

**IVY OUTLAND**, Widow of the late **GEORGE V. OUTLAND**, Appellant, *v.* **REBECCA OUTLAND** and **DANIEL WEAVER**, Appellee.

APPEAL FROM THE MONTHLY AND PROBATE COURT FOR MONTSERRADO  
COUNTY

Heard: November 12, 1984. Decided: January 11, 1985.

1. A brief must be filed in the office of the Clerk of the Supreme Court and furnished to each Justice immediately upon assignment of a cause.
2. A brief must contain a concise statement of the issues and the points of law to be argued, with legal authorities supporting the same; and when evidence is referred to in the brief, the folio or page where it appears in the records must be stated.
3. A brief should reveal to the appellate court the issues of law and facts that were presented and argued at the trial court level, how such issues were settled and/or neglected by the trial court judge or jury, and what are the legal effects of such settlement or neglect.
4. Where the legal sufficiency of proof upon which a case depends is left in the balance or wanting, the respondent is not required to prove the other issues raised in the case.
5. Hearsay evidence is of a low grade, and as such, its probative force, in whole or in part, depends on the competency and credibility of the person who is said to have made the statement.
6. Where the evidence is lacking in probative force, credibility and effect, a verdict based thereon and the judgment confirming the same are fit for reversal.

Appellant had offered for probate by the Monthly and Pro-bate Court for Montserrado County the Last Will and Testament of her deceased husband, George V. Outland. The probate was objected to by appellee Rebecca Outland, the purported daughter of the decedent, on the ground that the said Will was manufactured and forged by appellant. Appellee alleged that the appellant had produced the said Will only to deprive appellee of her right to her late father's estate. Following the exchange of pleadings, the probate judge passed upon the issues of law and ruled the matter to trial by a jury in the Civil Law Court for the Sixth Judicial Circuit, Montserrado County.

The jury, after hearing the evidence, returned a verdict in favor of the appellee, declaring

that the Will was forged and therefore should not be probated. The case was then returned to the probate court where a motion for a new trial was filed, heard and denied. Judgment was then pronounced con-firming the verdict, denying the admission into probate of the Will, and recognizing appellee as the legitimate daughter of the decedent. From this judgment, an appeal was taken to the Supreme Court.

On appeal, the Supreme Court reversed the judgment, hold-ing that the appellee had not shown by the weight of evidence that she was the legitimate daughter or heir of the late George Out-land as would vest her with standing to challenge or object to the Will offered for probate by the appellant. The Court observed that the evidence produced by the appellee was primarily hearsay, insufficient, uncorroborated, and lacking in any probative force, competency and credibility. Under those circumstances, the Court said, the legitimate birth of appellee Rebecca Outland was never established. Any verdict based on such evidence which did not show standing in the appellee to challenge the Will, it said, was fit for reversal.

On the question of whether the Will was forged, the Court held that the appellant had produced sufficient evidence and witnesses to establish proof of the legitimacy of the Will and of its execution by George Outland to warrant its admission into probate. The Court therefore *reversed* the judgment, ordered the objections *dismissed*, and instructed that the Will be probated.

*J. Emmanuel R. Berry* appeared for the appellant. *Robert G. W. Azango* appeared for the appellees.

MR. JUSTICE KOROMA delivered the opinion of the Court.

Ivy Outland, widow of George Victor Outland, offered for probation and registration in the Monthly and Probate Court for Montserrado County, the Last Will and Testament of George Victor Outland, her deceased husband. Upon publication of notices for the information of the public, of the offer of said document for probation and registration, Rebecca Outland filed objections against the entry of said Will into probate on the grounds that George Victor Outland had made no Will; that the Will offered for probation was made and/or manufactured by Ivy E. Outland and was intended to deprive the objector, the natural daughter of the Late George Outland, of her right to his estate; and that at the time the purported Will was allegedly written and signed, the late Mr. Outland was ill and helpless and not of sound mind and could not even sign his name. Pleadings were exchanged and

rested at a four-count resistance. The judge of the probate court passed upon the issues of law and ruled to trial by jury the following factual issues: (1) Whether Miss Rebecca Outland is the legitimate daughter of George V. Outland? (2) Whether the Will submitted by Mrs. Ivy Outland, dated December 30, 1980, was executed by George V. Outland, by his signing of the same? (3) Whether the signature appearing on the said Will was the genuine signature of George V. Outland.

The above factual issues were transmitted to the Civil Law Court for trial by jury as the law directs. A jury trial having been duly held in the Civil Law Court, the jury brought a unanimous verdict declaring that the Objector Rebecca Outland was not liable and that the Will should not be probated. A motion for a new trial having been filed, resisted and denied, the Monthly and Probate Court, Montserrado County, entered final judgment confirming the verdict of the trial jury, declaring that Rebecca Outland was the legitimate daughter of George V. Outland and that the Last Will and Testament submitted by Ivy Outland, widow of George V. Outland, was invalid. The Court also held that the said Will and Testament should not be admitted into probate, and that George V. Outland be deemed as having died intestate. Exceptions were noted by Ivy Outland and an appeal announced and granted to this Court. The case is before this Court for final determination on an eight-count bill of exceptions.

Before passing on the issues raised in the bill of exceptions, we would like to call the attention of lawyers practicing in this Bar and before this Bench as to what is mandatorily required of them in prosecuting or defending a cause. A rule of this Court requires that:

“Immediately upon the assignment of a cause for argument, a sufficient number of copies of the briefs on both sides shall be filed in the clerk's office and each of the Justices shall be furnished a copy, and another copy shall be kept in the records of the case in the clerk's office. Counsels on both sides shall serve copy of their briefs on their respective adversaries at the call of the case or before. Said brief shall contain: (1) A statement of the issue; (2) the points to be argued with legal authorities supporting the same. Such authorities shall be quoted to such an extent as may be necessary to give the court a clear understanding of what is held by the authorities cited. When evidence is referred to, the folio or page where it appears in the record shall be stated.” RULES OF COURT, RULE 7.

As to what a brief is, the authorities hold that it is a concise statement in writing of the law and authorities relied upon in trying a cause. FUNK AND WAGNALLS STANDARD DICTIONARY OF THE ENGLISH LANGUAGE 167 (Int'l. ed., vol. 1). Also a brief is

the vehicle of counsel to convey to the appellate court the essential facts of his client's case, a statement of the questions of law involved, the law he would have applied and the application he desires made of it by the court. BLACK'S LAW DICTIONARY 240 (4<sup>th</sup> ed. 1951).

From these principles as to what is and constitutes a brief, it is certain that a brief is neither the Canterbury Tales nor the stories of the Arabian Knights. It is a legal document which has limitations. In the instant case, the two briefs filed by the parties have no comparison as to volume. The appellant, upon whom the burden rested to convince this Court to reverse the judgment of the court below, had an eight-count bill of exceptions argued in a five and a quarter page brief. The appellee, who has a lesser burden by virtue of the fact that the judgment was entered in her favor, has filed a twenty-five page brief in which there is a gross violation of what a brief should contain. It is required that when evidence is referred to in the brief, the folio or page where it appears in the record shall be stated. On the contrary, the appellee in this case decided to quote almost the entire evidence adduced at the trial in the brief by quoting the questions put to witnesses and the answers given. This alone covers ten pages in the brief. What a contravention of set rules, a burden for this Bench and a waste of precious time! As this Court is not a trial court, the cardinal purpose of a brief is to summarize and present a bird-eye view of the issues of fact and law upon which a party relies for appellate review. A brief is nowhere intended to complicate the issues that were presented and tried. In fine, a brief should reveal to the appellate court the issues of law and fact that were presented and argued at the trial level, how such issues were settled and/or neglected by the trial court and/or jury and what are the legal effects of such settlement or neglect. Ex-cept in case of jurisdiction, a brief cannot embody novel issues.

We trust that this reminder to lawyers practicing in this bar and before this Bench will serve as a catalyst in the preparation of briefs henceforth, so that the time set for argument will be economically utilized and the court afforded an opportunity to dispose of more cases during a term.

Three issues of fact were ruled to trial. The burden of proving two of these issues rested upon the appellant/respondent in the court below, while the burden of proving the last issue rested upon the appellee, objector in the trial court. It is important to note that while the objector was required to prove only one of the three factual issues rule to trial, yet the legal standing of the objector in the entire case wholly depended upon the legal sufficiency of the proof of this issue. By operation of law, where the legal sufficiency of said issue is left in the balance or wanting, there is no need to require the respondent in the court below to prove

the other two issues of fact. Hence, we shall proceed from this point to settle this prime issue, so as to decide whether or not the objector had any legal standing or was in fact legally clothed to object to the probate and registration of the Last Will and Testament of the Late George Victor Outland. With this as a basis for our determination of this case, we shall proceed to pass upon the counts in the bill of exceptions.

Counts one, two and three of the bill of exceptions dealt with count one of the factual issue ruled to trial. The appellant strongly maintained in those counts that the verdict of the jury was sharply contrary to and manifestly against the weight of the evidence adduced at the trial. She asserted that no proof of a legitimate birth of Rebecca Outland by George Victor Outland was ever legally and sufficiently established during the trial to warrant a verdict and judgment in favor of the objector, Rebecca Outland. She further contended that the witnesses who testified for the objector, in addition to producing insufficient evidence, did not corroborate each other but rather contradicted each other on the salient point of the legitimacy of Rebecca's birth by George Victor Outland.

A perusal of the evidence adduced by objector Rebecca Outland and her witnesses to establish the legitimacy of her birth shows glaring factual defects which, in our opinion, could have legally and judicially serve as an elementary impediment to the finding and confirmation of a verdict in her favor. The records reveal that Rebecca Outland testified mainly to what was told her by her mother with regards to the customary marriage between her mother and George V. Outland, by virtue of which contract, she claimed heir ship to George V. Outland. We feel that Rebecca Outland should have produced better evidence as to what her mother really told her. On the contrary, not only did Rebecca Outland not say anything about her mother's relation-ship to Mr George V. Outland by virtue of which she was claiming heir ship, but it was only on the cross-examination that she was made to say who dowry her mother, who received said dowry, and the year she was born. It was also on the cross-examination that Rebecca Outland was made to say how much was paid to her grandmother as dowry for her mother, the tribal custom that was used, and those who were present at the dowry ceremonies. She never testified as to when she was born.

In addition, following Rebecca Outland's testimony, her witnesses should have confirmed her testimony in essence, by way of corroboration. Instead, the next witness who testified for the objector, in person of Catherine Outland Johnson, told the court that she knew that George Victor Outland dowried Jeanie King. Asked as to how she came by this knowledge, she said because she was born in the hands of "Vic & Jeanie". On further examination as to whether she and anybody else were present during the dowry ceremonies, she answered that

she was still a child and therefore did not know. Catherine Outland Johnson was then asked the pivotal question which, for the benefit of this opinion, we herein quote along with the answer given thereto.

Ques: "Since according to you, you were still a child when George V. Outland dowried Jeanie King, can you say what year were you born and how long after your birth did the dowry ceremony take place?"

Ans: I was born 1948, September 13. I was a little child so I do not really know when she was dowried. Whether it was five or six I do not know.

By this answer; Rebecca Outland and her material witness Catherine Outland Johnson stand parallel on the salient point of her legitimate birth and heirship to George Victor Outland. Rebecca had earlier testified that her mother was dowried by George Victor Outland prior to her being conceived and given birth to in 1937; that before she was born in 1937, her father, George Victor Outland, engaged Mary Williams and married her by western custom in 1936; and that later Mr. Outland divorced Mary Williams and married one Nellie. Accepting Rebecca's testimony as to the time her mother was dowried and the time that she was born for whatever worth it deserves, under what parity of reasoning could the testimony of Catherine Outland Johnson stand as true when she said that she was a little child at the time the dowry ceremony took place, and especially since said ceremony was said to have taken place twelve years (1936-1948) before Catherine's birth. We hold that this testimony of Catherine Outland Johnson was not only diametrically fatal to the already crumbling evidence of Rebecca Outland on this salient point of her legitimacy and heirship to George Victor Outland, but it was irreconcilable with the truth.

The third witness who testified was James Daniel Weaver, one of the objectors, whose testimony was mostly on the Will. The only testimony he gave with regards to the legitimate birth of his sister, Rebecca Outland, was given in answer to questions on the cross-examination. When asked as to whether his mother, Jeanie King was married to George Victor Outland, and if so, where and when the marriage took place, James Daniel Weaver answered: "My mother told me that when she was brought from Bassa, Victor Outland dowried her. Where and when, I did not know." Further, when James Daniel Weaver was told on the cross-examination that his mother Jeanie King had gotten married to Samuel Weaver and had given birth to several children for him, including Rebecca Outland, he commented as follows: "My mother told me that when George Victor Outland dowried her, that was the time she was pregnant and brought forth a daughter for George Victor Outland."

This testimony of James Daniel Weaver, as that of his sister Rebecca Outland, regarding her legitimate birth, falls in the category of hearsay evidence which is low grade evidence. Its probative force, in whole or part, depended on the competency and credibility of Jeanie King, who was said to have died in 1982, prior to the trial of this case.

The testimonies of Rebecca Outland, Catherine Outland Johnson and James Daniel Weaver, being the only evidence produced in support of Rebecca's claim to being the legitimate child of George Victor Outland, and the said evidence, being lacking in probative force, credibility and effect, we hold that the verdict brought in favor of the objector, predicated upon said evidence, and the judgment confirming same, are fit for reversal. We hold further that in light of the foregoing, the legitimate birth of Rebecca Outland was never established at the trial and hence she is without legal competence to object to the Last Will and Testament of George Victor Outland, she not being a testamen-tary beneficiary, a distribute, heir or next of kin.

The residue of the counts in the bill of exceptions deal with proof of the Will. In passing upon these counts, we are not doing so in contemplation of the Will being challenged by the objector, but to support our conclusion as to whether or not the Will was proven at the trial. In this regard, we will proceed to peruse the evidence produced by the respondent, Ivy E. Outland and her witnesses.

While on the stand, Ivy Outland stated that in November 1980, while he was sick in the Island Clinic, her husband, Mr. George Outland, sent for one Anthony Moore to write his Will; that Moore went to the hospital, got the instructions from Mr. Outland, and went and prepared the Will; that Mr. Moore having prepared the Will, brought it to the hospital, but that Mr. Outland did not sign it until he was discharged; that on December 30, 1980, Mr. Outland sent for one Mr. William Brown, in whose presence and that of one S. Robert Sadee, he, Mr. Outland, signed his Will and asked Mr. Brown and S. Robert Sadee to sign too; that both Mr. Brown and S. Robert Sadee signed the Will in each other's presence and in the presence of Mr. Outland; and that in January 1981, one Mrs. Catherine Freeman and one Mr. Temba, who had come to visit Mr. Outland, also signed the Will upon the request of Mr. Outland.

Catherine M. Freeman, while on the witness stand, testified to the fact that she did sign a document upon the request of Mrs. Ivy Outland; that the request was made in the presence of Mr. Outland; that the document, which content she did not read, was said to have been a Will and was signed by her and one Abu who had accompanied her to Mr. Outland's residence; and that the said document was covered up when she and Abu signed it. She

identified her said signature on the document to be genuine.

The third witness, Mr. A. Cadmus Moore, Sr., confirmed the testimony of Ivy Outland to the effect that he prepared the Will that was in question and identified it to be the Will that he prepared for Mr. Outland, upon his own request and direction.

The fourth witness, S. Robert Sadee, confirmed the testimony of Mrs. Ivy Outland to the effect that Mr. Outland sent him to call one Mr. William Brown who, along with Sadee, witnessed Mr. Outland sign his Will and that they, upon Mr. Outland's request, signed the said Will in his and in each other's presence. He identified the Will and his signature thereon as well as those of Mr. Outland and Brown.

We could proceed to include the testimonies of more witnesses for the respondent in these proceedings. However, we are convinced that to do so, we would be adding surplusage to this opinion. The evidence so far cited is sufficient and establishes proof of the Will to warrant its admission into probate.

Before concluding this opinion, we have decided to make a few comments on the twenty-five page brief filed by appellee in this case. As already stated earlier in this opinion, the appellee, in wanton disregard for set rules and laws, prepared and filed the said brief wherein she raised a multiplicity of issues, not necessarily those traversing the bill of exceptions. Of course, we would have had the onerous duty to specifically traverse a few of these issues, if the appellee had any legal standing in raising them. However, we have decided not to undertake such a task since it would amount to nothing more than an exercise in futility. Hence, having already traversed all of the issues in the bill of exceptions, which issues were argued in the appellee's brief, and having upheld the contentions of the appellant, we declare that the appellee's brief in its entirety is overruled.

Wherefore, and in view of all the facts, legal citations, and circumstances herein stated, it is our solemn, judicial and candid opinion that the judgment of the court below be, and the same is hereby reversed, and the Last Will and Testament of George Victor Outland is hereby ordered admitted into probate. The appellees are ruled to all cost of the proceedings. And it is so hereby ordered.

*Judgment*

*reversed.*



