

Supreme Court of Florida

VIRGINIA WALKER,
Petitioner,

vs.

LAUNA G. MICKLER, etc.,
Respondent.

No. 89,992

[September 18, 1997]

OVERTON, J.

We have for review the decision in Walker v. Mickler, 687 So. 2d 1328 (Fla. 1st DCA 1997), which certified conflict with the opinion in Davis v. Snyder, 681 So. 2d 1191 (Fla. 2d DCA 1996). We have jurisdiction. **Art. V, § 3(b)(4)**, Fla. Const.

The instant case concerns whether a grandchild, as a lineal descendant, is entitled to the constitutional homestead provision's protections against creditors, even though the grandchild is not the closest consanguine heir of the testator. The same issue was certified by the Second District Court of Appeal in Davis as:

WHETHER ARTICLE X, SECTION 4, OF THE FLORIDA CONSTITUTION EXEMPTS FROM FORCED SALE A DEVISE OF A HOMESTEAD BY A DECEDENT NOT SURVIVED BY A SPOUSE OR MINOR CHILD TO A LINEAL DESCENDANT WHO IS NOT AN **HEIR** UNDER THE DEFINITION IN SECTION 731.201 (18), FLORIDA STATUTES (1993).

Davis, 681 So. 2d at 1193. In Snyder v. Davis, No. 89,410 (Fla. Sept. 18, 1997), we answered that question in the affirmative.

Accordingly, for the reasons set forth in Davis, we approve the district court's decision in the instant case.

It is so ordered.

KOGAN, C.J., and SHAW, WELLS and ANSTEAD, JJ., concur.

GRIMES, J., dissents with an opinion.

HARDING, J., dissents with an opinion.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

GRIMES, J., dissenting.

I dissent for the reasons expressed in my dissenting opinion in Snyder v. Davis, No. 89,410 (Fla. Sept. 18, 1997).

HARDING, J., dissenting.

I dissent for the same reasons I expressed in my dissent in Snyder v. Davis, No. 89,410 (Fla. Sept. 18, 1997).

Application for Review of the Decision of the District Court of Appeal - Certified Direct Conflict of Decisions

First District - Case No. 96-1543

(Duval County)

Thomas A, Daniel, Gainesville, Florida,

Thomas A. Daniel, Gainesville, Florida,

for Petitioner

William G. Noe, Jr., Atlantic Beach, Florida,

for Respondent