

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2021 CA 0513

IN THE MATTER OF THE
SUCCESSION OF GLORIA GARSIDE

JUDGMENT RENDERED: DEC 22 2021

Appealed from
The Nineteenth Judicial District Court
Parish of East Baton Rouge • State of Louisiana
Docket Number P107301 • Division 22

The Honorable Timothy E. Kelley, Presiding Judge

Donald Carl Hodge, Jr.
Baton Rouge, Louisiana

COUNSEL FOR APPELLANT
PLAINTIFF—Donna Laird

Roy Hyrum Maughan, Jr.
Baton Rouge, Louisiana.

COUNSEL FOR APPELLEE
DEFENDANT—Michael
Anthony Rojas

BEFORE: MCCLENDON, WELCH, AND THERIOT, JJ.

JEW
PMC by JEW
MST

WELCH, J.

Donna Laird appeals a trial court judgment appointing Michael Anthony Rojas as the administrator of the estate of their mother, Gloria Garside. We affirm the judgment and issue this memorandum opinion in compliance with Uniform Rules, Courts of Appeal Rule 2-16.1(B).

Ms. Garside died intestate on December 28, 2019. Ms. Garside had no surviving spouse, but she had three surviving children: Mr. Rojas, Ms. Laird, and Christopher Laird. At the time of Ms. Garside's death, she suffered from dementia and was a resident of a nursing home, although she still owned a residence in Baton Rouge. Several years prior to Ms. Garside's death, she executed a power of attorney in favor of Ms. Laird. The power of attorney in favor of Ms. Laird was subsequently revoked, and a power of attorney was executed in favor of Mr. Rojas. Ms. Garside was subsequently interdicted, and Mr. Rojas was appointed as her curator.

Following Ms. Garside's death, Ms. Laird petitioned the trial court seeking to be appointed as executor and administrator of her estate. Mr. Rojas also petitioned the trial court seeking to be appointed as administrator of Ms. Garside's estate and asserted that Ms. Laird should be disqualified from appointment as executor/administrator. Following an evidentiary hearing on the matter, the trial court rendered and signed a judgment on March 9, 2021 appointing Mr. Rojas as administrator of the estate of Ms. Garside and setting security in the amount of \$20,000.00. From this judgment, Ms. Laird appeals.¹

On appeal, Ms. Laird contends that the trial court erred in naming Mr. Rojas as administrator of the estate, as he should have been disqualified under La. C.C.P. art. 3097(A)(6) for "bad moral character," which she claims he exhibited in his

¹ A judgment appointing or removing a succession administrator is an appealable judgment. See **In Re Succession of LeBouef**, 2013-0209 (La. App. 1st Cir. 9/9/14), 153 So.3d 527, 533 (*en banc*); La. C.C.P. art. 2974.

previous fiduciary roles with regards to Ms. Garside. She further claims that she should be “best qualified” under La. C.C.P. art. 3098 for appointment as administrator of the estate. In response, Mr. Rojas maintains that he was properly appointed as administrator of Ms. Garside’s estate because he is better qualified, he is familiar with the assets and liabilities of Ms. Garside’s estate, and he has already completed an inventory of her estate. In addition, he points out that the evidence established Ms. Laird previously exploited Ms. Garside’s assets by utilizing them for her own benefit.

Louisiana Code of Civil Procedure article 3097(A)(6) provides that “[n]o person may be confirmed as ... administrator who ... on contradictory hearing, is proved to be unfit for appointment because of bad moral character.” In addition, La. C.C.P. art. 3098 provides, in pertinent part:

A. When the appointment as administrator ... is claimed by more than one qualified person, except as otherwise provided by law, preference in the appointment shall be given by the court in the following order to:

(1) The best qualified among the ... competent heirs or legatees, or the legal representatives of any incompetent heirs or legatees of the deceased.

* * *

B. “Best qualified[,”] as used in this Article, means the claimant best qualified personally, and by training and experience, to administer the succession.

In making the selection of which claimant is best qualified personally, and by training and experience, to administer the succession, the trial court has wide discretion. **Succession of Anderson**, 26,947 (La. App. 2nd Cir. 5/10/95), 656 So.2d 42, 45, writ denied, 95-1789 (La. 10/27/95), 662 So.2d 3; see also **Succession of Virgets**, 162 So. 53, 54 (La. 1935). Thus, the trial court’s selection of an administrator will not be disturbed or reversed absent an abuse of that discretion. See **Succession of Brown**, 37 So.2d 842, 843 (La. 1948).

Furthermore, any underlying factual conclusions will not be disturbed unless they are manifestly erroneous. See Succession of Virgets, 162 So. at 54.

In rendering judgment the appointing Mr. Rojas as administrator of the succession of Ms. Garside, the trial court specifically that Ms. Laird's allegations of Mr. Rojas breaching fiduciary duties and improperly handling Ms. Garside's property to be unsupported by the evidence. The trial court further found that the evidence established that Mr. Rojas had properly administered Ms. Garside's property and assets, that he had documented his activities in regards to Ms. Garside's property and assets, and that he had gone beyond what was required of a proper administrator by paying expenses and debts of Ms. Garside's estate out of his own pocket. The trial court was of the opinion that Mr. Rojas had the potential to be a good administrator, noting that he was employed and had the wherewithal to handle the business of Ms. Garside's estate. Although the trial court noted that Ms. Laird was unemployed, the trial court believed that she also had the ability to take care of Ms. Garside's estate. However, the trial court found that of the two claimants, Mr. Rojas was better qualified. Therefore, the trial court granted Mr. Rojas's request to be named administrator.

Based on our review of the record, we find no abuse of the trial court's discretion in its appointment of Mr. Rojas as administrator of the estate of Ms. Garside, nor do we find any manifest error in its determination that Mr. Rojas was qualified to be named administrator. Therefore, we affirm the March 9, 2021 judgment appointing Mr. Rojas as administrator of the estate of Ms. Garside and setting his security in the amount of \$20,000.00. All costs of this appeal are assessed to the plaintiff/appellant, Donna Laird.

AFFIRMED.