Tr. pg. 55:2-5 (Kenneth), 8.13.24. Additionally, Kathy's own actions—including her desire to install cameras to monitor Rex—contradict her claim that Karen had undue influence D0192, Tr. pg. 147:7-16 (Kathy), 8.13.24.

There is no evidence of "moral coercion" by Karen or any improper influence over Rex, as supported by the testimony of Rex's attorney, who reassured Karen about her inheritance after she expressed concerns. Moreover, Kathy's personal animosity toward Karen appears to be the true motivation for contesting the will, not any legitimate concern about undue influence.

2. Kathy's Probable Cause In her Lack of Testamentary Capacity Claim.

Rex's testamentary capacity is supported by multiple medical evaluations, including a June 23, 2021, evaluation by Dr. Thompson, who confirmed Rex's competency just nine days before he executed his will. D0153, Ex. A pg. 35-39 (Medical Associates Records), 8.2.23.

Kathy's argument that Rex lacked the capacity to execute his will contradicts her admission that Rex signed a legally binding contract with her on May 11, 2021, in a notary-witnessed transaction to retrieve her furniture and dog pens, which further undermines her claim of incapacity. D0192, Tr. pg. 169:2-9 (Kathy), 8.13.24. Rex clearly understood the nature of his property, including the need to care for

Kathy's benefits and his plans for burial arrangements, demonstrating his mental clarity and intent in executing his will.

3. Kathy's Good Faith Assertions

(Addressing good faith) Our precedent focuses on the challenger's full disclosure to their attorneys, the attorneys' advice, and whether the challenger acted on the advice. *Id.* at 92. The court has also examined whether the challenger understood the testator's intentions, whether the testator's conduct following the execution of the will was consistent with the stated intentions, and whether the testator's mental capacity made the testator susceptible to suggestions. *Id.* See also, *Matter of Est. of Workman*, 898 N.W.2d 204, 2017 WL 706342 at *5 (Iowa Ct. App. Feb. 22, 2017) (Table).

a. Advice of counsel is sufficient, if not the best guidance.

The Iowa Lawyers' Oath, taken by newly admitted attorneys, emphasizes the duty to act with integrity and only pursue claims that have merit. This duty aligns with the Iowa Rules of Professional Conduct, which prohibit lawyers from asserting claims or defenses that are frivolous. Specifically, Iowa Rule of Professional Conduct 32:3.1 mandates that a lawyer must not initiate or defend a proceeding, or assert or contest an issue, unless there is a basis in law and fact that is not frivolous. This includes the possibility of making a good faith argument for an extension, modification, or reversal of existing law.

The same rules allow a lawyer to disclose confidential information in certain circumstances, such as to prevent or mitigate substantial financial or property

harm that is reasonably certain to occur due to the client's commission of a crime or fraud in which the lawyer's services were used (Iowa Rule of Professional Conduct 32:1.6). This principle, which permits the waiver of confidentiality, is consistent with the attorney's responsibility to act in accordance with the law and to protect the interests of others when necessary.

In this case, had Kathy followed her attorney's advice, she might have avoided filing a claim without merit. Kathy's decision to contest Rex's will was based on claims of undue influence and lack of testamentary capacity. However, the evidence presented in this case demonstrates that these claims lack a legitimate legal foundation and may have been pursued despite the absence of any credible basis to do so.

The legal principles that govern Kathy's claims are well-established, as shown by the case of *Workman*, which offers a strong analogy. In *Workman*, Margaret made multiple wills throughout her life, and the last will contained an in terrorem clause that was upheld by both the District Court and the Court of Appeals. Similarly, in this case, Kathy's claims regarding testamentary capacity and undue influence closely mirror the issues addressed in *Workman*, where the courts recognized that claims regarding testamentary capacity and undue influence must be based on solid factual evidence and legal reasoning.

The Court of Appeals' standard in *Workman* suggests that there are several issues with Kathy's claim that undermine its validity. Some of the relevant questions include:

Did Kathy understand that a mere diagnosis of dementia is not sufficient to support a claim of lack of testamentary capacity? In this case, the medical evidence established that Rex had the necessary mental capacity to execute his will, and Kathy's reliance on the diagnosis of dementia, without any credible evidence of diminished capacity at the time of will execution, raises serious concerns.

Was Kathy informed that Rex had testamentary capacity when the will was executed? Kathy's own actions in monitoring Rex's health, along with the testimony of Rex's attorney, Billy Coakley, who ensured that Rex fully understood the will and its contents, indicate that Rex possessed testamentary capacity at the time the will was executed. Kathy's claim to the contrary should have been informed by these facts.

Upon discovering Rex's testamentary capacity, should Kathy have abandoned the claim of lack of testamentary capacity and instead considered undue influence as a reasonable alternative? Kathy's attempt to pursue both claims, despite ample evidence of Rex's capacity, reveals a possible failure to appreciate the distinction between these two claims and the legal standards required to support them. In light of the medical evaluations and the actions taken by Rex's attorney to ensure his competence, it is unlikely that Kathy's claim of testamentary capacity would have had a reasonable legal basis.

Did Kathy understand that the mere existence of a significant change in Rex's will did not, by itself, constitute undue influence? Kathy's argument

that Rex's decision to change his will was evidence of undue influence overlooks the legal principle that significant changes in a will are not, by themselves, proof of undue influence. The changes in Rex's will reflect his decision to provide for his daughters, and there is no credible evidence to suggest that Karen exerted undue influence over him to cause such changes.

Given Karen's speculative language in the letter, **did Kathy understand the legal standard for undue influence and proceed with her claim despite this?** The letter from Karen, which Kathy points to as evidence of undue influence, is speculative in nature and does not meet the high legal standard required to prove undue influence. The legal standard demands more than just suspicions or ambiguous statements—it requires concrete evidence of manipulation or coercion, which Kathy's claim fails to provide.

Lastly, Rex left Kathy a trust as the sole beneficiary. **When instituting a claim against the estate, did she recognize that she was giving up the right to all claims in the estate?** Even considering evidence of animosity, **was she aware that the legislature had expended resources to formalize a comprehensive Iowa Trust Code?** Was she advised that this code outlines the administration of trusts in great detail, establishing the duties of the trustee and providing Kathy the ability to hold Karen accountable. *See generally*, Iowa Code Title XV, Subtitle 4, Chapter 633A.

These questions raise significant concerns about the merit of Kathy's claim and suggest that it may have been pursued in bad faith or without a legitimate

legal basis. The reasoning behind this test is straightforward and underscores why this case is of particular importance. Despite being nearly seventy-five years since *Geisinger v. Geisinger*, the advice of counsel remains one of the best tools available for determining whether a claim is frivolous. 241 Iowa 283, 41 N.W.2d 86 (1950).

Kathy's decision to continue with the claim despite overwhelming evidence to the contrary suggests that her attorney's advice was either ignored or insufficiently followed. In light of the analysis in *Workman*, the Supreme Court should adopt the well-reasoned principles from that case to guide its decision in this matter. Kathy's claims, lacking substantial legal and factual support, should be dismissed, and the advice of counsel should serve as a safeguard against the pursuit of biased, bad faith claims.

b. Jury questions & deliberation are an important aspect of good faith review.

The evidence presented at trial did not support her claims of undue influence or lack of testamentary capacity, and her subjective belief that the will should be contested was not objectively reasonable under the established precedents. Our good faith precedent gauges the strength of the challenger's will contest action by asking whether "a jury question was presented on the issues" and how long the jury deliberated. See, *Matter of Est. of Workman*, 898 N.W.2d 204, 2017 WL 706342 at *5 (Iowa Ct. App. Feb. 22, 2017) (Table)(quoting *In re Estate of Cocklin*, 236 Iowa 98, 17 N.W.2d 129, 136 (1945)). On closer examination, we believe these factors bear on whether a challenger's subjective belief that he or she is filing a will contest in good faith is objectively reasonable. *Id.*

Good faith in the context of a will contest is not merely about the challenger's subjective belief, but whether that belief was objectively reasonable under the circumstances. Courts evaluate this by looking at the totality of evidence, including the testator's mental capacity, the consistency of their conduct with their intentions, and whether the challenger's position is supported by the facts. Additionally, the court looks at whether the challenger received appropriate legal counsel and followed the advice provided by their attorney. In this case, good faith is measured against these factors, as well as the impact of jury deliberations in previous decisions.

In this case, although the jury was asked to resolve Kathy's contest, the deliberation was brief, suggesting that the jury found the evidence insufficient to support her claims. Kathy's contest was based on two central arguments: undue influence and testamentary capacity.

Undue Influence: Kathy's argument that Karen unduly influenced Rex is based largely on speculation about Rex's health and his relationship with Karen. Again, an important fact towards the same analysis is that Kathy did not even know that Karen wrote any letters to Rex that would influence his decisions. However, the evidence, including testimony from Rex's attorney and medical evaluations, clearly showed that Rex was mentally competent and that his decisions were made independently, without undue influence. Kathy's claims about Rex's vulnerability were unsupported by any evidence other than a lion's share in the property, which undermines her assertion of good faith.

Testamentary Capacity: Kathy also contested the will on the grounds that Rex lacked testamentary capacity. However, this claim was directly contradicted by medical evaluations, which found that Rex had the mental capacity to understand the nature and extent of his property and make decisions about its distribution. Coakley, Rex's attorney, testified that Rex fully understood the terms of the will and was aware of his assets and intentions when he executed it.

Given that the jury deliberated briefly and rendered a verdict rejecting Kathy's claims, this strongly suggests that her belief in the validity of the contest was not objectively reasonable. The lack of solid evidence to support her claims of undue influence and lack of testamentary capacity undermines the good faith basis for the contest.

D. Mere Passage of Time Does Not Undervalue Precedent.

Kathy's argument should be rejected because the doctrine of stare decisis precludes revisiting well-established legal principles absent compelling reasons, and the legislature has not acted to amend the statute in question. The principle of stare decisis dictates that courts should adhere to established precedents to promote stability and predictability in the law. This doctrine is especially significant when the legislature has implicitly endorsed the court's interpretation of a statute by failing to amend it. Courts may depart from precedent only when persuasive reasons justify doing so, particularly when a past decision is determined to be erroneous and produces undesirable results. *Youngblut v. Youngblut*, 945 N.W.2d 25,

39-40 (Iowa 2020); *Cover v. Craemer*, 258 Iowa 29, 34-35, 137 N.W.2d 595, 599 (1965).

Stare decisis functions as an important constraint on judicial authority, ensuring that judicial decisions promote legal consistency. When the legislature does not amend a statute in response to a judicial construction, it suggests approval of the court's interpretation, thus signaling that any change in the law should be pursued through legislative action rather than judicial decision-making.

Additionally, while the court remains generally hesitant to overturn precedent, it may do so if the rule is found to be erroneous or harmful.

Kathy argues that the Court's citation to *Geisinger* was insufficient and did not adequately discuss an exception to the rule. However, in *Youngblut*, the Court made clear that its reluctance to overturn precedent may diminish if a past decision is proven to be erroneous or results in undesirable outcomes. In this case, Kathy's attempt to challenge well-established principles on the grounds of alleged lack of evidence and a purported interpretation issue should not be allowed. The legislature has not acted to amend the relevant statute, further emphasizing that the court should refrain from revisiting principles that have stood the test of time.

Given the weight of stare decisis and the absence of legislative action to amend the law, Kathy's request to overturn or revisit established principles based on her interpretation of the evidence and statute is without merit. The Court should not revisit these well-settled rules.

CONCLUSION AND REQUEST FOR RELIEF

The District Court correctly enforced the no-contest provision in Rex Felten's will, as Kathy Felten failed to demonstrate probable cause or good faith in her challenge. The evidence presented clearly shows that Rex was not susceptible to undue influence and possessed the requisite testamentary capacity at the time of executing his will. Kathy's claims of undue influence and lack of testamentary capacity are unsupported by substantial evidence and appear to be motivated by personal animosity rather than legitimate legal grounds.

The legal standards for enforcing no-contest provisions, as well as the principles governing undue influence and testamentary capacity, are well-established in Iowa law. Karen requests that The Supreme Court need not revisit these well-settled principles, as they adequately address the issues presented in this case. No oral arguments are necessary, and the decision of the District Court should be upheld to honor the clear intent of the testator and maintain the integrity of the legal process.

Karen requests the Appellate Court award her reasonable appellate attorney fees.

ORAL ARGUMENT NOTICE

Counsel respectfully requests oral argument.

/s/ Susan M. Hess
Susan M. Hess

/s/ Sahil Kumar
Sahil Kumar

ATTORNEY'S COST CERTIFICATE

I hereby certify that the cost of printing the foregoing Appellee's Reply Brief and Argument was the sum of \$ 0.00.

/s/ Susan M. Hess
Susan M. Hess

/s/ Sahil Kumar
Sahil Kumar

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