

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In re Estate of SUE ANN SUMMERFIELD,  
Deceased.

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PAMELA K. BAUER, Personal Representative,  
  
Petitioner-Appellee,

UNPUBLISHED  
March 15, 2002

v

EUGENE R. SUMMERFIELD,  
  
Respondent-Appellant.

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No. 226069  
Saginaw County Probate Court  
LC No. 99-108343-SE

Before: Fitzgerald, P.J., and Hood and Sawyer, JJ.

PER CURIAM.

Respondent appeals as of right probate court orders granting supervised probate, removing respondent as independent personal representative of the decedent's estate, appointing petitioner personal representative of the estate, and denying reconsideration. We affirm.

The decedent, Sue Ann Summerfield, died intestate on November 27, 1999, as the result of an automobile accident. Her only child, Sean Michael Summerfield, was injured in the accident and succumbed to his injuries on December 7, 1999. Respondent Eugene R. Summerfield is Sue Ann's ex-husband and Sean's father. Respondent was appointed as the independent personal representative of Sean's estate on December 16, 1999.

Sue Ann's mother, Virginia Wells, filed a petition for commencement of independent probate proceedings of Sue Ann's estate on December 14, 1999, requesting that her daughter, Pamela K. Bauer, be appointed independent personal representative of Sue Ann's estate. The petition did not list Sean as an heir, but did note that Sean was Sue Ann's son and that he passed away on December 7, 1999. The Saginaw Probate Court appointed granted independent probate and appointed Bauer independent personal representative of Sue Ann's estate on December 14, 1999.

On December 17, 1999, respondent petitioned for commencement of independent probate of Sue Ann's estate as the independent personal representative of the estate of Sue Ann's son. On that same date, Probate Judge Patrick McGraw entered an order "on the court's own initiative" rescinding the order appointing Bauer as independent personal representative and the

letters of authority on the ground that the “filing [was] contrary to law on priority for filing.” The court also entered an order granting independent probate and appointing respondent independent personal representative of Sue Ann’s estate.

On December 27, 1999, Bauer filed a petition for court supervision and for appointment of an independent personal representative. She asked that she be appointed independent personal representative out of priority. Following a hearing on January 12, 2000, Probate Judge Faye Harrison determined that Sue Ann’s estate should proceed under supervised probate. The court entered an order on January 21, 2000, for supervised proceedings and appointed Bauer personal representative of Sue Ann’s estate. The order also revoked the December 17, 1999, order appointing respondent independent personal representative of Sue Ann’s estate as well as respondent’s letters of authority.

Respondent first contends that the probate court erred in determining that Wells was qualified under the probate code to file a petition for commencement of proceedings in independent probate. We agree.

The Revised Probate Code<sup>1</sup>, MCL 700.1 *et seq.*, provides that an heir of the decedent or any other interested party may file a petition for commencement of independent probate with regard to an intestate estate. MCL 700.306(1)(b). The code defines heirs as “those persons, including the surviving spouse, who are entitled to the property of a decedent under the statutes of intestate succession.” MCL 700.6(3). Under the succession statutes, if there is no surviving spouse the estate passes to the decedent’s issue. MCL 700.106(a). The decedent’s son survived her by more than one hundred twenty hours, MCL 700.107, and therefore was the decedent’s sole heir. Wells, therefore, was not an heir.

The code defines an “interested party” as “an heir, devisee, beneficiary, a fiduciary of a legally incapacitated person who is an heir, devisee, or beneficiary, a fiduciary or trustee named in an instrument involved, or a special party.” MCL 700.7(3). Wells was none of these and, therefore, was not an interested party. Accordingly, Wells did not qualify under MCL 700.306(1)(b) to file a petition for commencement of independent probate, and any proceedings pursuant to that filing would be invalid.

However, only three days after granting Wells’ petition for independent probate on December 17, 1999, the probate court granted respondent’s petition for commencement of independent probate of Sue Ann’s estate. Petitioner has not challenged respondent’s authority to petition for independent probate and, therefore, for purposes of analyzing the remaining issues we assume that respondent qualified under the probate code to petition for independent probate.

Respondent asserts that Judge Harrison erred in determining that Bauer qualified to be appointed personal representative of the decedent’s estate under either MCL 700.116(1)(b) or MCL 700.311(2)(b). We agree. These statutory subsections provide that a decedent’s heir may be appointed personal representative. As discussed, Sean Summerfield was the decedent’s sole

<sup>1</sup> A new version of the Revised Probate Code became effective April 1, 2000. 1998 PA 386. However, all the events at issue here occurred before that date; thus, the previous version of the code applies.

heir. Thus, Bauer could not qualify under these specific subsections to be appointed personal representative. However, the Revised Probate Code provides additional criteria for appointment as personal representative. See, e.g., MCL 700.116; MCL 700.311. Respondent has not suggested that Bauer did not qualify to be appointed personal representative under these provisions and, therefore, we presume that the probate court acted within its authority in appointing Bauer personal representative under unchallenged provisions of the code.

Respondent next contends that neither Wells nor petitioner qualified to file a petition for supervised probate. MCL 700.351(1) governs petitions for supervision and provides in part:

At any time in an independent probate proceeding, a petition for supervision may be filed with the court by an *interested person* or by an *independent personal representative* . . . (Emphasis added).

An interested person is defined as:

. . . an interested party, creditor, surety, or any other person having a property right in a trust estate or the estate of a decedent or ward which may be affected by the proceeding. Interested person includes a person nominated as a personal representative and a fiduciary representing an interested person. The meaning may vary as it relates to a particular person and shall be determined according to the particular purpose of, and matter involved in, any proceeding. [MCL 700.7(4).]

Respondent does not dispute petitioner's claim that Wells paid for Sue Ann's funeral expenses and therefore is a creditor of the estate. MCL 700.7(4). Thus, Wells would qualify as an interested person authorized to file for supervision.

Additionally, the definition of interested person is not rigid, allowing the court to consider the particular person and the purpose of and matter involved in the proceeding in deciding who is an interested person. MCL 700.7(4). Thus, the probate court could have determined that either Wells or petitioner was an interested person and qualified to file for supervision.

Finally, respondent contends that the probate court was required to provide findings of fact and conclusions of law in revoking respondent's appointment as personal representative and appointing petitioner personal representative of the decedent's estate. We disagree. A court need not make findings of fact or conclusions of law when deciding motions, unless another court rule requires a finding. MCR 2.517(A)(4); *Michigan National Bank v Metro Inst Food Service, Inc*, 198 Mich App 236, 241-242; 497 NW2d 225 (1993). Respondent points to no court rule to support his claim that the trial court was required to make factual findings when deciding the motions herein.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Harold Hood

/s/ David H. Sawyer