RENDERED: OCTOBER 30, 2026; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2025-CA-0911-MR

VICTOR ALLEN WILSON — APPELLANT

v.

APPEAL FROM MONTGOMERY CIRCUIT COURT
HONORABLE DAVID A. BARBER, JUDGE
ACTION NO. 23-CI-00120

THE ESTATE OF BETTY SUE CONKWRIGHT[1] BY AND THROUGH ITS ADMINISTRATRIX, TONYA HART — APPELLEE

OPINION
VACATING AND REMANDING

** ** ** ** **

BEFORE: CALDWELL, ECKERLE, AND TAYLOR, JUDGES.

CALDWELL, JUDGE: Appellant, Victor Wilson ("Mr. Wilson"), appeals the July 10, 2025, Order of the Montgomery Circuit Court which granted the motion of the Estate of Betty Sue Conkright, by and through its Administratrix, Tonya Hart

[1] Appellant has misspelled decedent's name as Conkwright. The correct spelling is Conkright.

("Estate") to void the marriage between Mr. Wilson and Betty Sue Conkright ("Ms. Conkright"). After careful review of the briefs submitted, the relevant law, and the record on appeal, we vacate and remand for further proceedings consistent with this Opinion.

BACKGROUND

Mr. Wilson and Ms. Conkright began a romantic relationship approximately thirty years ago. Though there were periods of time when they lived together, they were never married.

On August 11, 2023, Ms. Conkright was hospitalized in Lexington, Kentucky due to worsening complications involving the functioning of her liver. At that time, her treating physicians detailed a number of significant physical illnesses including ascites, cirrhosis, and hepatic encephalopathy, which resulted in an altered mental status. Also on August 11, 2023, one of Ms. Conkright's daughters, Tonya Hart ("Ms. Hart"), initiated a guardianship action involving Ms. Conkright with Montgomery District Court,[2] and was appointed as temporary emergency guardian.

Due to interpersonal conflicts between Ms. Hart, Mr. Wilson, and one of Ms. Conkright's other daughters, Barbara Davis ("Ms. Davis"), on August 16, 2023, the district court entered further orders. These included that Ms. Hart would

[2] Montgomery District Court Case No. 23-H-00065-001.

remain temporary guardian and be allowed to make medical decisions, that Ms. Davis and Mr. Wilson were only allowed visits with Ms. Conkright at the hospital for a few hours on Tuesdays and Thursdays, and that Mr. Wilson would be allowed to remain in Ms. Conkright's home for the time being.

On August 18, 2023, Mr. Wilson went to the Bourbon County Clerk's Office with Ms. Conkright's identification, where the Clerk issued a marriage license. Ms. Conkright was not physically present at the Bourbon County Clerk's office that day, as she was still hospitalized.

On August 23, 2023, Ms. Conkright was transferred to the Intensive Care Unit ("ICU") of the hospital due to a deterioration of her condition. On August 24, 2023, Mr. Wilson, Ms. Davis, and Ms. Conkright's grandson ("Grandson") arrived at the hospital with Reverend Douglass Hess ("Mr. Hess") and his wife, Brenda Hess ("Ms. Hess"). Mr. Hess conducted a short marriage ceremony in Ms. Conkright's hospital room and filled out the marriage certificate portion of the marriage license; Ms. Davis and Ms. Hess served as witnesses. On August 28, 2023, Mr. Wilson took the marriage license back to the Bourbon County Clerk's Office, where it was duly filed and recorded.

Ms. Conkright's condition continued to worsen, and she eventually passed away on September 8, 2023. Ms. Hart was later appointed as the

Administratrix of Ms. Conkright's estate.[3] Following the appointment, the Estate initiated the underlying action seeking to invalidate the marriage.

The circuit court conducted hearings on October 30, 2024 and June 3, 2025. Both Chris Cockrell, the Montgomery County Clerk, and Cynthia Santana Wilson, the Bourbon County Clerk, testified about the process required for the issuance of a marriage license. They indicated that both parties applying for a marriage license are required by statute to be physically present and provide valid identification.[4] Even in instances where one party is incarcerated and unable to appear in person, a sworn affidavit is required.[5] Specifically, the Bourbon County Clerk admitted that her office erred in issuing the marriage license without Ms. Conkright being present or any sort of affidavit being provided by Ms. Conkright.

Ms. Hart testified at length about her mother's medical condition, stating that Ms. Conkright had been in and out of hospitals multiple times prior to being hospitalized in August 2023. She further explained that on August 11, 2023, and in the hospital stay thereafter, Ms. Conkright was generally confused about things, had difficulties communicating, and could not ambulate. Ms. Hart testified that while Ms. Conkright appeared to have some days when she was more alert and

[3] Montgomery District Court Case No. 23-P-00187.

[4] *See* Kentucky Revised Statutes ("KRS") 402.210.

[5] *See Jones v. Perry*, 215 F. Supp. 3d 563, 573 (E.D. Ky. 2016); *see also generally* Ky. Op. Att'y Gen. Op. No. OAG 19-022 (2019).

communicative than others, she was confused every day after being admitted to the hospital. During their interactions, Ms. Hart stated that Ms. Conkright often forgot who people were and where she was, and that she was easily influenced.

Regarding the wedding ceremony, Ms. Hart testified that she was completely unaware that Mr. Wilson had obtained a license. She also testified that while she was at the hospital on August 24, 2023, she was not present or informed of the wedding ceremony until after the fact.

Robert Conkright ("Mr. Conkright"), Ms. Conkright's son, reiterated Ms. Hart's testimony about his mother's physical health. He indicated that Ms. Conkright would not recognize him sometimes, including on the date of the wedding ceremony. While he was also at the hospital that day, he was also not aware or present for the ceremony.

The Hesses testified that they had known Ms. Conkright and Mr. Wilson for about twenty-five years. Mr. Hess explained that he had officiated about a dozen wedding ceremonies over the last few decades. Prior to the ceremony conducted on August 24, 2023, Mr. Hess indicated to Mr. Wilson that he would not conduct the ceremony if Ms. Conkright was unresponsive. However, upon arriving at the hospital, Mr. Hess testified, Ms. Conkright was able to recognize him and assented to being married. The Hesses further testified that the entire ceremony only lasted a few minutes because that was all the time hospital

staff would allow them to visit, and that Ms. Conkright appeared rather tired at the end of the ceremony.

On the day of the hearing, the Hesses admitted that they did not know Ms. Hart had been appointed as Ms. Conkright's temporary emergency guardian and did not realize Ms. Conkright had not been present at the Bourbon County Clerk's office for the issuance of the marriage license. Had Mr. Hess been aware of all of the circumstances, he expressed that he would not have officiated the ceremony.

Ms. Davis and Grandson testified that they believed Ms. Conkright appeared alert on August 24, 2023, and recognized them. Ms. Davis acknowledged she was aware of Ms. Hart's temporary guardianship, having been present at the guardianship proceedings, and that there was some "bad blood" between some of Ms. Conkright's relatives. Ms. Davis claimed that the signature on the marriage license appeared to be Ms. Conkright's but that she had no other involvement with obtaining the license.[6]

Mr. Wilson was the last to testify. He did not provide a specific reason why he sought to obtain a marriage license in Bourbon County rather than Montgomery County but indicated that his family owned property in Bourbon

[6] It remains unclear from the record on appeal when exactly this signature was applied to the marriage license.

County. When asked why he and Ms. Conkright had not gotten married previously, Mr. Wilson stated it was because Ms. Conkright was concerned with losing federal benefits she had been receiving. He admitted that Ms. Conkright had good and bad days while in the hospital concerning her mental clarity, but that she appeared alert and aware on August 24, 2023.

Upon conclusion of the hearing, the circuit court took the matter under advisement. On July 10, 2025, it issued an order granting Appellee's motion and invalidating the marriage, specifically finding that marriage between Mr. Wilson and Ms. Conkright was void because the Bourbon County Clerk violated the law in issuing the marriage license without Ms. Conkright present. Markedly, the circuit court made no findings or legal conclusions regarding the Estate's claims of mental incapacity or force or duress. This appeal followed.

On appeal, Mr. Wilson argues that Ms. Hart lacks standing to seek invalidation of the marriage, that the validity of the marriage should be upheld despite the license being issued in error, and that Ms. Conkright was competent at the time the wedding ceremony was performed.

STANDARD OF REVIEW

To the extent that a circuit court has interpreted a statute or made legal conclusions, we review its determinations *de novo* without deference to the

interpretations made by the circuit court. *Marshall v. Marshall*, 559 S.W.3d 381, 383 (Ky. App. 2018).

ANALYSIS

Kentucky law strongly safeguards the validity of marriages, considering the "presumption of legality is said to be one of the strongest known to the law." *Vest's Adm'r v. Vest*, 234 Ky. 587, 28 S.W.2d 782, 783 (1930); *see also Littreal v. Littreal*, 253 S.W.2d 247, 249 (Ky. 1952) ("[T]he very fact that a ceremony was performed raises a strong presumption that the marriage was valid because the law jealously guards the sanctity of the marital state and resolves most doubts in favor of its validity."). However, incestuous and polygamous or bigamous marriages are always considered prohibited and void regardless of whether those marriages may be valid in a different jurisdiction or country. KRS 402.010; *see also Dannelli v. Dannelli's Adm'r*, 67 Ky. 51, 58 (1868). Other marriages that are considered void and prohibited in Kentucky are marriages not solemnized or contracted in the presence of an authorized person, marriages with minors,[7] and marriages with a person who has been adjudged mentally disabled by a court of competent jurisdiction. KRS 402.020.

[7] Subject to KRS 402.210 and KRS 402.205, which allow for the marriage of a seventeen-year-old in limited circumstances.

Though not void *ab initio*, the courts may also void any marriage obtained through force or fraud. KRS 402.030. Additionally, while not explicitly designated as void or prohibited by the statutes, marriage by proxy is practically barred because it requires both parties to be physically present for the issuance of the marriage license as well as the ceremony. KRS 402.080; KRS 402.050; *see also generally* Doyle B. Inman, Note, *Validity of Proxy Marriage in Kentucky*, 35 Ky. L.J. 228, 231 (1947).

Specifically, KRS 402.080 provides that "[n]o marriage shall be solemnized without a license therefor. The license shall be issued by the clerk of the county in which the female resides at the time, unless the female is eighteen (18) years of age or over or a widow, and the license is issued on her application in person, in which case it may be issued by any county clerk." KRS 402.210(1)(a)-(b) further maintains that both parties must be present and provide the county clerk with documentary proof of their age in order for a marriage license to be issued.

This Court has held that the statutory requirements "enacted by the Kentucky legislature regulating the establishment of a legally valid civil marriage within the Commonwealth are concise and unambiguous." *Pinkhasov v. Petocz*, 331 S.W.3d 285, 293 (Ky. App. 2011). Specifically, the Court has maintained:

> In construing this succinct and unambiguous statutory language, we hold the General Assembly intended two essential requisites of a legally valid civil marriage which are inviolable. First, the parties intending to be married

> must obtain a marriage license from a county clerk. Second, having obtained a marriage license, the parties intending to be married must solemnize their intent to be married before a person or society believed in good faith to possess authority to solemnize the marriage. While functionaries, such as county clerks and marriage officiants, who contravene statutorily imposed duties relative to the licensing, establishment, and recording of a legally valid civil marriage may be exposed to penalties under KRS 402.990, conformity with the two foregoing requirements deduced from KRS 402.080 is entirely within the power, control, and responsibility of the parties intending to be legally married, and we hold strict compliance therewith is necessary for the establishment of a legally valid and binding civil marriage.

Id. at 294.

The process for a circuit court to invalidate a marriage is found in KRS 403.120 which provides:

> (1) The Circuit Court shall enter its decree declaring the invalidity of a marriage entered into under the following circumstances:
>
> (a) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or deformity or because of the influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into a marriage by force or duress, or by fraud involving the essentials of marriage;
>
> (b) A party lacks the physical capacity to consummate the marriage by sexual intercourse, and the other party did not at the time the marriage was solemnized know of the incapacity;
>
> (c) The marriage is prohibited.

> (2) A declaration of invalidity under paragraph (a), (b) or (c) of subsection (1) may be sought by any of the following persons and must be commenced within the times specified, but only for the causes set out in paragraph (a) may a declaration of invalidity be sought after the death of either party to the marriage:
>
> (a) For a reason set forth in paragraphs (a) and (b) of subsection (1), by party or by the legal representative of the party who lacked capacity to consent, who was the offended party or did not know of the incapacity, no later than 90 days after the petitioner obtained knowledge of the described condition;
>
> (b) For the reason set forth in paragraph (c) of subsection (1), by either party, no later than one (1) year after the petitioner obtained knowledge of the described condition.

It is well-established that third-party attempts to challenge the validity of a marriage are not generally permitted. *Marshall*, 559 S.W.3d at 384 ("any third party attacking the marriage must meet specific statutory criteria in order to carry out that endeavor.") (citations omitted). Even void or prohibited marriages under KRS 403.120(1)(c) are not subject to collateral attack by a third party. *Ferguson v. Ferguson*, 610 S.W.2d 925, 927 (Ky. App. 1980) (interpreting KRS 403.120(1)(c) to include both prohibited and void marriages even though "void" is not explicitly mentioned). This brings us to our first threshold question: Did Ms. Hart have standing to seek invalidation of the marriage?

Relying upon *Marshall*, Mr. Wilson argues that no third party has standing to challenge the validity of a marriage for any reason. However, we find *Marshall* distinguishable. In that case, the decedent's mother and sister sought to invalidate a marriage in their own names; at no point were either appellant appointed in any legal capacity to represent the decedent or his interests. *Marshall*, 559 S.W.3d at 382-83.

Here, Ms. Hart was appointed as Ms. Conkright's legal temporary emergency guardian as well as the Administrator of her estate. It was not Ms. Hart herself, but rather Appellee, Estate of Betty Sue Conkright by and through its Administrator, Tonya Hart, which initiated the action to invalidate the marriage, and did so within the ninety (90) days afforded by KRS 403.120(2)(a). Furthermore, the plain language of KRS 403.120(2) clearly implies that an estate of a married party may seek to invalidate a marriage as it provides "only for the causes set out in paragraph (a) may a declaration of invalidity be sought *after the death of either party* to the marriage." (Emphasis added.)

As raised in the initial petition, the Estate sought invalidation of the marriage because of the marriage license being issued in contravention of KRS 402.210(1)(a) and (b), because Ms. Conkright was mentally incompetent at the time of the marriage, and because the marriage was the result of coercion and undue influence. The latter two causes fall within KRS 403.120(1)(a), and

therefore, the Estate had standing to seek invalidation of the marriage. However, this brings us to our next question: Did the circuit court commit error in invalidating the marriage as void based solely on the deficiency relating to the issuance of the marriage license?

At the forefront of this analysis, we observe that this matter would likely not be before the Court but for the oversight of the Bourbon County Clerk and we implore any county clerks in the future to avoid making the same mistakes.[8] It is uncontroverted that the Bourbon County Clerk issued a marriage license in violation of the statutes because both Ms. Conkright and Mr. Wilson were not present. Following that issuance, a wedding ceremony was conducted based on the belief that the marriage license was issued in accord with the law, and a marriage certificate was then duly filed and recorded pursuant to KRS 402.230.

Disregarding any question involving fraud, force, or duress, or Ms. Conkright's mental capacity for the moment, the tenets of *Pinkhasov* were clearly followed – a marriage license was obtained and the parties, allegedly, solemnized "their intent to be married before a person or society believed in good faith to

[8] Our jurisprudence is clear that county clerks have the duty and are necessarily required to comply with the relevant laws when issuing marriage licenses. *See Ermold v. Davis*, 936 F.3d 429, 434 (6th Cir. 2019). The Legislature has similarly emphasized the importance for county clerks to adhere to the statutes regarding the issuance of marriage licenses by enacting KRS 402.990 which provides penalties for clerks who may issue a marriage license in violation of the statutes.

possess authority to solemnize the marriage." 331 S.W.3d at 294. While the statutes were not strictly followed, that failure falls squarely upon the Bourbon County Clerk for issuing a marriage license without both parties being present and duly filing and recording a marriage certificate into the public register. In this sense, the present circumstances differ from *Pinkhasov*. There, this Court held that the asserted marriage was essentially a legal nullity because the parties "intentionally strategized and sought to circumvent the intent" of having a civil legal marriage by choosing to not obtain a marriage license. *Id.* at 295 ("[W]here parties fail to obtain the requisite marriage license prior to the solemnization of their intent to be joined in marriage, there is nothing of a civil nature for an otherwise authorized officiant to solemnize, no legally valid civil marriage can arise, and there is no civil marriage to be otherwise prohibited, voided, or declared invalid.").[9] Here, a marriage license was intentionally sought and obtained prior to a ceremony, there was a ceremony conducted for the purpose of creating a civil legal marriage, and the marriage certificate resulting from that ceremony was duly filed and recorded. To hold a marriage to be a legal nullity under these circumstances, in the absence of any findings of fraud, force, or duress, or mental

[9] *See also*, *e.g.*, *Taulbee v. Cooper*, No. 2012-CA-000602-MR, 2013 WL 1844706, at *2 (Ky. App. May 3, 2013) (holding that an asserted marriage was a legal nullity because the marriage license in question was obtained the day after one of the parties to the marriage died, and there was evidence of clear fraud.). We cite this case for its illustrative value and not as authority. Kentucky Rules of Appellate Procedure ("RAP") 41(A).

incapacity, based solely on a county clerk's, albeit violate, issuance of a marriage license in the presence of only one party to a marriage, would run contrary to our jurisprudence.

Our jurisprudence presumes the validity of a marriage where a license is obtained and a ceremony is properly conducted. However, this in turn begs an important question, which this Court will not consider today but notes for any future analysis, may a marriage under the current circumstances be deemed void *ab initio* or voidable?

Regardless of the answer, the clear reading of KRS 403.120 provides that, after the death of one of the parties to a marriage, a decree of invalidation of a marriage may be sought based only upon one of the causes listed in KRS 403.120(1)(a); procedural deficiency regarding the issuance of a marriage license is not listed in KRS 403.120(1)(a).

However, Appellee has also sought invalidation based on the claims of Ms. Conkright's mental incapacity and force or duress under KRS 403.120(1)(a). The problem remains though, the circuit court made absolutely no findings or legal conclusions regarding KRS 403.120(1)(a), choosing to invalidate the marriage *solely* based on the deficiency relating to KRS 402.210.

It is well-established that a circuit court has a good faith duty to make specific written findings of fact and conclusions of law. *Keifer v. Keifer*, 354

S.W.3d 123, 125-26 (Ky. 2011); *see also* Kentucky Rules of Civil Procedure ("CR") 52.01. In the absence of written findings and conclusions, this Court cannot discern the reasoning behind the circuit court's decision and there can be no meaningful review. *Kindred Nursing Centers Ltd. P'ship v. Sloan*, 329 S.W.3d 347, 348 (Ky. App. 2010). In instances where a circuit court fails to make any findings on an essential issue, "[f]ailure to do so allows an appellate court to remand the case for findings, even where the complaining party failed to bring the lack of specific findings to the trial court's attention." *Anderson v. Johnson*, 350 S.W.3d 453, 458 (Ky. 2011).

Apparent from the record on appeal and the parties' submitted briefs, it is clear that the question of Ms. Conkright's mental capacity was a fiercely contested issue. In light of our analysis above, Appellee's causes for relief brought under KRS 403.120(1)(a) become essential to the resolution of Appellee's action to invalidate the asserted marriage, and so findings of fact and conclusions of law regarding those circumstances are required.

CONCLUSION

Accordingly, for the foregoing reasons we determine that it is necessary to vacate the Montgomery Circuit Court's, July 10, 2025, Order. We remand this action with instructions for the circuit court to engage in further factfinding and analysis to determine if any of the circumstances raised by the

Estate that are contained within KRS 403.120(1)(a) exist which may serve as a basis to invalidate the marriage between Ms. Conkright and Mr. Wilson. While the circuit court may comply with this Opinion with only a review of the existing record, we note that its use of judicial resources shall not be limited if it deems further evidence is needed.

TAYLOR, JUDGE, CONCURS.

ECKERLE, JUDGE, DISSENTS AND FILES SEPARATE OPINION.

ECKERLE DISSENTING: Respectfully, I must dissent from the majority's decision to vacate and remand the Circuit Court's Order.

KRS 403.120 describes the circumstances under which a Court may invalidate a marriage in Kentucky. Its first section offers three avenues to accomplish this end: (1) fraud, duress, or lack of capacity to consent to the marriage; (2) lack of physical capacity by one party to consummate the marriage without the knowledge of the other party; or (3) prohibition by law. As the majority acknowledges, the license issued by the Bourbon County Clerk's Office controverted both KRS 402.210, which requires both parties to be present with appropriate identification to issue a valid license, and KRS 402.080, which provides that "no marriage shall be solemnized without a license therefor." Accordingly, the purported marriage resulting from the invalid license must be considered unlawful. But for Ms. Conkright's death, she or her legally appointed

guardian would have unquestionable standing and grounds to seek invalidation of the marriage under KRS 403.120(1)(c).

However, as the majority notes, the plain language of KRS 403.120(2) states that "only for the causes set out in paragraph (a) [of subsection (1)] may a declaration of invalidity be sought after the death of either party to the marriage[.]" Accordingly, the purported marriage in this case may be voided only if "a party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or deformity or because of the influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into a marriage by force or duress, or by fraud involving the essentials of marriage." KRS 403.120(1)(a). After considering the relevant precedent to confirm that the Estate's Administratrix has the authority to bring the current suit, the majority concludes that the Circuit Court failed to make sufficient findings to determine whether the marriage should be declared voidable or void given the significant dispute between the parties regarding Ms. Conkright's capacity at the time of the marriage. I cannot agree.

The Circuit Court stated in its Order that Ms. Conkright had been hospitalized in the intensive care unit and that her daughter, Tonya Hart, had been appointed her emergency guardian by the Montgomery District Court on August 11, 2023. It then found that Wilson had obtained a marriage license from the

Bourbon County Clerk's Office without Ms. Conkright's presence, which both the Bourbon and Montgomery County Clerks testified had been done unlawfully in violation of KRS 402.210. At the conclusion of its Order, the Circuit Court also noted that it had based its holding upon these findings, arguments by Counsel, and witness testimony, which the majority notes included testimony from the officiant that he had not been made aware that the license was obtained unlawfully or that an emergency guardian had been appointed. Moreover, the officiant testified that he would not have performed the ceremony if he had known either of these facts.

Given these factors, I find plentiful support to declare the purported marriage invalid under KRS 403.120(1)(a) without need for further fact-finding regarding Ms. Conkright's level of competency. There may be future cases in which clarity is lacking and further Trial Court proceedings are necessary. This is not one of them. For the reasons stated above, I would affirm the Circuit Court's order without need to remand the case for further proceedings.

BRIEF FOR APPELLANT:	BRIEF FOR APPELLEE:
James Paul Brannon Paris, Kentucky	Stephen E. Neal Mount Sterling, Kentucky