

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
GLADYS NUPEN.

No. 40347

ELIZABETH CHARETTE,
Appellant,
VS.
CARMEL MATTHEWS,
Respondent.

FILED

APR 09 2003

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is a proper person appeal from a district court order in a probate action. We conclude that substantial evidence supports the district court's findings, and so we affirm the district court's decision.

Appellant was the decedent's housekeeper. She sought to be appointed as personal representative based on a July 1999 will that named her executrix and left the estate to her and the decedent's two brothers. The decedent's sister, respondent in this appeal, contested appellant's appointment and sought to admit to probate an earlier will naming respondent as the personal representative and leaving the entire estate to respondent. Respondent also sought the return of funds that had been held in a joint account between appellant and the decedent, and a Honda Accord that appellant claimed was an inter vivos gift.


The district court found that the decedent suffered from dementia and senility and that appellant had exerted undue influence over her, and thus refused to admit the 1999 will to probate. The district court also found that the decedent's gifts to appellant of money in the bank account and the Honda were testamentary rather than inter vivos, and that the decedent lacked the capacity to make such gifts. Alternatively,


the district court found that the decedent lacked capacity to make inter vivos gifts. Accordingly, the district court admitted the earlier will, appointed respondent as the personal representative, and ordered appellant to return the funds and the car. The district court also awarded costs and attorney fees to respondent. This appeal followed.

The district court made detailed findings concerning each witness's testimony and that witness's credibility, and found that, in 1999, the decedent lacked the capacity to make a valid will or to make valid gifts. We will overturn a district court's findings of fact only if they are clearly erroneous and not supported by substantial evidence.¹ Here, the district court's findings are amply supported by the record. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Shearing, J.


Leavitt, J.


Becker, J.

cc: Hon. Robert W. Lane, District Judge
Elizabeth Charette
George D. Greenberg
Nye County Clerk

¹See Gibellini v. Klindt, 110 Nev. 1201, 885 P.2d 540 (1994).