

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
(804) 786-2259

Granted Appeal Summary

Case

JAMES BRIAN TAYLOR v. AIDS-HILFE KOLN E.V., ET AL.
(Record Number 210935)

From

The Circuit Court of the City of Richmond; P. Hairston, Judge.

Counsel

Norman A. Thomas (Norman A. Thomas, PLLC) and Thomas H. Gays II (Thomas H. Gays II, P.L.C.) for appellant.

Jerry William Boykin and Emma Kruger Devaney (Offit Kurman, P.C.) for appellee.

Assignments of Error

I. The trial court reversibly erred to overrule Taylor's demurrer to the Amended Petition for the following reasons:

(A) A-H failed to allege sufficient grounds to state a cause of action under, or to establish prima facie applicability of the Uniform Foreign-Country Money Judgments Recognition Act, Va. Code §8.01-465.13:1, et seq.;

(B) A-H failed to allege sufficient facts to support its conclusions (1) that it was a "substantial legatee" under James Towsey's will within the meaning of Code §64.2-500, or (2) that Mr. Towsey died with "estate" in Richmond, Virginia, within the meaning of Code §64.2-443.

II. The trial court reversibly erred to grant summary judgment to A-H for the following reasons:

(A) A-H failed to sue Taylor as James Towsey's personal representative, but instead did so as a purported beneficiary of Mr. Towsey's estate, and A-H therefore lacked standing to sue Taylor and the lawsuit is a nullity as to him;

(B) A-H failed to join a necessary party to the lawsuit, Lisa Taylor, who James Towsey named as a fifty-percent co-beneficiary under his Transfer on Death Beneficiary Designation Form, and whose interest the trial court's judgment wholly extinguished;

(C) A-H is estopped from asserting in this litigation that James A. Towsey's Morgan Stanley account is a part of Mr. Towsey's estate, having taken an inconsistent and mutually contradictory litigation position in the German court proceedings;

(D) The trial court ignored the existence of genuine issues of material fact between Taylor and A-H, including: (1) the issue of James Towsey's competency to execute his Transfer on Death Beneficiary Form; (2) the specific issues decided and not decided by the German court regarding the Transfer on Death Beneficiary Form; (3) whether Mr. Towsey's Morgan Stanley account constituted part of his estate; (4) whether the German court's judgment granted or denied "recovery of a sum of money" within the meaning of Code §8.01-465.13:2; and (5) the completeness of the documents provided by A-H regarding the German court's judgment.