*This opinion is nonprecedential except as provided by*
*Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A21-0115**

In re the Estate of: Mark Kevin Egan, Deceased.

**Filed September 20, 2021**
**Affirmed**
**Slieter, Judge**

Ramsey County District Court
File No. 62-PR-18-1084

John G. Westrick, Savage-Westrick, PLLP, Bloomington, Minnesota (for appellant Molly Moriarty Egan)

Patrick J. Downs, Patrick J. Downs Law, Woodbury, Minnesota (for respondent Leah T. Egan)

Considered and decided by Slieter, Presiding Judge; Hooten, Judge; and Bratvold, Judge.

**NONPRECEDENTIAL OPINION**

**SLIETER**, Judge

In this dispute regarding a change of beneficiary in decedent's life insurance policy, decedent's spouse argues that the district court erred by determining decedent intended to change his beneficiary designation to his eight children and her rather than, as she claims, solely to herself. Because we discern no error in the district court's analysis of decedent's intent, we affirm.

## FACTS

Decedent Mark Kevin Egan was issued a 30-year term life insurance policy through AAA Life Insurance Company in 2013, with a benefit amount of $200,000. The policy listed decedent's son, Matthew, as the policy's sole beneficiary. In the days shortly before and after decedent's death in 2018, decedent's spouse, appellant Molly Egan, submitted two change-of-beneficiary-designation forms to AAA[1] changing the listed beneficiary. The appellant and respondent Leah T. Egan (one of decedent's children who was also the personal representative), agree that decedent intended to remove Matthew as the sole beneficiary, but disagree as to whether either of the two change-of-beneficiary-designation forms submitted to AAA reflected decedent's intent.

The first change-of-beneficiary form, which was completed by appellant on November 28, 2018, signed by the decedent and submitted to AAA on November 29, 2018, indicated that each of decedent's eight children was to receive 10% of the benefit, an additional 10% would go to the Church of St. Agnes, and the remaining 10% would go to the personal representative of the estate to pay "funeral expenses."

The second change-of-beneficiary form also filled out by appellant on November 29, 2018 but submitted to AAA approximately one week after decedent's December 3, 2018 death, designated appellant as the sole beneficiary.

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[1] The record indicates that appellant had also faxed additional change-of-beneficiary forms to the insurer containing minor revisions to the beneficiaries' social security numbers and addresses, but were otherwise essentially identical to the first change-of-beneficiary form. These revised forms did not change the beneficiary designations or benefit amounts and therefore are not considered here.

Following decedent's death, the district court granted AAA's petition to deposit the policy proceeds with the court for a determination of distribution. Appellant petitioned for an order deeming her the policy's sole beneficiary.

During the trial, the district court heard testimony from appellant, respondent, and three of decedent's other children (whose testimony supported the respondent). The witnesses testified as to whether either of the two change-of-beneficiary forms reflected decedent's intent.[2]

The district court issued a written order finding that decedent intended that his eight children receive $15,000 each and that appellant receive $80,000 and ordering this distribution following the payment of funeral expenses. This appeal follows.

**DECISION**

"It is established by the great weight of authority that the question of whether a change of beneficiary of an insurance policy may be effectuated without delivery of the policy to the insurer for endorsement is determined by (1) whether the insured intended to change the beneficiary and (2) whether he took affirmative action or otherwise did substantially all that he could do to demonstrate that intention without regard to whether he complied with the change-of-beneficiary provisions in the policy." *Brown v. Agin*, 109 N.W.2d 147, 151 (Minn. 1961). A court's interpretation of a change of beneficiary is

[2] The parties initially disagreed as to whether decedent's signatures on the two change-of-beneficiary-designation forms were authentic, and the district court heard testimony from two hand-writing experts. However, both experts agreed that the signatures were decedent's, and this is no longer an issue.

governed by "equitable principles" and "[t]he rule generally applied is that equity regards that as done which ought to have been done." *Id.* at 150.

In applying *Brown*, "a close examination of the facts before [the court] becomes necessary." *Lemke v. Schwarz*, 286 N.W.2d 693, 695 (Minn. 1979). "[W]here an insured has clearly and unambiguously demonstrated an intent to change the beneficiary on a life insurance policy, this intent should be given effect unless prejudice to the insurer would result. If there exists any confusion as to the insured's intent or conflicting expressions of intent, then the named beneficiary should be entitled to the proceeds." *Id.* at 696. This court reviews the district court's decision whether to grant such equitable relief for an abuse of discretion, *Metro. Life Ins. Co. v. Belland*, 583 N.W.2d 592, 593 (Minn. App. 1998), and reviews the district court's underlying findings of fact for clear error, Minn. R. Civ. P. 52.01.

In applying the clear error standard, the supreme court recently stated, "we view the evidence in a light favorable to the findings. We will not conclude that a factfinder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed." *In re Commitment of Kenney*, ___ N.W.2d ___, ___, No. A20-1007, 2021 WL 3641450, at *5 (Minn. Aug. 18, 2021) (citations and internal quotation marks omitted). Additionally,

> [the] clear-error review does not permit an appellate court to weigh the evidence as if trying the matter *de novo.* Neither does it permit [an appellate court] to engage in fact-finding anew, even if the court would find the facts to be different if it determined them in the first instance. . . . Rather, because the factfinder has the primary responsibility of determining the fact issues and the advantage of observing the witnesses in

> view of all the circumstances surrounding the entire proceeding, an appellate court's duty is fully performed after it has fairly considered all the evidence and has determined that the evidence reasonably supports the decision.

*Id.* (citations and internal quotation marks omitted).

Regarding the first prong of the *Brown* test, the district court found that decedent "intend[ed] to change his original Beneficiary Designation so that Matthew would not receive 100% of the Policy proceeds. No interested party, not even Matthew, suggests that he should be entitled to the entirety of the Policy proceeds." We discern no clear error with the district court's finding as to the first prong: it is supported by the record and not contested by either party.

Regarding the second prong of the *Brown* test, the district court found that, contrary to the signed change-of-beneficiary forms that were submitted to AAA, the "[d]ecedent's intent was to make [appellant] a Primary Beneficiary to receive $80,000 and to make each of his eight children Primary Beneficiaries to receive $15,000 apiece from the AAA Policy proceeds." The district court explained that from "[appellant]'s testimony, it is clear . . . that the [second form] making [appellant] the sole beneficiary, was not an expression of Decedent's intent, but rather was an expression of [appellant's] intent." The district court found that the first change-of-beneficiary form also did not reflect decedent's intent because it did not name appellant as a beneficiary. We discern no error in these findings, which are detailed and supported by the record.

First, as noted above, appellant testified that in the months preceding decedent's death, decedent had expressed to her his intent to divide the policy proceeds amongst his

spouse and his children. Appellant testified that "[decedent] talked with [her] about the division of the life insurance policy . . . and [said] he wanted $15,000 to go to each child and $80,000 to go to [her]." The district court found that "[a]pparently, [appellant] was the only person to whom [decedent] made this intention known" and that, "[o]ther than [appellant] there is no interested party who has expressed an objection to this distribution." The district court relied on appellant's testimony on this point, which it found to be credible, in determining appellant's intent.

The district court then assessed both change-of-beneficiary forms—which appellant alone completed—and found that appellant did not comply with decedent's expressed intent in completing either form.

As to the first change-of-beneficiary form, the district court determined that although appellant correctly listed the eight children as beneficiaries, appellant also "inexplicabl[y]" did not include herself as a beneficiary. Appellant testified that she did not do so to, in her words, "see what [decedent's] reaction would be" and to give her "an indication of whether [decedent] wanted to leave [her] destitute." The district court found appellant's behavior "inexplicable, pointless, and cruel," and, more importantly, to be "defying Decedent's expressed intention."

As to the second change-of-beneficiary form, the district court determined that it also did not reflect decedent's intent. Appellant testified that decedent had essentially changed his mind about his intent on November 29, 2018, after learning that he purportedly did not have money in his bank account (or had less money that he had believed) and so decided to name appellant the sole beneficiary. But the district court recognized that this

testimony was not corroborated by "any other witness" and found appellant's testimony "moderately credible." The district court found that, in the context of the record, "it does not follow that Decedent would believe that the solution [to not having money in his bank account] would be to eliminate all of the children as beneficiaries."

We give great deference to credibility findings of the district court. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988); *Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004) (stating that appellate courts "neither reconcile conflicting evidence nor decide issues of witness credibility, which are exclusively the province of the factfinder"). In deeming appellant's testimony only "moderately credible," the district court pointed to various other parts of the record that "call[ed] into question the veracity of [appellant's] testimony and her testimony regarding Decedent's final intent." These factors included appellant's testimony that she was concerned about becoming "destitute" after decedent's death, that she had "forced" decedent to sign the first form, that she did not accurately date the second form, and that she waited until seven days after decedent's death to submit the second form to AAA. In contrast to appellant's testimony, it found the testimony of the other witnesses "credible." This included testimony from decedent's son Matthew that he "just assum[ed] that [distributing the proceeds among the children] was always kind of [decedent's] intent," and testimony from respondent that she "only spoke to [appellant] about [the distribution of proceeds among the children]" and "never spoke to [decedent] about it." We do not disturb these credibility findings on appeal.

The record supports the district court's finding that, pursuant to the equitable nature of interpreting change-of-beneficiary forms, decedent intended to designate each of his

children as well as his spouse as beneficiaries. Because the district court's findings are supported by record and there was no error in its legal conclusion, there was no abuse of discretion.[3]

**Affirmed.**

[3] Appellant also argues that the district court abused its discretion by "essentially [making] a claim of undue influence despite the issue not being raised by Respondent and despite the facts not supporting such a holding." Appellant asserts that "[t]hough the court never used the words 'undue influence,' its ruling is consistent with an undue influence argument—an argument that was never raised by Respondent." We disagree. The district court stated that it did not believe "undue influence and the decedent's intent are the same thing. I construed this as a decedent's intent issue and that's ultimately the decision that I made."

Because undue influence was not raised by the parties and is not required by *Brown*, the district court rightfully did not address whether decedent was subject to undue influence and neither do we.