Circuit Court for Montgomery County
Sitting as the Orphans' Court
Estate No. W115833

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 0079

September Term, 2024

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IN RE ESTATE OF LUCIA ELOI

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Zic,
Kehoe, S.,
McDonald, Robert N.
(Senior Judge, Specially Assigned),
JJ.

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Opinion by Kehoe, J.

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Filed: March 17, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal arises from a denial of a petition to caveat a will, with appellant contending that the trial court erred in determining that the will was not the product of undue influence, and that the testatrix understood the contents of the will.

## BACKGROUND

Ms. Lucia Eloi, the testatrix, passed on July 22, 2023, and was survived by her son Marcos Elodi[1] and his three daughters. Ms. Eloi's will, after directing her funeral expenses to be paid by her estate, appointed her "close friend, Manuela G. Valverde Sanchez," as personal representative. The will devised Ms. Sanchez all of Ms. Eloi's tangible personal property as well as her condominium apartment and provided nothing for Ms. Eloi's son or her three grandchildren. Diane Williams and Edis Tabora witnessed the signing of the will, which occurred on July 6, 2023, in Silver Spring, and Jeanette Lewis acted as notary.

On August 10, 2023, Ms. Sanchez was appointed personal representative pursuant to Ms. Eloi's will. Two weeks later, Mr. Elodi petitioned to caveat the will and requested that the court remove Ms. Sanchez as the personal representative, alleging that Ms. Sanchez "occupied a position of trust with the decedent" through which she exerted undue influence such that Ms. Eloi unnaturally disposed of her assets to Ms. Sanchez. The orphans' court held a hearing on the petition on February 9, 2024.

Mr. Elodi testified. He explained that his life began in Brazil; in his childhood his mother enrolled him in a boarding school, but when she could no longer afford tuition, she disappeared and emigrated to the United States. She left him living on the street in Rio de

[1] Ms. Eloi and her son spell their last names slightly differently.

Janeiro, and although he resolved to take care of himself, he decided he would stay in touch with his mother.

Mr. Elodi described how his mother made a living in the U.S. babysitting and cleaning houses. He stated that she learned English and Spanish upon moving to the U.S. but could not read or write in any of her three languages, and compensated for this by working hard, by memorizing, for example, the colors of various cleaning products that corresponded to different tasks, and by cultivating her reputation as a Christian lady. Mr. Elodi told how his mother was ashamed of her illiteracy and would often rely on confidants and friends to hide it. He said she had "street smarts" and could make her way well for someone without an education, but thought the friends she relied on often sought to take advantage of her or trick her. He talked about how hard his mother had worked to save the $5,000 that it cost to bring him to the U.S. in 1976, but explained he thought someone betrayed her regarding the money, although he also appeared to say he thought she may have spent it on herself.

Mr. Elodi admitted that, despite his worries, he let Ms. Sanchez take care of his mother. He explained that his mother sent him recordings to communicate with him and that she never indicated she did not want him around, but that near the end of her life, her Spanish, Portuguese and English began to blur somewhat incomprehensibly, and when he visited on some birthdays, she was not very friendly.

Mr. Elodi denied having trouble getting in to see his mother in rehab but still found it difficult to reach her. He said that when his calls did not go through, he would drive the

15 to 20 minutes to the hospital to check on her and find the phone off of the hook. He conceded that he did not call his mother when she was in the nursing home and explained that he did not have the number of the cell phone Ms. Sanchez provided her. He found it difficult to attend to her when her cancer developed: she was quite sick and had multiple surgeries, and although he thought she would survive and move into his house to recover, she seemed ultimately to want to return to her apartment. When asked whether he visited his mother in the hospital, Mr. Elodi equivocated; he was absorbed in his job, he thought of his mother as a strong lady and didn't want to see her in a weakened state, he called his daughters, and he asked pastors to go in and pray for her. He was not with his mother at the time of her death because no one informed him that she was close to dying. Mr. Elodi did not think his mother would have understood a will if it was read to her, regardless of whether it was read in English, Spanish, or Brazilian Portuguese.

Mr. Elodi called to testify Jailton Alves Neves, who is Brazilian and who lived with Ms. Eloi for around two years after Mr. Neves moved to the U.S. in 1995. He last saw her when Mr. Elodi flew him from Brazil to celebrate Ms. Eloi's 80th birthday in July 2023. Mr. Neves said Ms. Eloi could not read or write in English, Spanish, or Portuguese and had relied on him to read letters, deposit checks, and fill out bank paperwork. He said he had trouble contacting Ms. Eloi while she was in the hospital or nursing home and often reached only Ms. Sanchez. Certain conversations during the last weeks of Ms. Eloi's life, when her cancer was causing intense pain and Ms. Sanchez was often around, left Mr. Neves feeling that "there was something going very badly around Lucia." Ms. Sanchez called him often,

on occasion to discuss Mr. Elodi's desire that his mother live in his basement, of which Ms. Sanchez did not approve; if that were to happen, she would not visit Ms. Eloi and help her. Mr. Neves said Mr. Elodi wanted his mother to live in the street-level basement after he noticed his mother wheezing when climbing stairs. Mr. Neves relayed to Mr. Elodi that Ms. Eloi complained of people pushing her to sell the apartment to which she would rather return. Mr. Neves tried to reach Ms. Eloi, but Ms. Sanchez returned his call and told him that she did not want anything from Ms. Eloi, rather, she would assist with the funeral and that was the extent of her responsibility. After that conversation, Mr. Neves blocked Ms. Sanchez and never spoke with her again.

Fernanda Elodi, Ms. Eloi's granddaughter, testified. She visited her grandmother five or six times in her final months. She said that her interactions with Ms. Eloi were great and that Ms. Eloi never asked her to leave. Fernanda Elodi attested to some antagonism: when Ms. Sanchez told her that Ms. Eloi did not have a family, Fernanda Elodi told her that Ms. Eloi had a son and three granddaughters, to which Ms. Sanchez responded that Ms. Eloi didn't have a family because they did not appear to be there for her. Fernanda Elodi thought the comments were disrespectful, and that Ms. Sanchez was generally unpleasant to her family, which she attributed to what she perceived as Ms. Sanchez's desire to keep her grandmother from her. She also saw Ms. Sanchez disparage Mr. Elodi in front of Ms. Eloi. Fernanda Elodi said that her grandmother requested that she keep Ms. Sanchez away from her.

Ms. Sanchez, the personal representative, called as witnesses Diane Williams and Edis Tabora, who both witnessed Ms. Eloi sign the will. Ms. Williams had known Ms. Eloi for over ten years, having met her when managing housekeeping operations at the medical center where Ms. Eloi worked as a housekeeper. Ms. Tabora had known Ms. Eloi for 25 years and worked with her for almost 20. Ms. Eloi communicated with Ms. Williams in English and Ms. Tabora in Spanish. Both visited Ms. Eloi in the hospital on July 4, 2023, for her birthday. At the request of Ms. Eloi, Ms. Williams contacted a lawyer to draft a will; she testified that at no point was Ms. Sanchez involved in the process.

On July 6th, Ms. Williams and Ms. Tabora went back to the hospital with Ms. Sanchez and notary Jeanette Lewis. Ms. Williams said that Ms. Eloi was "aware" and "really happy to see" her, and Ms. Tabora said that Ms. Eloi's mental state was good and her memory clear. Ms. Williams read the will to Ms. Eloi in English and Ms. Tabora translated it into Spanish. Both Ms. Williams and Ms. Tabora described Ms. Eloi shaking her head in agreement as the will was read to her and thought she understood it perfectly, and Ms. Tabora said that Ms. Eloi pointed to Ms. Sanchez when asked to whom she wished to devise her condominium. Ms. Williams thought the will reflected Ms. Eloi's wishes and did not think a Portuguese interpreter was necessary, since Ms. Eloi always understood her perfectly in English.

On cross-examination, Mr. Elodi's counsel requested that Ms. Tabora translate into Spanish a particular will provision, her having translated the will for Ms. Eloi. The two Spanish interpreters were unable to make sense of Ms. Tabora's translation and struggled

to even approximate the words she was using. The discussion proceeds for five transcript pages, and the interpreters' final effort reads:

> WITNESS: In probable cause—yeah, the probable causes—uh-huh—to the benefit of the—to the benefit of the beneficiary are revoked and—and—in Spanish it's (unintelligible)—interpreted in trust. Answer—answer contested—is reversed, is not—in witness and the—the witnesses and sign and sealed. I have declared that this instrument—that this will on this 6th of July 2023 in Silver Spring, Maryland. And she signed it.

Counsel elicited further testimony to the effect that Ms. Tabora's efforts at translating a durable power of attorney and advanced medical directive were ineffective.

Ms. Sanchez then called Jeanette Lewis, who had notarized the will, as a witness. Ms. Lewis said there were parts of the will Ms. Eloi did not understand in English, but, after listening to the conversations in Spanish, though she did not speak it, she had no question in her mind that Ms. Eloi understood the will based on her body language; further, she had no trouble communicating with Ms. Eloi in her capacity as a notary. Ms. Lewis stated she would not have notarized the document had she any doubts as to comprehension.

Ms. Sanchez also testified. She had known Ms. Eloi for over twenty years, having met her at the gym, and said she was like a daughter to Ms. Eloi. The two spoke mostly in Spanish. Ms. Sanchez stated that she was in charge of Ms. Eloi's health and her relationships with doctors for 20 years and that in 2023, before Ms. Eloi's death, she visited her in the hospital and nursing home every day, twice a day. Ms. Sanchez said she had not seen the will before the signing nor was she involved in its drafting, and that Ms. Tabora had requested she attend the signing. She told the court that she had never asked nor told Ms. Eloi to transfer her anything. She said she understood Ms. Tabora's translation, and

she thought Ms. Eloi understood too. Ms. Sanchez described Ms. Eloi, when asked to whom she would leave everything, as pointing to Ms. Sanchez. On cross examination, Ms. Sanchez confirmed her response to interrogatories that Mr. Elodi did not celebrate birthdays, holidays, or Mother's Day with his mother, contradicting Mr. Elodi's testimony, and said that there was no relationship between Mr. Elodi and his mother. She said that she did not discourage Mr. Elodi from coming to the hospital or nursing home.

Hospital documents were admitted into evidence. They contained the following notations by caregivers:

> . . . [patient is] not feeling sad or depressed; revisited her feelings re: her son, she has come to terms with that situation; happy for her three very good friends who like to do everything for her . . .
>
> * * *
>
> . . . her very close friend takes her to appointments and assists with other tasks and she is the first point of contact, Manuela Gladyss Valverde Sanchez
>
> * * *
>
> . . . patient is single and has one son and three grandchildren. They are not on good terms with her, and she does not want to have any contact with them, nor does she want the staff to contact any of them. She became tearful speaking about them and the hurt they have caused her. . . .

The documents also contained caregiver notes from around the date of the will signing indicating that Ms. Eloi was lucid and cogent.

Ms. Sanchez then elicited testimony from Karen R. Goozh, whose house Ms. Eloi had cleaned for over 35 years. Ms. Goozh testified that the two had no difficulty communicating in English. When Ms. Goozh visited Ms. Eloi in July of 2023, they looked

at the freshly signed will, and Ms. Goozh thought it apparent that Ms. Eloi understood the document.

The court denied Mr. Elodi's petition. It found no evidence Ms. Sanchez exerted any influence on the creation of the will and rather described how friends of Ms. Eloi, "as a result of that friendship, . . . outside of Ms. Manuela's knowledge, got together, found an attorney, found a notary, and created a will based on the wishes of their friend, the testator, Ms. Lucia, that would take care of her needs once she passed on." It noted in particular that one of Mr. Elodi's witnesses testified on direct examination that Ms. Sanchez said she did not want anything from the will, and that she would do no more than help with the funeral. The court thought it clear that Ms. Eloi wanted Ms. Sanchez to be the personal representative and the beneficiary.

The court also discussed whether the contents of the will were adequately communicated to Ms. Eloi and she understood them. It noted Ms. Eloi's learning two languages in addition to her native one despite her illiteracy, and the fruits her efforts in America brought her: a condominium which she appeared to own free and clear and a small nest egg. It explained that although Ms. Tabora's efforts at translation were "torturous," that the dense and legalistic phrase she had been asked to translate, beyond being impenetrable, may have been void in Maryland, which made the showing unconvincing; the court was satisfied that the meaning of the simple phrases comprising the remainder was adequately conveyed and that she understood it by the testimony of those who attended

the signing, as well as Ms. Eloi's excitement in explaining to Ms. Goozh what her will accomplished.

## QUESTIONS PRESENTED

Mr. Elodi noted his appeal on March 8, 2024, and asks first whether the trial court erred in finding that the testator was not subject to undue influence, and second, whether the trial court erred in finding that the testator understood the contents of her will. We answer both questions in the negative and affirm the ruling of the trial court.

## STANDARD OF REVIEW

We review a case heard without a jury on both the law and the evidence, and we will not set aside the trial court's judgment on the evidence unless clearly erroneous, giving due regard to the trial court to judge the credibility of the witnesses. Md. Rule 8-131(c). "Under the clearly erroneous standard, this Court does not sit as a second trial court, reviewing all the facts to determine whether an appellant has proven his case." *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996). Rather, we consider the evidence produced at trial in the light most favorable to the prevailing party, and if there is substantial evidence in support of the trial court's determination, we will leave it undisturbed. *L.W. Wolfe Enters., Inc. v. Md. Nat'l Golf, L.P.*, 165 Md. App. 339, 343 (2005) (quoting *GMC v. Schmitz*, 362 Md. 229, 234 (2001)). The clearly erroneous standard does not apply to legal determinations. *Id.* at 344.

When reviewing a judicial determination regarding fraud or undue influence underlying a will, we first "evaluate whether the record contains sufficient evidence to

support the circuit court's factual findings," and then, we "evaluate whether those factual findings support the conclusion that the will was the product of fraud or undue influence." *Green v. McClintock*, 218 Md. App. 336, 367-68 (2014).

**DISCUSSION**

Mr. Elodi contends that the court erred in concluding that the will was not produced by undue influence, arguing the evidence discloses Ms. Sanchez took advantage of the old, fragile, and unsophisticated Ms. Eloi by gaining her confidence and pushing away her family. Ms. Sanchez responds that the evidence shows that she did not have influence much less exert it and had no role in the creation of the will.

"A will executed under undue influence is void." *Wall v. Heller*, 61 Md. App. 314, 329 (1985) (citing *Woodruff v. Linthicum*, 158 Md. 603, 608 (1930)). The standard for undue influence that will void a will was stated in *Stockslager v. Hartle*:

> undue influence which will avoid a will must be unlawful on account of the manner and motive of its exertion, and must be exerted to such a degree as to amount to force or coercion, so that free agency of the testator is destroyed. The proof must be satisfactory that the will was obtained by this coercion (although it need not be immediately exercised as of the date of the execution of the will if its influence cause its execution) or by importunities which could not be resisted, so that the motive for the execution was tantamount to force or fear. Mere suspicion that a will has been procured by undue influence, or that a person had the 'power unduly to overbear the will of the testator' is not enough. It must appear that the power was actually exercised, and that its exercise produced the will. The burden of proof is on the caveator to meet these requirements of the law.

200 Md. 544, 547 (1952) (citing *Koppal v. Soules*, 189 Md. 346, 351 (1947)); *see, e.g., Zook v. Pesce*, 438 Md. 232, 249 (2014). The caveator need only prove the undue influence by a preponderance of the evidence. *See Krouse v. Krouse*, 94 Md. App. 369, 378 (1993)

(citing *Friedel v. Blechmen*, 250 Md. 270, 285-86 (1968)). Since proving undue influence "may be more difficult when it is perpetrated upon an individual with cunning and craftiness," the existence of undue influence may be proven by circumstantial evidence alone. *Moore v. Smith*, 321 Md. 347, 354 (1990) (citing *Mills v. Glenn*, 152 Md. 464, 468 (1927)). In *Moore*, the Court unearthed from Maryland caselaw several elements characteristic of the presence of undue influence, which have often guided us:

1. The benefactor and beneficiary are involved in a relationship of confidence and trust;
2. The will contains substantial benefit to the beneficiary;
3. The beneficiary caused or assisted in effecting execution of the will;
4. There was an opportunity to exert influence;
5. The will contains an unnatural disposition;
6. The bequests constitute a change from a former will; and
7. The testator was highly susceptible to the undue influence.

321 Md. at 353. The seventh element moderates the others: "the quantum of proof necessary to establish undue influence varies according to the susceptibility of the testator," *Id.* at 360 (citing *Sellers v. Qualls*, 206 Md. 48, 70 (1954)). Finding the first factor is necessary to concluding that there was undue influence, but the others are not. *Green,* 218 Md. App. at 369 (2014) (citations omitted); *see Orwick v. Moldawer*, 150 Md. App. 528, 534 (2003) ("[T]he Court of Appeals did not intend *Anderson* [*v. Meadowcroft*, 339 Md. 218 (1995),] and *Upman* [*v. Clarke*, 359 Md. 32 (2000),] to stand for the proposition that all seven factors must be present for the caveators to sustain their burden.").

A confidential relationship is characterized by dependence by the grantor on a confidant. *See Orwick*, 150 Md. App. at 536 (quoting *Green v. Michael*, 183 Md. 76, 84 (1944)). It exists when "two persons stand in such a relation to each other that one must necessarily repose trust and confidence in the good faith and integrity of the other," *Green*, 218 Md. at 369 (quoting *Upman*, 359 Md. at 42), or when "one person has gained the confidence of the other and purports to act or advise, with the other's interest in mind." *Orwick*, 150 Md. App. at 538 (citing I Scott on Trusts, § 2.5 (1987)). But a caveator must show circumstances which defy the principle that "testamentary gifts are natural and expected, and people who receive gifts under a will, usually a parent, child, spouse, sibling, close friend, or trusted employee, often stand in a fiduciary or confidential relationship with the testator." *Id.* at 536 (citing *Upman*, 359 Md. at 44). The existence of the confidential relationship is but a suspicious circumstance worth considering and "does not, of itself, give rise to a presumption of invalidity" without some proof positive of a "substantially overbearing undue influence." *Upman*, 359 Md. at 35.

Regarding the seventh factor, the susceptibility of the testator to undue influence, which moderates the quantum of proof necessary to establish undue influence, we have described various conditions that indicate a testator's reduced ability to resist persuasion. We noted in one instance that the testator's "advanced illness, the pain medications that he took, his almost-total immobility, and his abject dependence on [the caveatees]," conditions exacerbated when the caveatees "cut off [the decedent's] ability to communicate with his friends and acquaintances . . . , further isolating him and rendering him even more

susceptible to influence," "created a perfect setting over which someone could take advantage." *Green*, 218 Md. App. at 370 (quoting *Moore*, 321 Md. at 357). In another, "the testator was 76 years of age, was 'almost helpless' because of a chronic and progressive ailment and depended heavily on his mistress, who was also his nurse"; the physical dependence, alongside other indicia of undue influence, formed the basis for a fact-finder to infer that the decedent was motivated by fear. *Anderson*, 339 Md. at 230 (quoting *Shearer v. Healy*, 247 Md. 11, 26 (1967)).

Several cases further illuminate the analysis of undue influence. In *Arbogast v. MacMillan*, the caveators suggested that undue influence existed where the caveatee-son lived with the decedent-father without paying rent (though he paid other expenses), looked after his father's physical needs, and attended to his father's business, and because, at his father's request, he arranged to withdraw an old will from safekeeping and execute a new one. 221 Md. 516, 521 (1960). But "there was no showing that the son dominated his father, took away his free agency or prevented the exercise of his own judgment and choice." *Id.* (citing *Kennedy v. Kennedy*, 124 Md. 38 (1914)). These facts did not "even raise a conjecture or a suspicious circumstance," and even if they established that "the son did in fact have the power to overbear the will of his father, there [was] absolutely no evidence that the son ever undertook to exercise it." *Id.* (citing *Woodruff*, 158 Md. at 609).

In the oft-cited case of *Sellers v. Qualls*, family members sought to caveat a will which named the testatrix's (Ms. Dunn's) pastor (Mr. Qualls) its executor and his church, of which he was the pastor, the devisee of a substantial portion of her estate. 206 Md. at

63. Evidence showed that Mr. Qualls's frequent visits with the testatrix to speak with her alone often upset her; that the testatrix entrusted Mr. Qualls with management of much of her business affairs and loaned him sums at good rates; that Mr. Qualls selected the attorney who drew up the will, which was typewritten at Mr. Qualls's home before its execution the next day, before which the testatrix was again upset by a lengthy and private dialog; and that the will signing was witnessed by only Mr. Qualls, his wife, the attorney, and the deacon of the same church, who then took the will for safekeeping. *Id.* at 69. But a particular episode contradicted the inference that Mr. Qualls could have influenced the testatrix: when he suggested that he and the testatrix exchange houses, the testatrix asked for advice from a friend, who said, "If you don't want to, I wouldn't do it, if I were you," and the exchange did not occur. *Id.* at 70-71. The Court concluded that, although a number of circumstances might support finding undue influence, they were not sufficiently weighty to support more than a suspicion that Ms. Dunn's will was the product of undue influence. *Id*. at 74.

In the case at bar, the first element, the confidential relationship between the benefactor and beneficiary, does not indicate undue influence. Ms. Sanchez testified that she was in charge of Ms. Eloi's relationships with her doctors for 20 years and that before Ms. Eloi's death, she visited her in the hospital and nursing home constantly. But it cannot be ignored that Ms. Eloi did not rely only upon Ms. Sanchez. Throughout her life she relied on close friends and roommates to navigate the written word in consideration of her illiteracy. And no untoward import can be drawn from the fact that Ms. Sanchez spent

considerable time with Ms. Eloi without resort to speculation and conjecture. The confidential relationship is characterized not only by proximity and trust, but also dependence, and nothing indicates that rather than acting as a go-between who assisted Ms. Eloi in communicating with her doctors, Ms. Sanchez fostered dependence on her in medical matters, such that she could exert any influence in Ms. Eloi's other affairs.

The second element, the benefit of the will to the beneficiary, weighs in the caveator's favor, because Ms. Eloi left all of her worldly possessions to the caveatee. The only evidence regarding the third element, that the beneficiary caused or assisted in effecting execution of the will, points towards, as the trial court found, Ms. Sanchez's disinvolvement in the drawing up of the will. Ms. Sanchez and Mr. Neves both said that she did not request a bequest, and Ms. Williams and Ms. Tabora explained how, at Ms. Eloi's request and unaided by Ms. Sanchez, they contacted a lawyer to draft Ms. Eloi's will. The presence of the fourth element, the beneficiary's opportunity to exert influence, is found in the time Ms. Sanchez spent with Ms. Eloi in the hospital and nursing home prior to her passing, but that alone is not problematic. The fifth factor calls for consideration of unnatural disposition, and in light of Maryland's common law presumption against disinheritance of next of kin, *see Rowe v. Rowe*, 124 Md. App. 89, 94 (1998), we note that Ms. Eloi's disinheritance of her son and granddaughters could be cause for alarm. But the significance of this is undermined by the length and strength of the relationship between Ms. Eloi and Ms. Sanchez, on which the trial court commented, "It's a friendship that prompted Ms. Manuela to continue to be a part of her friend's life even after her friend

became hospitalized, needed medical attention, needed companionship." This conclusion is supported by the evidence. The sixth factor, whether the will changed, is not relevant, as there was no evidence of a former will.

The seventh and final element, the susceptibility of the testator to undue influence, contextualizes the others. The trial court did not find any evidence that medicine, dementia, stress or a catastrophic event would have made Ms. Eloi "so upset that she really wasn't thinking straight." It was impressed that Ms. Eloi, without a standard academic background, was able to learn three languages, move to a new country, and create a new life, and it noted the substantial attestations to Ms. Eloi's lucidity at the will signing, which were corroborated by hospital records noting that Ms. Eloi appeared clear-minded. Ms. Eloi's reliance on others in order to conduct certain affairs, necessitated by her illiteracy, does not alone indicate that she was highly susceptible to influence. Without a showing of Ms. Eloi's high susceptibility to influence, the quantum of proof required of the other elements is greater.

Our review of the record evinced few signs of undue influence, especially in light of the high bar imposed by the absence of a showing that Ms. Eloi was highly susceptible to undue influence. The facts in *Arbogast, supra*, and *MacMillan, supra*, presented proximity between the beneficiary and benefactor, conversations behind closed doors, and circumstances where the beneficiary took responsibility for the some part of the affairs of the benefactor, however, the Court barely considered the evidence to show an opportunity to exert influence, much less the actual exertion of the "substantially overbearing undue

influence" indicating that the execution of the will might have been coerced. Likewise, the evidence in the instant matter, which the trial court determined consisted most importantly of the showings that the beneficiary was a good friend to the benefactor and was not involved in the drafting of the will, do not indicate the presence of undue influence. There was substantial and sufficient evidence to support the trial court's finding that the appellee's friendship with Ms. Eloi did not indicate the presence of undue influence.

Mr. Elodi contends that there was insufficient evidence to support the orphans' court's conclusion that Ms. Eloi understood the contents of the will. This argument rests largely on Ms. Eloi's illiteracy. He also suggests that Ms. Tabora's struggle to translate a passage while testifying indicates that Ms. Eloi could not have understood the translation of the will as read to her. The orphans' court found that the passage, which Ms. Tabora was asked to translate, was tortuous. In making this finding the orphans' court pointed out that legal terminology is not part of the daily Spanish lexicon. The orphans' court, however, considered Mr. Elodi's arguments and rejected them. These findings were supported by the evidence and were not clearly erroneous.

## CONCLUSION

The trial court did not err in finding that the testator was not subject to undue influence and that the testator understood the contents of her will. We affirm the ruling of the trial court.

**JUDGMENT OF THE ORPHANS' COURT FOR MONTGOMERY COUNTY IS AFFIRMED. APPELLANT TO PAY COSTS.**