

Excerpts from April 10, 2023 Trial Part 2

1 have it towed from Mr. Smith's home?

2 A. I'm sorry. What?

3 Q. Did you have it towed from Mr. Smith's home?

4 A. No. I took the truck to CarMax. It was not
5 towed.

6 Q. During direct examination there was a
7 mention of -- or excuse me -- the recording.
8 Mr. Smith -- I believe, it was Mr. Smith who mentioned
9 Mr. Humphrey's will. Have you presented a will as part
10 of this case?

11 MR. SAATHOFF: Objection: Relevance.

12 THE COURT: Overruled.

13 Go ahead and answer, if you can, ma'am.

14 THE WITNESS: We had a will and trust.

15 BY MR. SAATHOFF:

16 Q. Okay. Have you presented the will as part of
17 this case?

18 A. No.

19 Q. Okay. You mentioned that the account with you
20 and Mr. Humphrey was a joint account. And so at times
21 when directed to, for example, with respect to the truck
22 and the \$10,000 check, you would write the check out --
23 the checks out per Mr. Humphrey's wishes, correct?

24 A. Yes.

25 Q. I note there's been mention of the

Exhibit
2

EXHIBIT

2

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Excerpts from May 23, 2023 Trial Part 2

1 Okay. According to your attorneys, Ms. Humphrey, when
2 you filed this affidavit, okay, you said that you was
3 entitled to my property per the will. And for a year
4 and a half I've sought access to that will. Okay?
5 You've seen your own affidavit. I've even filed
6 compelled information from you, and I can't get it. So
7 you're sitting here telling me that Don had a will, a
8 signed will, and yet I have a tape recording here every
9 time I've asked for that will because I know my property
10 is not in this will per the will as you claim on this
11 document. I haven't seen it.

12 A. Your property is not in the will.

13 Q. I know it's not in the will.

14 A. That's correct. We don't want it in the will.

15 Q. On here you said you was entitled to my
16 property, Ms. Humphrey, per the will.

17 MR. SMITH: Do you have that affidavit up
18 there, ma'am?

19 THE WITNESS: Well, upon the April --

20 MR. SMITH: Hold on, ma'am.

21 (Discussion had off the record.)

22 (Exhibit No. 163

23 marked for identification.)

24 MR. SMITH: I'd like to submit this, Your
25 Honor.

Excerpts from May 23, 2023 Trial Part 2

1 Q. Okay. Would you flip to the first page,
2 please. Okay. Look at No. 5. Do you see that? And
3 you have two options there. I see a checkmark and then
4 a second option. Would you read that aloud to the
5 Court, ma'am?

6 A. I am entitled to real property per the will of
7 the deceased, and I have made an investigation and have
8 been unable to determine any subsequent will.

9 Q. Thank you. Now, you're sitting here telling
10 me or telling the Court -- may I have that? You're
11 sitting here telling the Court that Donald Humphrey had
12 a will; am I correct?

13 A. He had a will.

14 Q. A signed will; is that correct?

15 A. That house was not in the will.

16 Q. Answer my questions, Ms. Humphrey.

17 A. I thought it was a signed will.

18 Q. Right now you're pushing yourself up against a
19 wall on two occasions. Okay? You're saying the house
20 was not in the will. Okay?

21 MR. SAATHOFF: Your Honor --

22 BY MR. SMITH:

23 Q. At the same time, you're telling the Court,
24 okay, through this affidavit that you're entitled to the
25 house per the will. Think about what you're saying.

Expts from May 23, 2023 Trial Part 2

1 MR. SAATHOFF: Your Honor, I'm going to
2 object based on argumentative and badgering the witness.
3 The document speaks for itself.

4 THE COURT: Overruled.

5 MR. SMITH: Thank you, Your Honor.

6 THE COURT: Answer, if you understand it,
7 ma'am.

8 BY MR. SMITH:

9 Q. So let me see if I can clarify you. If Don
10 had a signed will, and the will -- I mean, my house was
11 not in that will, Ms. Humphrey, was there any reason
12 that can explain why you put No. 5, the second option,
13 that you was entitled to my property per the will?

14 MR. SAATHOFF: Objection: Misstates the
15 testimony, and she didn't draft this document.

16 THE COURT: Overruled.

17 Go ahead and answer if you understand, ma'am.

18 BY MR. SMITH:

19 Q. Again, why did you claim you was entitled to
20 my property per the will?

21 MR. SAATHOFF: Misstates the testimony.
22 The evidence already supports this is real estate held
23 in joint tenancy.

24 THE WITNESS: Thank you.

25 THE COURT: Overruled.

Excerpts from May 23, 2023 Trial Part 2

1 MR. SMITH: Thank you, Your Honor.

2 THE WITNESS: I'm entitled to the house,
3 half of the house, because of joint tenancy. I'm the
4 wife of the deceased. And in Nebraska --

5 MR. SMITH: I could care less.

6 THE WITNESS: But I do.

7 BY MR. SMITH:

8 Q. You're the wife of the deceased that forgave
9 the loan before he was deceased.

10 MR. SAATHOFF: Your Honor, I'm going to
11 move to strike because he's not testifying.

12 THE COURT: Stricken.

13 (Exhibit No. 165

14 marked for identification.)

15 MR. SMITH: Do you recognize this? I'm
16 showing you what's been marked as --

17 MR. SAATHOFF: Sir, do you have a copy
18 for me?

19 MR. SMITH: -- Exhibit 165. Look it over
20 and tell me if you recognize it.

21 MR. SAATHOFF: Sir, did you give any of
22 these to me before --

23 THE COURT: Mr. Saathoff, don't be asking
24 any questions.

25 MR. SAATHOFF: I'm just wondering if

1 foundation, relevance, asked and answered.

2 THE COURT: Overruled. The Court does
3 not have a will though, sir, so the contents of the will
4 are not going to be considered by the Court because I
5 don't have one.

6 MR. SMITH: That's the point.

7 THE COURT: I'm just telling you where
8 I'm at.

9 BY MR. SMITH:

10 Q. But he should consider this, what you said on
11 here? On this affidavit?

12 MR. SAATHOFF: Same objection of what the
13 Court should consider. That's the ultimate call of the
14 Court and its rulings.

15 THE COURT: Sustained.

16 BY MR. SMITH:

17 Q. Should the Court, Ms. Humphrey, consider the
18 fact -- for purposes of Your Honor's ruling, should Your
19 Honor consider that Don gave me the \$25,000, and once I
20 paid it down, even though he did forgive the remainder,
21 according to you it was \$16,000. Should the Court
22 consider the fact that Don gave me an additional
23 \$10,000 -- no matter what for. Should the Court
24 consider the fact that he added that \$10,000 to what you
25 claim was still owed, \$16,000, which was to take it up

Excerpts from May 23, 2023 Trial Part 4