

STATE OF MICHIGAN
COURT OF APPEALS

PINE GROVE TOWNSHIP,

Petitioner-Appellant,

v

MARILYN RUMNEY, Personal Representative of the
Estate of DONALD ROY DOERING, Deceased,

Respondent-Appellee.

UNPUBLISHED

August 22, 1997

No. 188137

Allegan Probate Court

LC No. 93-047393-IE

Before: Sawyer, P.J., and Bandstra and E. A. Quinnell*, JJ.

MEMORANDUM.

Petitioner appeals by right from a judgment of the Allegan Probate Court, dismissing petitioner's complaint against the estate for storage costs concerning personal property removed from the premises of decedent in pursuance of an order of the Van Buren Circuit Court in prior litigation, and imposing sanctions on the township for filing a frivolous complaint in violation of MCR 2.114(E). We affirm.

The imposition of sanctions under MCR 2.114(E) is reviewed in this Court for clear error. *Aguirre v Secula*, 194 Mich App 22; 486 NW2d 60 (1992). In ruling that the petition was frivolous, the probate court indicated that the Van Buren Circuit Court had previously ruled that, concerning the personal property in question, neither decedent nor his estate had retained any property interest therein, and therefore any storage was done by the township without obligation and for its own purposes. The township contends that this represents an erroneous view of the prior circuit court proceedings, but no copy of the key circuit court order, as referenced in the probate court's opinion, which order addressed the township's motion for summary disposition of the cross-complaint in the circuit court proceedings, has been furnished to this Court for its review. The appellant, however, bears the burden of providing this Court with a record demonstrating clear error by the court below. *Lemanski v Ford Motor Co*, 82 Mich App 244, 252; 266 NW2d 775 (1978). Appellant has failed to present this Court with such a record, and on the actual record this Court cannot say that the probate court has clearly erred in imposing sanctions.

* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ David H. Sawyer

/s/ Richard A. Bandstra

/s/ Edward A. Quinnell