No. 19-1322

In The
Supreme Court of the United States

Robert L. Vaughn, Jr. aka Judson Vaughn,

Petitioner,

v.

William O. Bray, Teresa V. Bray,
Wachovia Bank Nka Wells Fargo,
Alabama Credit Land & Farm Lenders

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court of Alabama

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Can a trial court and The Supreme Court of Alabama ignore previous Supreme Court of Alabama decisions that protect plaintiffs in cases of undue influence? Spiva v. Boyd, 90 So. 289 (Ala. 1921) declared: "In suits for relief on the ground of undue influence, neither limitations nor laches can begin to operate against the injured complainant so long as the undue influence itself continues." However, in this action, Vaughn v. Bray, et al, the trial court ignored Spiva v. Boyd and ruled for the defendants based on the Doctrine of Latches – even though the evidence was clear that Teresa Bray, the sole beneficiary of the testator's property, unduly influenced said testator until the testator's death. Within a month of the testator's death, the plaintiff filed a suit against the defendants. The Supreme Court of Alabama affirmed the trial court ruling.

2. Can a trial court and The Supreme Court of Alabama ignore a superseding authority and decide a case based not on the superseding authority, but rather on the law that the authority supersedes? Spiva v. Boyd is a superseding authority over statutes of limitations and the Doctrine of Latches in cases of undue influence. Spiva presents clear guidelines that protect plaintiffs – just as statutes of limitations protect defendants. Spiva v. Boyd is an Alabama state law that might be deemed (by some) as an unusual law, one perhaps that has few related or comparable laws in other states. But it is an important law that levels the playing field (in some circumstances) between plaintiffs and defendants in matters involving undue influence.

PARTIES TO THE PROCEEDING

The parties to the proceeding in the Supreme Court of Alabama were Petitioner Judson Vaughn and Respondents William O. Bray, Teresa V. Bray, Wachovia Bank (Nka) Wells Fargo, Alabama Credit Land & Farm Lenders

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Robert L. Vaughn Jr. aka Judson Vaughn petitions for a writ of certiorari to review the judgment of the Supreme Court of Alabama.

OPINIONS BELOW

Regarding the Supreme Court of Alabama case #1171207, Robert L. Vaughn Jr. aka Judson Vaughn v. William O. Bray, et al. (Appeal from Dale County Circuit Court: CV-07-232),: In its December 13th, 2019 Certificate of Judgment, the court denied the appellee's application for rehearing, stating: "Application Overruled. No Opinion." Further the court wrote: "...the judgment indicated below was entered in this cause on August 9, 2019: "Affirmed. No Opinion."

JURISDICTION

The Supreme Court of Alabama had jurisdiction over this appeal. This is a civil matter involving the conveyance by deed of two real estate properties and a historic farmhouse in Dale County, Alabama. The current value of these properties exceeds one million ($1,000,000.00) dollars. The appellant sought Equitable Relief. The Supreme Court of Alabama entered judgment on December 13th, 2019. The court denied plaintiff's petition for rehearing and affirmed the opinion of the trial court.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case does not involve interpretation of statutory or constitutional provisions.

STATEMENT OF THE CASE

This court should return this matter to the trial court because the trial court ignored the Supreme Court of Alabama ruling in the civil action Spiva v. Boyd, 90 So. 289 (Ala. 1921). In that matter the Supreme Court of Alabama declared: "In suits for relief on the ground of undue influence, neither limitations nor laches can begin to operate against the injured complainant so long as the undue influence itself continues."

The history of one sibling unduly influencing a parent in order to steal another sibling's birthright is as old as recorded history. Being aware of the frequency that such acts occur, the state of Alabama has established numerous laws to protect siblings and other descendants from the greed that all too often is displayed within families. Spiva v. Boyd is one such law. In this matter, Vaughn v. Bray, had the plaintiff, Judson Vaughn, filed suit against his sister and her husband when he learned that Mr. and Ms. Bray had coerced his mother, Verna Mathison Vaughn, into signing documents deeding her farm to Ms. Bray – rather than dividing the land equally between her two children as her will clearly stated – Judson Vaughn would have thrust his mother into one of two emotionally distressing situations. He could have – as was recommended by

counsel – had his mother declared mentally incompetent since she outwardly exhibited symptoms of dementia and was in the early stages of Alzheimer's disease.

Thus, a court would have likely ruled that the deeds she signed were invalid. At a trial to determine the validity of the deeds, Ms. Vaughn would not be required (or permitted) to testify. However, at the time Mr. and Ms. Bray coerced Ms. Vaughn into signing the deeds, during most of her waking hours, Ms. Vaughn was quite lucid.

Mr. Vaughn was schooled and began his professional career as a sociological and psychological researcher, specifically his initial profession was as a social scientist doing gerontological research, thus he was well aware that requiring or forcing his mother to go through a psychological evaluation to have her declared mentally incompetent would have been emotionally devastating for his mother.

Additionally, Ms. Vaughn was extremely well known in the small town of Ozark, Alabama. Mr. Vaughn knew that a trial in which he accused his sister of coercing his mother into signing deeds she did not want to sign, would be a widely attended trial with a packed courtroom every day, which would have been an extremely embarrassing spectacle for his mother.

Additionally still, at the time Ms. Vaughn was coerced into signing the deeds, Ms. Bray was Ms. Vaughn's primary caregiver and had sole power of

attorney over their mother. Knowing that Ms. Bray had a frightening temper when things did not go her way, Mr. Vaughn was afraid that should he sue Ms. Bray while Ms. Vaughn as still alive, Ms. Bray would retaliate against her mother in emotionally abusive ways.

But Spiva v. Boyd is not the only Supreme Court of Alabama decision that protects one sibling from the greed of another. There is Waddell v. Lanier, 62 Ala. [347] 349. In order to find for the defendants, the trial court also had to ignore Waddell, which states: "It is certain that agents are not permitted to become secret vendors or purchasers of property which they are authorized to buy or sell for their principals: or, by abusing their confidence." Possessing sole Power of Attorney made Ms. Bray, Ms. Vaughn's agent and fiduciary, thus she had a duty to execute Ms. Vaughn's desires as stated in her will; she did not.

In ignoring Waddell, the trial court also ignored, Burke v. Taylor, 94 Ala, 530, 532, 10 South. 129,130, which in agreement with Waddell, states: "In all such cases, the burden rests on the party claiming under the deed, to prove satisfactorily that it is just, fair and equitable in every respect, and not the party seeking to avoid it to establish that it is fraudulent."

Therefore, regarding the warranty deeds in question, the burden of proof that the procurement and executions of said deeds were not tainted, falls on the defendants Mr. and Ms. Bray.

Burke v. Taylor turns the notion of "innocent until proven guilty" on its head. As "the party claiming under the deed," Ms. Bray did not present evidence before the Circuit Court of Dale County, Alabama, "to prove satisfactorily that it is just, fair and equitable in every respect."

And finally, Alabama has established a firm test of undue influence as articulated in Elizabeth Hayes et al. v. Gordon W. Apperson, 1001605. Decided: February 08, 2002. Based on precedent, Hayes reaffirms that that there is a three-pronged test to determine undue influence: "A presumption of undue influence arises when: (1) there is a confidential relationship between a favored beneficiary and the testator, (2) the influence of the beneficiary is dominant and controlling in that relationship, and (3) there is undue activity by the beneficiary in procuring the execution of the will. Burns v. Marshall, 767 So.2d 347, 352 (Ala.2000); Ex parte Henderson, 732 So.2d 295, 298 (Ala.1999)."

In written and oral arguments before the Circuit Court of Dale County, Alabama the plaintiff proved beyond a shadow of doubt, that (1) Ms. Bray, (as the beneficiary) was Ms. Vaughn's daughter and primary care-giver and thus had a confidential relationship with the testator. (2) The evidence within the notes of the administrator of the retirement home in which Ms. Vaughn lived, clearly illustrate that Ms. Bray was "dominant and controlling in that relationship." In fact, the retirement home administrator reported Ms. Bray to the Alabama Department of Human Services,

because she witnesses Ms. Bray emotionally abusing Ms. Vaughn. And (3) Ms. Bray designed and controlled every aspect of procuring the execution of the deeds she coerced Ms. Vaughn into signing.

In order to find for the defendants, the trial court had to ignore Spiva v. Boyd, Burke v. Taylor, and Hayes v. Apperson.

REASONS FOR GRANTING THE PETITION

In order to deny the appellant's request for a rehearing and to affirm the judgment of the trial court, the Supreme Court of Alabama had to ignore Spiva v. Boyd, 90 So. 289 (Ala. 1921).

Spiva v. Boyd: "In suits for relief on the ground of undue influence, neither limitations nor laches can begin to operate against the injured complainant so long as the undue influence itself continues."

CV-07-232 was a lawsuit filed by the plaintiff, Judson Vaughn, in which the evidence was clear that William O. Bray and Teresa Bray, unduly influenced Verna Mathison Vaughn into signing documents deeding her farm to Ms. Bray.

The facts in this case clearly illustrate that Ms. Bray's undue influence over Ms. Vaughn continued until Ms. Vaughn's death. Thus, Spiva v. Boyd is clearly the superseding authority over Alabama's statutes and laws that relate to limitations and latches in cases of undue influence. The Supreme Court of Alabama ignored Spiva v. Boyd when it affirmed the ruling of the Circuit Court, and by

doing so, completely neutered a Supreme Court decision that had governed undue influence cases for over ninety (90) years.

In order to deny the appellant's request for a rehearing and to affirm the judgment of the trial court, the Supreme Court of Alabama had to ignore Waddell v. Lanier, 62 Ala. [347] 349: "It is certain that agents are not permitted to become secret vendors or purchasers of property which they are authorized to buy or sell for their principals: or, by abusing their confidence."

Possessing sole Power of Attorney made Ms. Bray, Ms. Vaughn's agent and fiduciary, thus she had a duty to execute Ms. Vaughn's desires as stated in her will and thus Ms. Bray should not have been allowed by become a purchaser of Ms. Vaughn's property or to abuse her confidence, which the evidence makes clear that she did.

In order to deny the appellant's request for a rehearing and to affirm the judgment of the trial court, the Supreme Court of Alabama had to ignore Burke v. Taylor, 94 Ala, 530, 532, 10 South. 129,130, which in agreement with Waddell, states:

"In all such cases, the burden rests on the party claiming under the deed, to prove satisfactorily that it is just, fair and equitable in every respect, and not the party seeking to avoid it to establish that it is fraudulent."

Burke v. Taylor is not just an unusual law, it may be radically unusual in the eyes of some, since it

turns the notion of "innocent until proven guilty" on its head. However, when it comes to undue influence, it is an extremely important law because – as in this case – one sibling took advantage of a mentally weak parent in order to steal what that parent had promised (in her will) to the other sibling. By ignoring Burke, the Supreme Court of Alabama is limiting the rights of plaintiffs to correct wrongs done to them as a result of undue influence.

And finally, in order to deny the appellant's request for a rehearing and to affirm the judgment of the trial court, the Supreme Court of Alabama had to ignore Elizabeth Hayes et al. v. Gordon W. Apperson, 1001605. Decided: February 08, 2002.

Based on precedent, Hayes reaffirms that that there is a three-pronged test to determine undue influence: "A presumption of undue influence arises when: (1) there is a confidential relationship between a favored beneficiary and the testator, (2) the influence of the beneficiary is dominant and controlling in that relationship, and (3) there is undue activity by the beneficiary in procuring the execution of the will. Burns v. Marshall, 767 So.2d 347, 352 (Ala.2000); Ex parte Henderson, 732 So.2d 295, 298 (Ala.1999)."

Hayes presents a clear-cut three-pronged test to determine undue influence which will add the thousands of cases of undue influence that the state of Alabama will see in future years. And most importantly, Hayes offers protections not just to plaintiffs in matters of undue influence, but also to

defendants who are accused of unduly influencing others for his or her benefit.

By affirming the trial court's judgment, the Supreme Court of Alabama also rendered the three-pronged test to determine undue influence detailed in Hayes v. Apperson, moot.

Instances of emotional and financial abuse of parents by their children in the state of Alabama and throughout the nation, are so common that they are no longer shocking.

With its decisions in Spiva v. Boyd, Burke v. Taylor, Hayes v. Apperson, and Waddell v. Lanier, the Supreme Court of Alabama carved a clear path for plaintiff siblings to recover monies or properties that were denied them because a person unduly influenced a testator in order to gain monies or properties for himself or herself, that the testator clearly intended the plaintiff siblings (or others) to receive.

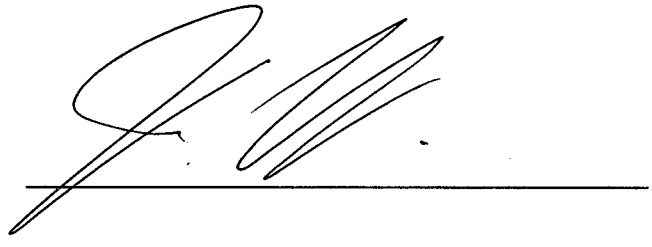
With its decision in the matter of Vaughn v. Bray (1171207), the Supreme Court of Alabama obliterated the protections within Spiva v. Boyd, Burke v. Taylor, Hayes v. Apperson, and Waddell v. Lanier for siblings who have been financially harmed by their siblings or other bad actors. By obliterating those protections for rightful beneficiaries, with the decision in Vaughn v. Bray, the Supreme Court of Alabama is carving a clear path for those who unduly influence and/or financially abuse the elderly or infirm for their own

gain, to get away with such unjust acts. A ruling or decision such as this one, that removes reasonable protections against harm for any and all citizens, should not be allowed to stand.

CONCLUSION

For the forgoing reasons, this court should grant the petition for Certiorari.

Respectfully submitted,



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