

Court Affirmed Probate Order On The Ownership Of Farm Equipment Which Depended On The Location Of The Equipment At The Time Of The Decedent's Death

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In *Halderman v. Ivy*, the decedent's will stated: "I give, devise and bequeath my 66.977 acres located on FM 1848 in Freestone County, Texas, *including all livestock and farm equipment located thereon* to my two children . . . in equal shares; provided, however, if either [of the children] shall predecease me, then her share shall be distributed to the survivor of the two, per capita." No. 08-24-00070-CV, 2024 Tex. App. LEXIS 7773 (Tex. App.—El Paso October 31, 2024, no pet. history). The plaintiffs filed a petition asking for a declaratory judgment that a truck, tractor, loader, and hay spear were farm equipment located on the farm at the time of the decedent's death. The trial court conducted a bench trial at which six witnesses testified, and the dispute centered on the location of the tractor, loader, and hay spear on the day the decedent died. The trial court found that there was not sufficient evidence to establish that the equipment was on the property at the time of the decedent's death.

The court of appeals affirmed. The appellant argued that the finding was contrary to a judicial admission that the equipment was on the property. The court of appeals held that even if there was a judicial admission, it was waived when the appellant allowed contrary evidence to be admitted without objection: "a party relying on a judicial admission . . . must protect the record by objecting to the introduction of controverting evidence and to the submission of any issue bearing on the facts admitted. Here, Ms. Halderman cannot maintain that Ms. Ivy's attorney's statements were a judicial admission that the tractor was on the farm on the day Mr. Boyd died, when evidence contrary to the purported admission was heard without objection." *Id.*

The court then held that there was conflicting evidence, and that the trial court's finding was supported by sufficient evidence:

Ms. Halderman did not object to testimony that the tractor was not on the farm the day Mr. Boyd died; therefore, the trial court was left with conflicting evidence. Deputy Leatherman testified that while he confined himself to where Mr. Boyd's body was found on the farm, he did not recall seeing a tractor. Ms. Ivy testified that the tractor was at the house when Mr. Boyd died. Mr. Rodell testified that sometime after Mr. Boyd died, Ms. Ivy asked him to get the tractor, which was at her house, and move it to his house. On the other hand, Mr. Lathrop testified that he drove by Mr. Boyd's house once or twice a week and he never saw a John

Deere tractor on the property. Ms. Halderman testified she obtained the video taken by Deputy Leatherman and “a yellow wheel” could be seen in the video. However, neither the video nor any screenshots from the video showing “a yellow wheel” were admitted in evidence. After considering and weighing all the pertinent record evidence, we determine that the credible evidence supporting the finding was not so weak or so contrary to the overwhelming weight of the evidence that the finding should be set aside and a new trial ordered. Furthermore, we defer to the fact-finder’s credibility determinations and we may not substitute our judgment for that of the fact-finder, even if we would have reached a different conclusion.

Id.

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