

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
April 17, 2025 Session

FILED

06/13/2025

Clerk of the
Appellate Courts

IN RE ESTATE OF NANN-ALIX WICKWIRE-MAGRILL

Appeal from the Circuit Court for Johnson County
No. CC-23-CV-57 James E. Lauderback, Judge

No. E2024-00934-COA-R3-CV

The trial court dismissed a will contest based upon the plaintiff's failure to state a claim for which relief could be granted pursuant to Rule 12.02(6) and awarded the defendant attorney's fees pursuant to Tennessee Code Annotated § 20-12-119(c). Plaintiff appeals. Discerning no error, we affirm.

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

KRISTI M. DAVIS, J., delivered the opinion of the Court, in which D. MICHAEL SWINEY, C.J., and THOMAS R. FRIERSON, II, J., joined.

Radford H. Dimmick, Nashville, Tennessee, for the appellant, Michael C. Magrill.

Michael S. Lattier and Will A. Ellis, Kingsport, Tennessee, for the appellee, Temple Reece.

OPINION

BACKGROUND

Nann-Alix Wickwire-Magrill ("Decedent") died on November 22, 2021, at ninety-three years of age. A signed will was submitted for probate on December 9, 2021, in the Circuit Court for Johnson County (the "trial court"). The will was dated May 8, 2018, and named Temple Reece ("Executrix") as Decedent's executor. The 2018 will directs Executrix to

divide the residue, in cash or in kind, to be distributed in [Executrix's] sole discretion, judgment, experience and preference in the selection of Johnson County, Tennessee entities, activities or individuals to receive cash or

properties which [Decedent] may own at the time of [her] death. The idea is to keep this money and/or property local for the use and benefit of locally worthy projects or persons.

On November 27, 2023, Michael C. Magrill, by and through his attorney-in-fact, Kyle Magrill (“Plaintiff”), filed a petition contesting the 2018 will. Plaintiff referred to a prior will under which Plaintiff would have been the executor and a beneficiary of Decedent’s estate. Plaintiff also alleged that the 2018 will “was the result of undue influence upon [] Decedent” by Executrix and another defendant, Tracy Poole (together with Executrix, “Defendants”). Executrix filed a motion to dismiss for failure to state a claim pursuant to Tenn. R. Civ. P. 12.02(6), alleging that Plaintiff lacked standing to bring the will contest because he is not Decedent’s natural heir and that the prior will Plaintiff alluded to in the complaint was not attached. Executrix also claimed that Plaintiff failed to plead sufficient factual allegations.

Plaintiff filed an amended complaint to which he attached a will dated June 11, 2007, purportedly signed by Decedent, that named Plaintiff as Decedent’s executor as well as a beneficiary. Executrix filed a second motion to dismiss, maintaining that Plaintiff failed to state a claim for which relief could be granted. The trial court held a hearing on May 7, 2024,¹ and entered an order granting the motion to dismiss on June 20, 2024. The trial court dismissed Plaintiff’s action and awarded Executrix attorney’s fees totaling \$9,660.00, pursuant to Tennessee Code Annotated § 20-12-119(c).² Plaintiff appeals.

ISSUES

Plaintiff argues on appeal that the trial court erred in dismissing his will contest pursuant to Tennessee Rule of Civil Procedure 12.02(6).

¹ The record does not contain a transcript from the motion hearing.

² (c)(1) Notwithstanding subsection (a) or (b), in a civil proceeding, where a trial court grants a motion to dismiss pursuant to Rule 12 of the Tennessee Rules of Civil Procedure for failure to state a claim upon which relief may be granted, the court shall award the party or parties against whom the dismissed claims were pending at the time the successful motion to dismiss was granted the costs and reasonable and necessary attorney’s fees incurred in the proceedings as a consequence of the dismissed claims by that party or parties. The awarded costs and fees shall be paid by the party or parties whose claim or claims were dismissed as a result of the granted motion to dismiss.

STANDARD OF REVIEW

We review a trial court's granting of a Rule 12.02(6) motion to dismiss de novo with no presumption of correctness. *Robinson v. City of Clarksville*, 673 S.W.3d 556, 566 (Tenn. Ct. App. 2023) (citing *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011)).

DISCUSSION

Our Supreme Court has set forth the parameters of our review:

A Rule 12.02(6) motion challenges only the legal sufficiency of the complaint, not the strength of the plaintiff's proof or evidence. The resolution of a 12.02(6) motion to dismiss is determined by an examination of the pleadings alone. A defendant who files a motion to dismiss admits the truth of all of the relevant and material allegations contained in the complaint, but ... asserts that the allegations fail to establish a cause of action.

In considering a motion to dismiss, courts must construe the complaint liberally, presuming all factual allegations to be true and giving the plaintiff the benefit of all reasonable inferences. A trial court should grant a motion to dismiss only when it appears that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief.

Webb, 346 S.W.3d at 426 (citations omitted). This Court is “not required to accept as true assertions that are merely legal arguments or ‘legal conclusions’ couched as facts.” *Id.* at 427.

Further, Rule 8.01 of the Tennessee Rules of Civil Procedure provides:

A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief the pleader seeks. Relief in the alternative or of several different types may be demanded.

Under this rule,

[t]o be sufficient and survive a motion to dismiss, a complaint must not be entirely devoid of factual allegations. Tennessee courts have long interpreted Tennessee Rule of Civil Procedure 8.01 to require a plaintiff to state “‘the facts upon which a claim for relief is founded.’” *Smith v. Lincoln Brass Works, Inc.*, 712 S.W.2d 470, 471 (Tenn. 1986) (quoting *W & O Constr. Co.*

v. City of Smithville, 557 S.W.2d 920, 922 (Tenn. 1977)). A complaint “need not contain detailed allegations of all the facts giving rise to the claim,” but it “must contain sufficient factual allegations to articulate a claim for relief.” *Abshire [v. Methodist Healthcare-Memphis Hosps.]*, 325 S.W.3d [98,] 103–04 [(Tenn. 2010)]. “The facts pleaded, and the inferences reasonably drawn from these facts, must raise the pleader’s right to relief beyond the speculative level.”

Webb, 346 S.W.3d at 427.

Against this backdrop, Plaintiff maintains that his complaint satisfies Tennessee’s liberal pleading standard. Executrix argues that the complaint is essentially devoid of any factual allegations. Looking only at the complaint, as we must at the Rule 12.02 stage, we agree with Executrix that the complaint is deficient. The entire basis of Plaintiff’s will contest is spelled out in a single paragraph:

Basis of Contest: Plaintiff alleges the Decedent was incompetent and/or disabled at the time the 2018 Will was signed and by reasons of her physical infirmities and mental illnesses, the Decedent was of unsound mind. Plaintiff also alleges the Decedent’s 2018 Will was the result of undue influence upon the Decedent by the Defendants by reason of the dominion and control exercised by [Executrix] upon the Decedent in an effort to persuade and influence Decedent to name [Executrix] as the primary beneficiary of what became Decedent’s 2018 Will during Decedent’s lifetime.

No additional factual allegations underpin Plaintiff’s claim. As Executrix notes in her appellate brief,

Plaintiff never alleges when the undue influence began, what it entailed, or how it influenced Decedent’s decision-making. Plaintiff never even alleges how the Defendant allegedly leveraged a confidential relationship to exercise dominion or control over Decedent. Instead, Plaintiff offers broad, conclusory statements about Defendant exercising “dominion” and “control” over Decedent.

Even considering Tennessee’s liberal pleading standard and construing all of the foregoing in Plaintiff’s favor, the complaint is still deficient. Because of the dearth of factual allegations in the complaint, Plaintiff’s right to relief does not rise to, much less rise beyond, the speculative level. Because the complaint does not contain “sufficient factual allegations to articulate a claim for relief[.]” *Webb*, 346 S.W.3d at 427, the trial court did not err in dismissing said complaint. We affirm.

CONCLUSION

The judgment of the Circuit Court for Johnson County is affirmed, and this case is remanded for proceedings consistent with this opinion. Costs on appeal are assessed to the appellant, Michael Magrill, by and through his attorney-in-fact, Kyle Magrill, for which execution may issue if necessary.

KRISTI M. DAVIS, JUDGE