

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of the Estate of
DENISE ELLEN AQUINO,
a Legally Incapacitated Person.

ESTATE OF DENISE ELLEN AQUINO,

UNPUBLISHED

February 13, 1998

Petitioner-Appellee,

v

No. 198576

Wayne Probate Court

LC No. 93-518528

RENATO AQUINO and DENISE ELLEN
AQUINO, Individually,

Respondents-Appellants.

Before: Markman, P.J., and McDonald and Cavanagh, JJ.

PER CURIAM.

Respondents Renato and Denise Aquino appeal as of right from the probate court order removing Renato as conservator of Denise's estate. We reverse and remand.

Respondents first argue that the probate court lacked jurisdiction to remove Renato as conservator. Whether the probate court had jurisdiction is a question of law that is reviewed de novo. See *Oakland Hills Development Corp v Lueders Drainage District*, 212 Mich App 284, 294; 537 NW2d 258 (1995).

Respondents contend that the probate court did not have jurisdiction because they were not provided with notice and a hearing. Notice must be reasonably calculated to apprise interested parties of the pendency of an action and must afford them an opportunity to present objections. *Vicencio v Jaime Ramirez, MD, PC*, 211 Mich App 501, 504; 536 NW2d 280 (1995).

We conclude that respondents were not given sufficient notice of a challenge to Renato's conservatorship. Although by filing her petition Denise raised the question whether the conservatorship

should continue, whether Renato should continue as the conservator is a separate and distinct issue. Renato was not represented by counsel at the August 12, 1996, hearing, and did not have an adequate opportunity to present his objections to his removal as conservator. The failure to provide proper notice constitutes a jurisdictional defect. See *In re Williams Estate*, 133 Mich App 1, 8; 349 NW2d 247 (1984). Accordingly, we reverse the probate court order removing Renato as conservator and remand for further proceedings.

Because of our resolution of the previous issue, it is unnecessary for us to address whether the probate court erred in removing Renato as conservator.

Reversed and remanded. We do not retain jurisdiction.

/s/ Gary R. McDonald

/s/ Mark J. Cavanagh