
LEGAL UPDATE

Legal Services Division



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IOWA SUPREME COURT DECISION - DEFINING “VULNERABLE ELDER” AND ANALYZING VULNERABLE ELDER PROCEEDINGS

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly’s consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

Struve v. Struve

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No. 18-0316

www.iowacourts.gov/courtcases/6284/embed/SupremeCourtOpinion

Factual and Procedural Background. Dianne Lawrence, Paul Struve, and Ronald Struve filed a petition for relief from elder abuse pursuant to Iowa Code chapter 235F (2016) (substitute petitioners) for their father, George Struve. They alleged that their brother, Perry Struve, and his son, Clayton Struve, committed elder abuse against George Struve by unduly influencing George to enter into below-market rate lease agreements to farm George’s land, to gift some of George’s land to Perry and Clayton, and to write a new will to reflect the gifted land. The district court denied the petition for relief and held that Iowa Code chapter 235F was a summary proceeding and that the substitute petitioners failed to establish George Struve was a “vulnerable elder” subject to “financial exploitation” within the meaning of Iowa Code chapter 235F. The substitute petitioners timely filed an appeal to the Iowa Supreme Court (Court) that is the subject of this decision.

Issue. Whether the district court erred in concluding that the substitute petitioners failed to prove an entitlement to statutory relief pursuant to Iowa Code chapter 235F (2016) when it held that they failed to prove by a preponderance of the evidence that George Struve was a vulnerable elder subject to elder abuse.

Holding. In a 7-0 decision, the Court held that the substitute petitioners failed to prove that George Struve was a vulnerable elder.

Analysis. To establish an entitlement to relief from elder abuse under Iowa Code Chapter 235F, the substitute petitioners were required to prove that George Struve was a vulnerable elder subject to elder abuse, which includes financial exploitation as alleged in this case. At the time this case was filed, a vulnerable elder was defined as a person 60 years of age or older who is unable to protect himself or herself from elder abuse as a result of age or a mental or physical condition. The substitute petitioners contended that age, standing alone, was sufficient to establish that a person is a vulnerable elder; however, the Court held that the substitute petitioners were required to prove that their father was both 60 years of age or older and that he was unable to protect himself from elder abuse due to age, a mental condition, or a physical condition at the time of the alleged financial transaction. The Court found that

without requiring proof of inability to self-protect, the statute would be overbroad by creating causes of action for persons outside the intended scope of the statute and creating unintended legal exposure for persons who happen to be in a dispute with a person who is 60 years of age or older but who is not otherwise a vulnerable elder.

The Court then reviewed whether there was sufficient evidence to conclude that the substitute petitioners failed to prove that George Struve was a vulnerable elder. Finding that George was able to protect himself during the relevant time period in question, the Court upheld the district court's conclusion that George was not a vulnerable elder subject to elder abuse.

The substitute petitioners raised several procedural challenges, specifically alleging that: (1) they should have been allowed to amend their petition to join additional causes of action and parties and (2) they should have been allowed to engage in discovery of George Struve's attorneys' files. The Court found that underlying these claims was a disagreement regarding the nature of Iowa Code chapter 235F and whether Iowa Code chapter 235F creates a cause of action to be prosecuted like any other action or whether Iowa Code chapter 235F provides for a limited, summary proceeding.

The Court reviewed the statutory framework of Iowa Code chapter 235F and found that the proceedings available under such framework were intended to provide expedited relief. The Court found that a district court must hold a hearing on a petition brought under Iowa Code Chapter 235F in an expedited fashion (not less than five and not more than fifteen days after commencing a proceeding) and, because of the expedited hearing requirement, civil discovery is not available. Rather, instead of civil discovery, parties must apply for and a district court must issue subpoenas requiring attendance, testimony of witnesses, and the production of papers. Moreover, the Court found that the relief available under Iowa Code Chapter 235F is limited in nature as the district court is substantially restricted in the type of relief it can grant to a petitioner. As such, the Court found that Iowa Code chapter 235F was intended as a summary proceeding to provide limited but expedited relief to a vulnerable elder subject to elder abuse.

The Court noted that this case was not prosecuted in accordance with Iowa Code chapter 235F as no expedited hearing was held within fifteen days, but was docketed and treated as a regular civil action. For over a year, the parties conducted significant discovery and motion practice and it was not until a new district court judge was assigned to the case that the district court concluded Iowa Code chapter 235F proceedings were summary proceedings and that the prior discovery and motion practice in the case was improper.

As to the substitute petitioners' claim that they should have been allowed to amend their complaint to add new causes of action and parties, the Court found that the structure and purpose of Iowa Code chapter 235F leads to the conclusion that joinder of additional claims to a petition for relief from elder abuse should be disallowed, along with the assertion of counterclaims. Such joinder of additional claims would frustrate the expedited nature of the proceeding or would force the defendants to defend additional claims without the procedural rights set forth in the rules of civil procedure. The Court found that disallowing joinder of additional claims would not be a substantial hardship on a vulnerable elder and that it is not unusual to disallow or limit the joinder of claims or assertion of counterclaims in statutorily-limited causes of action. As to whether the district court should have allowed the joinder of additional parties, the Court concluded that such parties could have been added, but there was no prejudicial error as the substitute petitioners failed to prove that George Struve was a vulnerable elder as a threshold for relief.

As to the substitute petitioners' claims that they should have been allowed discovery of George Struve's attorneys' files, the Court found that the district court allowed George Struve's attorneys to testify without

any restriction regarding their communications with him and that there had been no showing or claim that the client files would have revealed additional information not divulged during trial.

Ultimately, the Court affirmed the judgment of the district court.

Special Concurrence. Justice Appel filed a special concurrence in which he agreed that the substitute petitioners did not prove elder abuse, and that to the extent the district court committed procedural errors, such errors did not rise to the level of reversible error. However, Justice Appel stated that the question of whether George Struve was a vulnerable elder was a close one, specifically noting that the evidence presented at trial was mixed but that, ultimately, it was never proved that his capacity was limited at the relevant time periods in question.

Justice Appel opined that Iowa Code chapter 235F proceedings are not necessarily summary proceedings, arguing that the statute makes some rules of civil procedure applicable and therefore suggests that civil discovery and motion practice could be appropriate. Specifically, he noted that Iowa Code chapter 235F authorizes the district court to grant a continuance of an expedited hearing and allows the district court to enter temporary orders while such hearing is continued. By allowing continuances, Justice Appel proposed that discovery and motion practice could be appropriate under Iowa Code chapter 235F. Justice Appel also stated that the broad remedies authorized by Iowa Code chapter 235F suggest that elder abuse proceedings are not limited proceedings. However, because the substitute petitioners in this case were, in fact, able to conduct discovery and were granted a continuance, Justice Appel did not find reversible error on these issues.

Iowa Law. As noted by the Court in a footnote, the definition of “vulnerable elder” was amended during the 2019 Legislative Session. “Vulnerable Elder” is now defined as “a person sixty years of age or older who is unable to protect himself or herself from elder abuse as a result of a mental or physical condition or because of a personal circumstance which results in an increased risk of harm to the person.” See www.legis.iowa.gov/legislation/BillBook?ga=88&ba=HF328&v=e#1

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