

STATE OF MICHIGAN
COURT OF APPEALS

In re ESTATE OF JACK MCLAURIN, SR.

GEORGE RIZIK II, Personal Representative of the
ESTATE OF JACK MCLAURIN, SR.,

UNPUBLISHED
April 30, 2020

Appellee,

v

PATRICE MCLAURIN,

Appellant.

No. 348610
Genesee Probate Court
LC No. 17-206740-DE

Before: BORRELLO, P.J., and O’BRIEN and CAMERON, JJ.

PER CURIAM.

Appellant, Patrice McLaurin (Patrice), appeals as of right the probate court’s order for Complete Estate Settlement that approved the personal representative’s petition for complete estate settlement of the estate of Patrice’s father. For the reasons set forth in this opinion, we affirm.

I. BACKGROUND

This matter involving the decedent’s estate was before this Court when Patrice’s brother Fred McLaurin (Fred)¹ appealed a previous order entered by the probate court that had granted “George F. Rizik, II (Rizik), the personal representative of the estate, the authority to allow Fred to retain the decedent’s 1987 Chevrolet Monte Carlo (vehicle); to pay \$2,000 to Continental Auto Sales, LLC (buyer); and to deduct that \$2,000 from Fred’s distributive share of the estate’s residue, along with \$1,000 in attorney fees and costs.” *In re McLaurin Estate*, unpublished per curiam opinion of the Court of Appeals, issued February 14, 2019 (Docket No. 341596), p 1. Because it

1 Patrice is the decedent’s daughter and Fred’s sister.

is also helpful for providing necessary context to the instant appeal by Patrice, we quote our previous summary of the pertinent background facts:

The decedent died intestate on February 10, 2017, leaving eight children as his descendants. The probate court appointed Rizik as the personal representative of the estate. Rizik had Fred and two of his siblings bid on the subject automobile after they had expressed an interest in it. Rizik testified that despite an array of competing bids, none of the family members ever provided any money to him. Consequently, Rizik sold the vehicle to the buyer. When the buyer attempted to claim possession of the vehicle, he was precluded from doing so by Fred. After a hearing, the probate court approved of Rizik's sale of the vehicle, noting Fred's failure to pay the purchase price in a reasonable time and Rizik's discovery of a willing buyer. The probate court ordered Fred to turn the vehicle over to Rizik, but when Fred refused to do so, he was found in contempt of court and sentenced to time in jail.

Subsequently, Fred moved the probate court to remove Rizik as personal representative of the estate while Rizik moved the probate court to allow Fred to keep the vehicle but to deduct \$2,000 from Fred's share of the estate to pay the buyer along with \$1,000 from his share to pay for attorney fees and costs arising out of Fred's wrongful retention of the vehicle. Fred objected, citing that the vehicle was not worth that amount and that Rizik had breached an array of duties to the estate. The probate court found that such relief was warranted under the circumstances and entered an order adopting Rizik's plan. [*Id.* at 1-2.]

On appeal, this Court affirmed the probate court's order. *Id.* at 5. Specifically, this Court concluded (1) that the probate court did not abuse its discretion in granting Rizik's petition to deduct the value of the vehicle, as well as related attorney fees and costs, from Fred's distributive share of the estate's residue; (2) that the probate court's determination of the amount to deduct, \$3,000, was not clearly erroneous or an abuse of discretion; and (3) that the probate court did not abuse its discretion by denying Fred's petition to remove Rizik as personal representative where Fred had asserted without any apparent support that Rizik had committed various acts constituting misconduct and breaches of his fiduciary duties. *Id.* at 2-5.

On February 26, 2019, following the issuance of this Court's opinion in the prior appeal, Rizik filed a petition for complete estate settlement in the probate court. The petition requested approval of the final account, distributions, and payment of claims.

Patrice objected to the petition, filing an objection letter in the probate court on March 25, 2019. Patrice's written filing stated that she objected to "the petition in its 'ENTIRETY' . . . and to the closing of the estate and discharge [of] the representative without being held responsible to any and all mismanagement of assets, of funds, and property of the estate." However, Patrice did not provide any further explanation regarding her vague, general allegations that Rizik had mismanaged assets, funds, or property of the estate. She also did not provide any specific examples or facts regarding alleged mismanagement by Rizik. Fred filed a similar objection letter, but Fred's objections are not at issue in this appeal.

A hearing was conducted on the matter on April 2, 2019. The probate court approved the petition for complete estate settlement. In doing so, the court declined to hear any oral argument from the parties and specifically told Patrice and Fred that “the Court of Appeals has already ruled on the issues that you have brought up today and/or I have already ruled on them and you have not appealed them so what I am going to do is approve the complete estate settlement as offered by Mr. Rizik.” When Fred and Patrice protested and inquired whether they could argue the matter, the probate court responded, “I’ve read your objections. It’s either issues that you did not appeal to the Court of Appeals yet that I’ve already ruled on or the Court of Appeals has already told me that the orders I entered before were proper.” Patrice and Fred claimed that their objections were new, but the probate court responded, “None of this is new. I’m not going to argue with you.” In accordance with its ruling from the bench, the probate court entered an order for complete estate settlement and approving the final account, distributions, and payment of claims as requested by Rizik.

Patrice now appeals this order.

II. STANDARD OF REVIEW

This Court reviews due-process issues de novo. *In re Keyes Estate*, 310 Mich App 266, 269; 871 NW2d 388 (2015).

III. ANALYSIS

The essence of Patrice’s appellate argument is that she was entitled to present her objections and arguments orally at the hearing and that because she was not allowed to do so, she was denied a meaningful opportunity to be heard in violation of her due process rights. “[T]he fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *In re Adams Estate*, 257 Mich App 230, 234; 667 NW2d 904 (2003), quoting *Mathews v Eldridge*, 424 US 319, 333; 96 S Ct. 893; 47 L Ed 2d 18 (1976) (quotation marks omitted).

However, Patrice’s argument ignores the fact that she actually had a meaningful opportunity to be heard on her objections via her written filing that the probate court indicated had been read and considered. Rules of procedure specifically applicable to the probate court are contained in chapter five of the Michigan Court Rules. MCR 5.001(A). In the context of probate court proceedings, an interested person may object to a pending petition orally or in writing, MCR 5.119(B), and the probate court “may limit oral argument” with respect to such matters, MCR 5.119(D). There was nothing in Patrice’s vague, conclusory assertions that comprised her written objections to suggest that further oral argument was necessary to allow the probate court to understand and resolve the issues. Rather, it was clear from the nature of Patrice’s written objections that her claims were factually unfounded. Patrice does not cite any authority for the proposition that she was absolutely entitled to additionally present further oral argument at the April 2, 2019 hearing regarding her objections. Hence, the probate court did not err by declining to hear oral argument from Patrice at the hearing; Patrice was given a meaningful opportunity to be heard because she filed her written objections in the probate court and the court expressly considered those objections. She was free to raise all of her objections in detail within the context of her written submission, and she was not entitled to rely on oral argument to make explanations

or raise issues that she failed to include in her written filing. The probate court's decision to base its ruling on consideration of the written filings without hearing additional oral argument was not erroneous.

Affirmed.

/s/ Stephen L. Borrello
/s/ Colleen A. O'Brien
/s/ Thomas C. Cameron