

FILED

08/16/2023

Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs July 3, 2023

IN RE ESTATE OF HAROLD W. WILLIAMS

Appeal from the Probate Court for Jefferson County
No. 2020-14-348 Dennis Roach, II, Judge

No. E2022-01621-COA-R3-CV

This appeal arises out of a claim filed by a decedent's wife against his estate. Of note, the decedent's will contained a provision bequeathing his wife all of his clothing, personal effects, automobiles, and all of his other tangible personal property. During an inspection of the decedent's home following his death, the decedent's relatives located a checkbook with a sizeable amount of money contained in it, while also locating a large sum of money left in his clothing and in a wallet taped to a pipe in the decedent's bathroom. The decedent's wife argues that this money constitutes tangible personal property left to her in the decedent's will. The trial court rejected this argument, determining that the money constituted intangible personal property. Having reviewed the record, we affirm.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Probate Court Affirmed
and Remanded.**

ARNOLD B. GOLDIN, J., delivered the opinion of the Court, in which ANDY D. BENNETT and KRISTI M. DAVIS, JJ., joined.

Clinton R. Anderson, Morristown, Tennessee, for the appellant, Patty J. Farmer.

Tom R. Ramsey, Knoxville, Tennessee, for the appellee, Glenda K. Williams.¹

OPINION

BACKGROUND AND PROCEDURAL HISTORY

Harold W. Williams ("Decedent") died on March 26, 2020. Decedent executed a "Last Will and Testament" dated March 13, 2014. Decedent's will provided in pertinent part as follows:

¹ The appellee is also known as Glenda K. Allen.

Article V

Disposition of Tangible Personal Property

I give and bequeath my gun collection to Julie N. Tache.

I give and bequeath my Nascar collection to Martin Nantz.

Except for the specific bequests as stated above, I give and bequeath to my wife, Patty J. Farmer, if she shall survive me, all of my clothing, personal effects, automobiles (together with any policies of insurance thereon) and all of my other *tangible* personal property. If my wife shall not survive me, I direct that my personal property be sold and the proceeds disposed of as provided in Article VII of this my Last Will and Testament.

(emphasis added).

According to testimony, Decedent's wife, Patty Farmer ("Appellant"), invited Glenda K. Williams, Decedent's sister and executrix of his estate, and her daughter, Julie Tache, to Decedent's home to help sort through Decedent's clothing and other belongings after his death. During the course of this visit, the executrix and her daughter located a checkbook with a sizeable amount of money contained within it, in addition to locating a large sum of money in Decedent's clothing and in a wallet that was hidden and affixed to a pipe in Decedent's bathroom closet. It was ultimately determined that \$21,000.00 was found. Appellant was present in the home during this inspection. Due to COVID restrictions, the executrix was unable to set up an estate account or deposit the money into an estate account and instead kept the money in a safe at her home.

On August 28, 2020, Appellant filed a claim against Decedent's estate, alleging that the money found by the executrix and her daughter constituted tangible personal property and was to be distributed to her pursuant to Article V of Decedent's will.² A hearing on the matter was held on July 11, 2022, in the Probate Court for Jefferson County, Tennessee ("the trial court"). In an order entered on October 24, 2022, the trial court made the following findings pertinent to this appeal:

The court finds that . . . there was twenty-one thousand dollars worth of cash found at the home, that the parties kept their funds separate, that the decedent's wife actually even handed the checkbook to the executor, the executrix, to take the money to use for the account, saying to this court that, yeah, I mean, it was his money for his purposes. She knew that, and understood that. I believe, you know, that Ms. Farmer didn't know where that money was placed in the bathroom behind the pipe, and that money, as

² Appellant's claim initially alleged the money totaled \$32,000.00. However, at trial the total sum was determined to be \$21,000.00.

far as I can, – there is some dispute, but I think it’s pretty clear that money is [i]ntangible, an intangible asset[.]

This appeal followed.

ISSUE PRESENTED

Appellant raises only a single issue on appeal for review by this Court, restated as follows: Whether the money constitutes tangible personal property under Decedent’s will.

DISCUSSION

In the present appeal, the disposition turns on whether money constitutes tangible or intangible personal property. Here, the trial court determined that the money found was intangible personal property. This Court reviews a trial court’s conclusions of law de novo with no presumption of correctness. *Campbell v. Florida Steel Corp.*, 919 S.W.2d 26, 35 (Tenn. 1996)

In their briefs, both sides highlight the fact that there is a general lack of case law specifically discussing whether money constitutes tangible or intangible personal property for purposes of distribution under a will. Although we agree that existing case law does not appear to paint a clear picture on this precise question, we are of the opinion that the trial court’s conclusion in this case was not erroneous. At the outset, we note that there is a wide consensus in case law that, generally speaking, money is considered an intangible asset. *See PNC Multifamily Capital Institutional Fund XXVI Ltd. P’ship v. Bluff City Cmty. Dev. Corp.*, 387 S.W.3d 525, 553 (Tenn. Ct. App. 2012) (“[T]he general rule is that money is an intangible.”); *see also National Gypsum Co. v. Dep’t of Treasury*, 341 N.W.2d 203, 206 (Mich. Ct. App. 1983) (noting that money is considered an intangible asset); *Matter of Estate of Larson*, 538 N.W.2d 802, 803 (Wis. Ct. App. 1995) (finding that money is considered to be intangible personal property for probate purposes). Moreover, we observe that under Tennessee Code Annotated section 67-5-501(5), a statute which defines property “[f]or purposes of classification and assessment,” money is directly listed as intangible personal property consistent with the general understanding:

“Intangible personal property” includes personal property, such as **money**, any evidence of debt owed to a taxpayer, any evidence of ownership in a corporation or other business organization having multiple owners, and all other forms of property, the value of which is expressed in terms of what the property represents rather than its own intrinsic worth. “Intangible personal property” includes all personal property not defined as “tangible personal property.”

Tenn. Code Ann. § 67-5-501(5) (emphasis added). Money itself is defined in Black’s Law

Dictionary as “[t]he medium of exchange authorized or adopted by a government as part of its currency.” *Money*, Black’s Law Dictionary (7th ed. 1999).

We observe that courts in other jurisdictions have also embraced the general understanding of money as intangible personal property. As an example, consider the following discussion from the Court of Appeals of Wisconsin:

While no statutes or cases directly address whether cash, bank deposits, annuities and trust proceeds are tangible or intangible personal property for purposes of probate, the trial court’s determination that they are intangible assets comports with both the ordinary dictionary definition of the terms and the construction given to the terms in other areas of the law. Specifically, “tangible property” is defined as property “which may be felt or touched, and is necessarily corporeal, although may be either real or personal (*e.g.* ring or watch).” BLACK’S LAW DICTIONARY 1456 (6th ed. 1990). “Intangible property” is defined as “such property as has no intrinsic and marketable value, but is merely the representative or evidence of value, such as certificates of stocks, bonds, promissory notes, copyrights, and franchises.” *Id.* at 809.

A bank account is a contract between a depositor and a financial institution for the deposit of funds. Section 705.01(1), STATS. An annuity confers a right to receive payments. BLACK’S *supra*, at 90. Since bank deposits, checks, annuities and trust agreements are all agreements or documents conferring rights to the management and payment of money or assets, they fall within the definition of intangible personal property rather than tangible personal property. They have no value by themselves, but rather *represent* value.

This conclusion is consistent with the law defining tangible and intangible personal property in other areas of the law, as in construing intangible personal property to include cash.

Matter of Estate of Larson, 538 N.W.2d at 803.

Given the general understanding that money is an intangible and the fact that, in one area of the law, our own General Assembly has defined intangible personal property to include money, *see* Tenn. Code Ann. § 67-5-501(5), we find no error in the trial court’s disposition in this case. Indeed, although Decedent’s will left to Appellant “all of [his] other tangible personal property,” the money at issue does not fall within the purview of this portion of Decedent’s will.³

³ For her part, the executrix has raised an issue on appeal that was predicated on this Court

CONCLUSION

Based on the foregoing, the trial court's order is affirmed.

s/ Arnold B. Goldin
ARNOLD B. GOLDIN, JUDGE

determining that the money at issue in this case constituted tangible personal property. Because we have determined that the money is intangible personal property, this alternative issue is pretermitted.