

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
VALERIE ANN DUMKE.

No. 50962

CHAD ALEXANDER,
Appellant,
vs.
EDMUND W. DUMKE,
Respondent.

FILED

FEB 04 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *mod*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition to admit a holographic codicil to a will to probate. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge.¹

Appellant sought to admit to probate an alleged copy of a holographic codicil to a will. The district court denied the petition, finding that the holographic codicil did not contain a handwritten date as required under NRS 133.090(1) and that appellant had not met the requirements of NRS 136.240 for admitting a copy of a lost or destroyed will. Appellant appeals the district court's denial of his petition on these bases.

Appellant argues that the proposed copy of the holographic codicil sufficiently meets the requirements of NRS 133.090(1) because the codicil was inside a sealed envelope that contained a postmark date. Appellant therefore argues that the requirement that a holographic codicil contain a handwritten date is sufficiently complied with because the decedent intended for the postage date to serve that purpose. Respondent

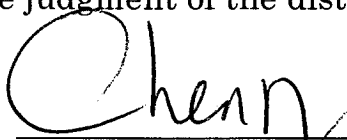
¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.


argues that the statute is clear in requiring a handwritten date, and because the document lacks a handwritten date it cannot be admitted to probate.


We review de novo issues concerning statutory construction. Nelson v. Heer, 123 Nev. 26, ___, 163 P.3d 420, 425 (2007). Our caselaw has clearly established that when “the language of a statute is plain and unambiguous, and its meaning clear and unmistakable, there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself.” Id. (quoting State, Div. of Insurance v. State Farm, 116 Nev. 290, 293, 995 P.2d 482, 485 (2000)).

NRS 133.090(1) requires that a holographic will contain “the signature, date and material provisions . . . written by the hand of the testator.” This language is clear and unambiguous; therefore we must enforce the plain language of the statute. As a result, the holographic codicil presented by appellant is invalid because it lacks the handwritten date that NRS 133.090(1) specifically requires. Accordingly, the district court properly denied the petition and we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

²Based on our resolution of this case, we need not consider appellant’s arguments regarding integration of the envelope with the holographic codicil or whether NRS 136.240 applies to holographic wills.

cc: Hon. Andrew J. Puccinelli, District Judge
Carolyn Worrell, Settlement Judge
Molof & Vohl
Walsh, Baker & Rosevear, P.C.
Solomon Dwiggins & Freer
Elko County Clerk