

STATE OF MICHIGAN
COURT OF APPEALS

In re Pierre Lamarr Burnett, Protected Minor.

VANESSA BOONE and GEORGE BOONE, JR.,

Petitioners-Appellants,

v

ESTATE OF PIERRE LAMARR BURNETT,

Respondent-Appellee.

UNPUBLISHED

October 26, 2004

No. 248472

Macomb County Probate Court

LC No. 02-174785-CY

Before: Whitbeck, C.J., and Jansen and Bandstra, JJ.

MEMORANDUM.

Petitioners appeal as of right from the order denying their petition to relinquish a life insurance fund. We affirm.

The probate court was asked to allow the estate to relinquish life insurance proceeds that had been paid to the estate to benefit the minor child. Petitioners' claim was based on a beneficiary designation form that they found after the policy was disbursed. They conceded that the form was not filed with the insurance company. The form stated, "I understand that this beneficiary designation is not effective unless it is filed with ABN AMRO North America, Inc., prior to my death."

Where an insurance policy designates the manner or method of making a change of beneficiary, the steps must be at least substantially complied with where a beneficiary designation can be made effective only by following the policy provisions. *Dogariu v Dogariu*, 306 Mich 392, 398; 11 NW2d 1 (1943). Decedent failed to follow the policy provisions when she did not file the beneficiary designation with ABN AMRO prior to her death. There was no basis for the probate court to order the return of the policy proceeds where the evidence showed that the proceeds were properly distributed to the minor's estate. Where the contract was properly interpreted, there was no interference with the right to contract.

MCR 5.121(A) provides that the court may appoint a guardian ad litem, stating the purpose for the appointment in the order. MCR 5.121(C) states that the guardian ad litem need not appear personally at the hearing unless required by law or directed by the court. Any written report must be filed with the court at least 24 hours before the hearing. MCR 5.121(C).

Petitioners have cited no authority requiring a guardian ad litem to serve the parties with his report at any specific time period prior to the hearing.

Affirmed.

/s/ William C. Whitbeck

/s/ Kathleen Jansen

/s/ Richard A. Bandstra