

COURT OF APPEALS OF VIRGINIA

Present: Judges Baker, Elder and Fitzpatrick

LAURA BURNSIDE BARBER

v. Record No. 1010-95-2

OSCAR MARION BARBER

MEMORANDUM OPINION*
PER CURIAM
NOVEMBER 28, 1995

FROM THE CIRCUIT COURT OF MIDDLESEX COUNTY
John M. Folkes, Judge

(Theresa Rhinehart, on brief), for appellant.

(Jeffrey M. Steingold, on brief), for appellee.

Laura Burnside Barber appeals the decision of the circuit court denying her motion for rehearing. The commissioner found, and the circuit court confirmed, that Laura had fraudulently induced Oscar Marion Barber to convey to her his interest in jointly-owned property. On appeal, Laura contends the trial court erred in refusing to admit into evidence a letter supporting her position. Upon reviewing the record and briefs of the parties, we conclude that this appeal is without merit. Accordingly, we summarily affirm the decision of the trial court. Rule 5A:27.

"Whether to reopen a case lies within the sound discretion of the trial judge." Minor v. Commonwealth, 16 Va. App. 803, 805, 433 S.E.2d 39, 40 (1993). Laura admits the letter does not

*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

qualify as after-discovered evidence. Therefore, the matter was solely in the trial court's discretion, and we cannot say that the trial court abused that discretion by refusing to reopen the hearing to allow into evidence a letter which Laura had in her possession during each of the several hearings.

Accordingly, the decision of the circuit court is summarily affirmed.

Affirmed.