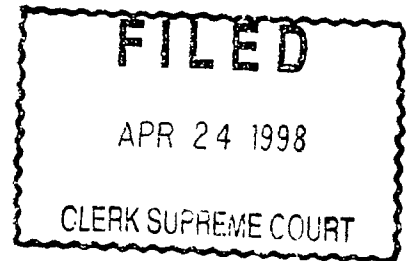


IN THE COURT OF APPEALS OF IOWA

No. 8-080 / 97-0369
Filed April 24, 1998



ROGER D. GUTHRIE,
Appellee,

vs.

CORNELIA B. DAVIS, Fiduciary
of the Estate of WILBUR M. DAVIS, Deceased,
Appellant.

Appeal from the Iowa District Court for Wapello County, Annette J.
Scieszinski, Judge.

The estate's fiduciary appeals the district court's entry of judgment against the estate in favor of claimant for a debt allegedly owed by the deceased. **AFFIRMED AS MODIFIED.**

James Q. Blomgren and Randall C. Stravers of Pothoven, Blomgren &
Stravers, Oskaloosa, for appellant.

Robert M. Box of Box & Box, Ottumwa, for appellee.

Considered by Cady, C.J., and Huitink and Streit, JJ.

STREIT, J.

This is an appeal by an executor claiming the district court should not have entered judgment on a claim against the estate. We affirm as modified.

Roger Guthrie was engaged in business with Wilbur Davis. Davis died on February 8, 1996. Guthrie presented a claim against the probate estate, asserting Davis owed him \$10,500, plus interest. Guthrie produced a hand-written agreement dated March 4, 1995, which showed he had loaned Davis \$10,500 in cash for the purchase of a dump truck. Guthrie held the title to the dump truck as security for the loan. The executor of the estate, Cornelia Davis, disputed the claim and alleged Davis's signature on the agreement was a forgery.

At the trial, Richard Findling testified he was present when the written agreement between Guthrie and Davis was signed. Findling did not read the agreement at that time, but stated he heard the men discussing a loan to purchase a dump truck. He saw the preparation and saw the signing of the document. He testified Davis left the meeting with a large amount of cash. The district court found Findling's testimony was credible. The court entered judgment against the estate for \$10,500, plus interest. The estate has appealed.

I. The present action was brought to establish a contested claim and, thus, under Iowa Code section 633.33, was tried at law. Claims in probate are triable as ordinary proceedings, and the fact findings of the trial court, if supported by

substantial evidence, have the force of special verdicts. *Heninger & Heninger, P.C. v. Davenport Bank & Trust Co.*, 341 N.W.2d 43, 47 (Iowa 1983).

II. The estate contends there was not substantial evidence in the record to support a finding Guthrie presented a legitimate claim. A handwriting expert, Duane Barton, testified the signature on the written agreement was not that of Davis.

Although there is evidence to the contrary, we find there was substantial evidence to support the district court's decision. Findling testified he saw Davis sign the agreement. The trial court found Findling was credible. Factual disputes depending heavily on credibility of witnesses are best resolved by the trial court, which has a better opportunity to evaluate credibility than we do. *Claus v. Whyte*, 526 N.W.2d 519, 524 (Iowa 1994). We will not weigh the evidence or the credibility of the witnesses. *Id.* Based on the district court's finding of credibility, we affirm the entry of a judgment against the estate.

III. The estate asserts the district court improperly assessed interest in this case. The agreement between Guthrie and Davis provided for interest of ten percent. The court ordered the estate to pay \$10,500, plus interest of \$1988.88, which is interest of ten percent from March 4, 1995, through January 24, 1997. Under Iowa Code section 535.3, the court ordered the estate to pay interest of ten percent on the total judgment of \$12,488.88 from January 24, 1997, until fully paid.

Interest accruing on an obligation prior to entry of judgment is part of the damages to be awarded by the court in the judgment. *Federal Land Bank v. Woods*,

520 N.W.2d 305, 308 (Iowa 1994). The total of principal and interest should be aggregated as of the date of filing and accrued interest should be computed to that date only. *Id.* Decretal interest under Iowa Code section 535.3 is then imposed on the aggregate, relating back to the date of the filing of the petition. *Id.*¹

We find interest in this case was improperly calculated. The claim was filed on June 4, 1996. According to our calculations, interest of \$1314.65 would be due under the agreement for the time period of March 4, 1995, until June 4, 1996. The aggregate of principal and interest as of the date of filing would be \$11,814.65. Under Iowa Code section 535.3, the estate is responsible to pay interest of ten percent per annum on \$11,814.65 from the date the claim was filed until the judgment is paid. We modify the decision of the district court to make this change in the calculation of interest.

We affirm the decision of the district court, except for the calculation of interest on the judgment. Costs of this appeal are assessed one-half to the estate and one-half to Guthrie.

AFFIRMED AS MODIFIED.

¹ Prior to the 1980 amendment to Iowa Code section 535.3, which provides that interest on the judgment relates back to the date of the filing of the petition, the time for aggregation of principal and accrued interest was the date of judgment. Since that amendment, this aggregation more properly should take place as of the date of filing and accrued interest should be computed only to that date. *Federal Land Bank of Omaha v. Woods*, 520 N.W.2d 305, 308 (Iowa 1994).