

NOT DESIGNATED FOR PUBLICATION

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STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2014 CA 0672

BOBBY L. CALVERY

VERSUS

CHARLES B. THREATT, T & T TRANSPORT
SERVICE, INC., AND THE SUCCESSION OF
BARBARA THREATT

Judgment Rendered: DEC 23 2014

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Appealed from the
19th Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Trial Court Number 572,189

Honorable Robert Downing, Judge Ad Hoc

* * * * *

J. Tracy Mitchell
Baton Rouge, LA

Attorney for Appellants
Defendants – Charles B. Threatt
(Succession of), T & T Transport
Service, Inc. and Succession of
Barbara Threatt

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Plaintiff – Bobby L. Calvery

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BEFORE: KUHN, PETTIGREW, AND WELCH, JJ.

JJ Pettigrew, J. Concurred

WELCH, J.

Defendants, Charles Dale Threatt and Michael Threatt (as the corporate representatives of T&T Transport Services, Inc. (T&T), the co-executors for the Succession of Charles B. Threatt, and as co-administrators of the Succession of Barbara Threatt), appeal a judgment rendered in favor of plaintiff, Bobby Calvery, recognizing Mr. Calvery's ownership of corporate stock in T&T, and ordering defendants to return the original stock certificate evidencing that ownership to Mr. Calvery and to recognize Mr. Calvery's ownership of such stock. We affirm.

DISCUSSION

On October 30, 2008, Mr. Calvery filed this lawsuit against T&T and Charles B. Threatt, individually and in his capacity as an officer of T&T and as the executor of the succession of Barbara Threatt, seeking, among other things, to be recognized as the owner of 49 shares of stock in T&T.¹ In 2013, following the death of Charles Threatt in 2012, Charles Threatt's sons, Charles and Michael Threatt, were substituted as defendants in place of their father in his individual capacity as administrator of the succession of Barbara Threatt.

A two-day jury trial was held, during which testimonial and documentary evidence was introduced. The record reflects that in 1976, Charles and Barbara Threatt formed T&T. Charles Threatt was the president of the corporation and the owner of 51 shares of stock, as reflected by Stock Certificate Number 1, while Barbara Threatt was the secretary/treasurer of the corporation and the owner of 49 shares of stock, as reflected by Stock Certificate Number 2. At trial, Mr. Calvery sought to prove that Barbara Threatt, his aunt, transferred her 49 shares of stock in T&T to him prior to her death from cancer in December of 2006. Mr. Calvery introduced a letter signed by Barbara Threatt and addressed to the Louisiana

¹ Mr. Calvery also asserted a damage claim for emotional distress and a claim for unlawful corporate distributions. Both causes of action were dismissed by the trial court in separate judgments issued on October 15, 2013.

Secretary of State in which she stated her desire to transfer all of her shares of stock in T&T to her nephew, Mr. Calvery. The record reflects that the letter was received in the Secretary of State's office on November 17, 2006. Mr. Calvery also introduced a copy of T&T's Stock Transfer Ledger reflecting that in November 2006, Barbara Threatt transferred her 49 shares of stock in T&T to him, along with T&T Stock Certificate Number 3 certifying that Mr. Calvery is the owner of 49 shares of T&T stock. Stock Certificate Number 3 is signed by Mr. Calvery as the secretary-treasurer of the corporation and also bears the signature "Charles B. Threatt" as the corporation's president.

In a deposition taken prior to his death, Charles Threatt denied having signed Stock Certificate Number 3. At trial, Mr. Calvery offered expert testimony of a handwriting expert who examined 53 documents with Charles Threatt's signatures on them from 1976 through 2011 and testified that he was convinced that the person who signed the comparative documents also signed Stock Certificate Number 3. The expert acknowledged that there was no question in his mind that the signature on Stock Certificate Number 3 is the signature of Charles Threatt.

Mr. Calvery introduced evidence of the close and loving relationship he had with Barbara Threatt, who had no children of her own and treated him as her son.² He also offered evidence of his contributions as an employee and manager of T&T, where he worked for 29 years from 1978 until September 2007, when he was fired by Charles Threatt. Charles Threatt denied that his wife treated Mr. Calvery as a son, stating that instead it was he who treated Mr. Calvery as a son.

The jury was presented with conflicting evidence regarding the circumstances surrounding Barbara Threatt's transfer of her shares of stock in T&T to Mr. Calvery. Mr. Calvery testified that his aunt called the office and asked that the company secretary, Shyelisa Carter, come to her home and type a letter for her.

² The defendants, Charles and Michael Threatt, are Mr. Threatt's sons from a prior marriage.

He stated that Mrs. Carter went over to Barbara Threatt's home with the corporate books, returned to the office, and asked him to write a check in the amount of \$25.00 to the Secretary of State. He testified that Charles Threatt brought him Stock Certificate Number 3 and told him to sign in the blank for T&T's secretary/treasure, which he did. He stated that some congratulatory comments were made to him by Charles Threatt, and he went over to see his aunt and expressed his gratitude to her for the gift.

Mrs. Carter offered a different version of the events. She testified that she was at Barbara Threatt's home when Barbara Threatt told her to let Mr. Calvery know to draw up the letter they had spoken about, to get the corporate book from the office, and to bring the book back to her. According to Mrs. Carter, Mr. Calvery called the Secretary of State's office, wrote a letter to the Secretary of State, and asked her to type it. She stated that Mr. Calvery told her to take the letter to Barbara Threatt, she did so, and Barbara Threatt looked at the letter and signed it. Mrs. Carter testified that Mr. Calvery told her to type up the new stock certificate and to look at the stock certificates issued to the Threatts as a reference. She stated that she typed the details of the transfer on the transfer ledger and put everything into the corporate book, and on Mr. Calvery's instruction, took the corporate book back to Barbara Threatt.

Charles Threatt testified in his deposition that he asked his wife about the transfer of her stock to Mr. Calvery, but that she did not answer him. Charles Threatt testified that after his wife died, he told Mr. Calvery that the stock certificate in his name was not worth the paper it was written on, he took the T&T corporate record book out of the company safe, and he refused to give Mr. Calvery the certificate bearing his name.

Following the conclusion of the trial, the jury was presented with a jury verdict form that asked the following five questions: (1) Do you find that Barbara

Threatt executed an endorsement of stock certificate number 2 in T&T Transport Services for transfer to Bobby Calver; (2) Do you find that Barbara Threatt delivered stock certificate number 2 in T&T Transport Services to Bobby Calver; (3) Do you find that Bobby Calver accepted the donation of stock in T&T Transport Services; (4) Do you find that Barbara Threatt transferred ownership of her 49% of the outstanding common stock of T&T Transportation Services to Bobby Calver; and (5) Do you find that Bobby Calver is the owner of 49% of the outstanding common stock of T&T Transport Service? The jury answered "Yes" to all five questions.

Thereafter, in accordance with the jury verdict, the trial court signed a judgment on December 17, 2013, recognizing Mr. Calver to be the rightful owner of 49% of the outstanding common stock in T&T, represented by Stock Certificate Number 3. The court further ordered the defendants to return the original Stock Certificate Number 3 to Mr. Calver and to recognize Mr. Calver's ownership of 49 shares of common stock. Additionally, the trial court assessed defendants with costs, expert witness fees, and reasonable attorney fees.

From this judgment, defendants appealed, contesting all five of the jury's findings as reflected in the jury verdict form. Defendants also ask this court to reverse the award of costs in the event this court reverses the judgment of the trial court.

We have thoroughly reviewed the entire record in this matter, and we find no factual or legal error in the ultimate determination that Mr. Calver is the rightful owner of 49 shares of T&T stock. Therefore, we affirm that ruling and in so doing, we issue this memorandum opinion in compliance with Uniform Rules—Court of Appeal Rule 2.16.1B.

CONCLUSION

For the foregoing reasons, the judgment appealed from is affirmed. All costs of this appeal are assessed to defendants.

AFFIRMED.