

Fifth Circuit Court of Appeal
State of Louisiana

No. 25-CA-557

SUCCESSION OF EVY MAE WILLIAMS

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 853-423, DIVISION "M"
HONORABLE SHAYNA BEEVERS MORVANT, JUDGE PRESIDING

March 25, 2026

MARC E. JOHNSON
JUDGE

Panel composed of Judges Susan M. Chehardy,
Marc E. Johnson, and Stephen J. Windhorst

VACATED AND REMANDED

MEJ
SMC
SJW

TRUE COPY



JALISA WALKER
DEPUTY CLERK

COUNSEL FOR PLAINTIFF/APPELLANT,
YVETTE MCCORNELL

Justin J. Baker

COUNSEL FOR DEFENDANT/APPELLEE,
LISA DEER

Alison C. Bondurant

Jamie P. Gomez

JOHNSON, J.

Appellant, Yvette McCornell, appeals the denial of her motion to continue the trial on the merits for a petition to probate and judgment resulting from that trial in favor of Appellee, Lisa Deer, rendered in the 24th Judicial District Court, Division “M”. For the following reasons, we vacate the judgment probating the will and remand the matter for further proceedings.

FACTS AND PROCEDURAL HISTORY

The decedent in this matter, Evy Mae Williams, passed away on December 26, 2023 in Pike County, Mississippi. On April 18, 2024, Yvette McCornell filed a petition to open succession, search for a will, and to appoint provisional administratrix. Ms. McCornell’s petition alleged Ms. Williams had been married twice: first to Joshua Dillon and second to Frank Williams. No children were born from either marriage, and both marriages ended in divorce. It stated Ms. Williams gave birth to one child, Ms. McCornell, and no other children were born out of wedlock or adopted. Ms. Williams resided on Snowbird Drive in Harvey, Louisiana, along with Ms. McCornell. In August 2023, a few months before Ms. Williams’ death, she was moved into an assisted living facility in McComb, Mississippi.

Among the several allegations set forth in Ms. McCornell’s petition, the allegation pertinent to this appeal stated that Lisa Deer, Ms. Williams’ niece, claimed to possess a will allegedly executed in June 2023 by Ms. Williams that left the entire estate to Ms. Deer. Ms. McCornell asserted that Ms. Deer was attempting to evict her from the estate’s primary asset—the Snowbird Drive property. It further asserted that any will executed in June 2023 was invalid, null, and void due to Ms. Williams’ lack of mental testamentary capacity. Ms. McCornell prayed for a search for a last will and testament, appointment as the provisional administratrix, recognition as Ms. Williams’ sole heir, possession of

the estate's assets, and injunctive relief enjoining Ms. Deer from evicting her from the Snowbird Drive property.

On May 28, 2024, Ms. McCornell and Ms. Deer entered into a consent judgment. The judgment ordered Ms. McCornell to pay for all the utilities at the Snowbird Drive property, while the succession was ordered to pay the mortgage, escrow, and insurance until a further order by the court. A preliminary injunction was issued, prohibiting Ms. McCornell's eviction from the Snowbird Drive property. The claims concerning the validity of the last will and testament and the appointment of Ms. Deer as the independent executrix or Ms. McCornell as the provisional administratrix were reserved for further proceedings.

Ms. McCornell's counsels of record were substituted on June 11, 2024. Lloyd N. Frichhertz and Oliver Smith, III of the law firm of Frischhertz & Impastato, LLC were withdrawn as counsel of record for Ms. McCornell. William H. Eckert and the law firm of Eckert & Tarleton, LLC were substituted as her counsel of record.

In a first supplemental petition filed on August 29, 2024, Ms. McCornell added Ms. Deer as a defendant to the matter. In the supplemental petition, Ms. McCornell set forth the procedural history of a previous succession matter filed in Pike County, Mississippi, that was later transferred to Louisiana, resulting in the instant action. The petition alleged that Ms. Williams purportedly executed a last will and testament (hereinafter referred to as "the Will") on June 21, 2023. However, prior to the execution of the Will, Ms. Williams was diagnosed with dementia. With the medical diagnosis of dementia, Ms. Williams was incapable of executing the Will. It further alleged that Ms. Deer unduly influenced Ms. Williams to enter into the Will. Ms. McCornell sought the invalidation of the Will as null and void and a declaration that Ms. Williams died intestate.

On October 28, 2024, Ms. Deer filed a petition for probate of notarial

testament, removal of provisional administrator, and request for interim accounting. In the petition, Ms. Deer alleged that Ms. Williams executed a notarial testament on June 21, 2023, wherein Ms. Deer was named as the independent executrix. In light of the Will, Ms. Deer requested the removal of Ms. McCornell as the provisional administratrix of the estate. The trial on the merits of the petition for probate was scheduled for August 11, 2025.

Prior to trial, on July 31, 2025, Ms. McCornell's counsel, Mr. Eckert, filed an expedited motion to withdraw as counsel of record, along with a motion to continue trial. In the motion, Mr. Eckert asserted that fundamental disagreements about the course of action of the matter between him and Ms. McCornell rendered his continued representation unsustainable. He requested a continuance of the trial to allow Ms. McCornell the opportunity to retain new counsel. Ms. Deer opposed the motions, arguing McCornell's own conduct caused the alleged necessity for a continuance. The trial court heard the motions on August 7, 2025. The court granted Mr. Eckert's motion to withdraw; however, the motion to continue trial was denied. A written judgment granting the motion to withdraw and denying the motion to continue trial was rendered on August 8, 2025.

Also on August 8, 2025, Ms. McCornell filed an expedited motion for continuance in proper person. In her motion, Ms. McCornell argued that she needed the opportunity to prepare and/or retain new counsel for the upcoming trial that was only days away. She pleaded with the court for a continuance, stating that her prior counsel had failed to issue subpoenas for witnesses in a timely manner. She asserted that she could not adequately represent herself in the matter and was in need of an attorney to represent her.

On August 11, 2025, the matter proceeded to trial, in which Ms. McCornell represented herself. During the presentation of her evidence, Ms. McCornell requested a continuance of the trial twice, asserting that she was unable to properly

and effectively represent herself in the matter. She also insisted that she had not received her litigation file from her prior counsel. After considering information received by Ms. Deer's attorney that Ms. McCornell's prior counsel tendered the litigation file to Ms. McCornell the weekend before the trial, the trial court denied Ms. McCornell's request. The trial court was presented with Ms. McCornell's August 8, 2025 expedited motion for continuance during the trial, which was also denied.

At the conclusion of the presentation of Ms. McCornell's evidence, Ms. Deer's attorney filed an oral motion for involuntary dismissal. The trial court orally granted the motion. On August 20, 2025, the trial court rendered a written judgment that granted Ms. Deer's oral motion for involuntary dismissal and dismissed Ms. McCornell's objection to the petition to probate the Will with prejudice. The judgment removed Ms. McCornell as the provisional administrator of the succession and appointed Ms. Deer as the independent executrix. Additionally, the preliminary injunction enjoining the eviction of Ms. McCornell from the Snowbird Drive property was dissolved. The instant appeal followed.

LAW AND ANALYSIS

On appeal, Ms. McCornell alleges that the trial court abused its discretion by denying her multiple motions to continue trial, resulting in the trial court's granting of Ms. Deer's motion for involuntary dismissal. She argues the court deprived her of "her day in court" by granting her prior counsel's motion to withdraw four days before the trial on the merits but denying the corresponding motion to continue that was also filed by her prior counsel. She contends that she was denied the opportunity to retain new counsel and was compelled to try the matter in proper person, with no legal experience, education or training. She claims that she was provided her litigation file from her prior counsel the weekend prior to trial and only had one day to issue and serve subpoenas for witnesses after her prior counsel

was allowed to withdraw. Ms. McCornell further argues that the trial court failed to remedy its initial abuse of discretion on the day of trial by denying her oral requests for a continuance, effectively denying her a meaningful opportunity to present her case.

Ms. Deer maintains that the trial court properly denied the requests for continuance. She asserts that discharge of Ms. McCornell's prior counsel was not a ground mandating continuance of the trial. She contends the fact that Ms. McCornell proceeded in proper person did not deny her access to the court or prohibit her from obtaining evidence or witnesses. She also contends that Ms. McCornell received her litigation file from her prior counsel to proceed to trial. Ms. Deer further asserts that a continuance would have prejudiced her as the sole heir to the small succession, as the financial resources of the succession would have continued to be depleted pending the trial.

“A continuance may be granted in any case if there is good ground therefor.” La. C.C.P. art. 1601. “A continuance shall be granted if at the time a case is to be tried, the party applying for the continuance shows that he has been unable, with the exercise of due diligence, to obtain evidence material to his case... .” La. C.C.P. art. 1602. In determining whether to grant a continuance, the trial court must consider the particular facts in each case. *Succession of Maloney*, 21-618 (La. App. 5 Cir. 11/9/22), 353 So.3d 292, 298. Some factors trial courts consider are diligence, good faith, and reasonable grounds of the party seeking the continuance. *Id.* Of equal importance is the other litigants' corresponding right to have the case heard as soon as practicable. *Id.*

The decision of whether to grant or deny a continuance is a matter of the trial court's discretion. *Labruzzo v. State*, 23-194 (La. App. 5 Cir. 5/22/24), 388 So.3d 1208, 1213. The trial judge is afforded wide discretion in the maintenance of the docket and any decision pertaining thereto will not be overturned absent a

showing of an abuse of that discretion. *Id.* An abuse of discretion occurs when such discretion is exercised in a way that deprives a litigant of his day in court.

Succession of Maloney, supra.

In this matter, at the August 7, 2025 hearing, the trial court allowed Ms. McCormell's prior counsel to withdraw as counsel of record the week prior to trial but also maintained the August 11, 2025 trial date. The trial judge stated, "It might be the first setting of the trial, but I only set one. I tell everyone, when I set it, I'm only setting one, you're first up, be ready to go." Ms. McCormell explained that she was not well versed in the law. She also explained that she attempted to retain new counsel, but no attorney wanted to enroll in the matter at that juncture, especially without having adequate time to prepare for trial. As part of her oral reasons for denying the motion to continue, the trial judge stated, "Ms. McCormell, here's the problem: [t]he Court cannot have a trial date [] bumped because people and their attorney have a relationship breakdown. The trial date [is] the trial date. I tell everyone it's the trial date when I set it."

Because the discharge of one's lawyer is not, by itself, grounds for postponing another party's access to the courts for a decision in a pending action, the client bears the burden of showing other circumstances that would justify a continuance. *Succession of Maloney, supra.*

In *Rainone v. Exxon Corp.*, 93-2008 (La. App. 1 Cir. 1/13/95), 654 So.2d 707, writ denied, 95-337 (La. 3/24/95), 655 So.2d 1340, the First Circuit was presented with a similar scenario. In that matter, a dispute arose between the plaintiff and his attorneys approximately one month before the trial date, to which the attorneys filed a joint motion to withdraw. *Id.* at 709. The motion was heard by the trial court on the morning the trial was set to begin. The attorneys motioned to continue the day of trial. After a hearing, the trial court granted the motion to withdraw but denied the motion to continue. The trial court noted, "One of the

reasons I took that position is that I wanted to be absolutely certain that [the plaintiff] knew the consequence of a withdrawal or changing attorneys at this point and I needed to be sure he understood that I was not inclined to continue the case and that either he would proceed with counsel or without counsel.” *Id.* at 710-11. The plaintiff proceeded to trial in proper person. At the conclusion of the presentation of the plaintiff’s case, the defendants moved for an involuntary dismissal. The trial court granted the defendants’ motion and rendered judgment in favor of the defendants.

In reversal of the trial court’s decision, the First Circuit held that the plaintiff had established circumstances justifying the continuance of the trial. *Id.* The court found that the trial court’s denial of the plaintiff’s motion for a continuance effectively denied the plaintiff his day in court. It further found that, unrepresented by counsel, the plaintiff was unable to properly present his case. *Id.* at 711-12.

After reviewing the facts of this case, we find that the trial court abused its discretion in denying Ms. McCornell’s requests for a continuance of the August 11, 2025 trial. Ms. McCornell’s prior counsel was allowed to withdraw as her counsel of record only days prior to the day the trial was set. At that point, she asserted to the court that she could not retain new counsel prior to trial. During trial, it was clear that Ms. McCornell was unable to properly present her objection to the petition to probate. As in *Rainone*, we find that being unrepresented at trial was a detriment to Ms. McCornell’s case. By denying requests for continuance, we hold the trial court effectively denied Ms. McCornell “her day in court.” Consequently, we vacate the judgment that resulted from the trial court’s abuse of discretion in denying Ms. McCornell’s requests for continuance.

DECREE

For the foregoing reasons, we vacate the trial court’s August 20, 2025 judgment resulting from the trial on the merits on the petition to probate notarial

testament, removal of provisional administrator, and request for interim accounting.

We remand the matter for further proceedings.

VACATED AND REMANDED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **MARCH 25, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

A handwritten signature in blue ink that reads "Curtis B. Pursell".

CURTIS B. PURSELL
CLERK OF COURT

25-CA-557

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE SHAYNA BEEVERS MORVANT (DISTRICT JUDGE)

DAVID M. MCDONALD (APPELLANT)

JUSTIN J. BAKER (APPELLANT)

JAMIE P. GOMEZ (APPELLEE)

MAILED

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