

STATE OF MICHIGAN
COURT OF APPEALS

In re Estate of LORN WESLEY BACON,
Deceased.

ESTATE OF LORN WESLEY BACON,

Petitioner-Appellee,

v

WADE BACON,

Respondent-Appellant.

UNPUBLISHED

October 14, 2004

No. 248056

Shiawassee Probate Court

LC No. 00-030564-DA

Before: Griffin, P.J., and Saad and O'Connell, JJ.

PER CURIAM.

Respondent appeals the probate court's order approving a final account, attorney fees, and personal representative fees, and we affirm.¹

Upon decedent's death, Lorn E. Shears, who represented himself as decedent's son, and Marlene Spencer, decedent's former girlfriend, filed competing petitions to open an estate. Spencer submitted a copy of a will purportedly written by decedent that named her as personal representative of decedent's estate, but neither identified decedent's heirs nor contained instructions for the disposition of his property. The probate court determined that decedent's surviving siblings were his rightful heirs. Subsequently, respondent filed a motion to remove Spencer as personal representative and to determine heirs, asserting that he was decedent's natural son and that he had not received proper notice of the previous proceedings. The probate court concluded that it had determined decedent's heirs, and that evidence that respondent was decedent's natural son was untimely. In *In re Estate of Bacon*, unpublished opinion per curiam of the Court of Appeals, issued February 14, 2003 (Docket No. 239426), this Court reversed the probate court's decision and remanded the matter, concluding that respondent did not receive proper notice of the previous proceedings.

¹ This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Spencer moved for approval of final account, attorney fees, and personal representative fees. Respondent objected to the requested fees, asserting that many of the entries on the statements were vague or incomplete, or did not benefit the Estate. The probate court held a hearing and approved the final account, plus attorney fees in the amount of \$14,168.88 and personal representative fees in the amount of \$2,728.

An attorney is entitled to receive compensation for services rendered to an estate. MCR 5.313(A). Legal services rendered on behalf of an estate are compensable where the services benefit the estate by either increasing or preserving the estate's assets. *In re Sloan Estate*, 212 Mich App 357, 362; 538 NW2d 47 (1995). We review a probate court's award of fees for an abuse of discretion, *In re Humphrey Estate*, 141 Mich App 412, 439; 367 NW2d 873 (1985), and its findings of fact for clear error. MCR 2.613(C).

When attorney fees are awarded, the amount awarded is for reasonable fees. If the reasonableness of a request for fees is challenged, the trial court generally must conduct an evidentiary hearing. *Head v Phillips Camper Sales & Rental, Inc*, 234 Mich App 94, 113; 593 NW2d 595 (1999). In determining whether requested attorney fees are reasonable, the trial court must consider such factors as: (1) the professional standing and experience of the attorney; (2) the skill, time, and labor involved; (3) the amount in question and the results achieved; (4) the difficulty of the case; (5) the expenses incurred; and (6) the nature and length of the professional relationship with the client. *Papo v Aglo Restaurants*, 149 Mich App 285, 299; 386 NW2d 177 (1986). The burden of proof with respect to the reasonableness of the fees requested rests with the party claiming compensation. *In re Krueger Estate*, 176 Mich App 241, 249; 438 NW2d 898 (1989).

Respondent argues that the probate court erred and abused its discretion when it approved the Estate's final account as well as attorney fees and personal representative fees. Respondent raises general objections to the adequacy of the itemized statements submitted by the Estate's attorney and the personal representative, but does not specify what portions of the fees granted should be reduced or disallowed. At the hearing on the motion for approval of the final account and payment of attorney and personal representative fees, counsel for the Estate observed that the Estate was required to undertake a great deal of investigation to determine the identity of decedent's rightful heirs, and was required to defend against claims made by Lorn Shears. The probate court correctly reasoned that had the Estate and the personal representative not undertaken to determine decedent's rightful heirs and defend against the claims raised by Lorn Shears, the Estate would have been dissipated and respondent would have inherited nothing. The probate court exercised its discretion and disallowed portions of the requested fees, but found that counsel for the Estate and the personal representative met their burdens of justifying the bulk of the requested fees. We hold that, based on the record before us, the probate court did not abuse its discretion approving the final account and awarding attorney and personal representative fees. *Sloan, supra*; *Humphrey, supra*; *Krueger, supra*.

Affirmed.

/s/ Richard Allen Griffin
/s/ Henry William Saad
/s/ Peter D. O'Connell