

STATE OF MICHIGAN  
COURT OF APPEALS

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In re Estate of CATHERINE B. STANOWSKI.

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JOHN W. STANOWSKI, Personal Representative  
of the Estate of CATHERINE B. STANOWSKI.

UNPUBLISHED  
February 21, 2008

Petitioner-Appellant,

v

ALVIN STANOWSKI, LILLIAN MAMO and  
PATRICIAN PATTERSON, Special Fiduciary,

No. 273718  
Wayne Probate Court  
LC No. 1991-866724-DE

Respondents-Appellees.

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Before: Beckering, P.J., and Sawyer and Fort Hood, JJ.

PER CURIAM.

Petitioner appeals from an order of the probate court resolving various issues in this estate. We affirm.

Decedent died on October 12, 1991. Although the petition to commence proceedings was filed shortly thereafter, it took over fifteen years to resolve the issues in this estate. Petitioner took this appeal, disagreeing with the probate court's resolution of various issues related to the award of fees and costs and the treatment of certain loans made by the decedent to her children and a parcel of real property located next to her daughter's home.

We first collectively consider petitioner's first four arguments, which are related to the award of attorney and administrative fees. Petitioner argues that the trial court erred in accepting the special fiduciary's recommendations that (1) each party pay his or her own attorney fees, including petitioner as personal representative paying the fees of the attorney retained on behalf of the estate, (2) the denial of attorney fees to petitioner for the legal work he performed over the years for the estate, (3) the failure to award fees for certain years during which the estate was open, and (4) the reduction in the amount of fees awarded petitioner based upon his "poor accounting, arbitrary and inconsistent position on loans and lack of legal expertise."

We review a trial court's finding of fact for clear error. *Herald Co, Inc v Eastern Michigan Univ Bd of Regents*, 475 Mich 463, 472; 719 NW2d 19 (2006). A finding is clearly erroneous if we are left with a definite and firm conviction that a mistake was made. *Id.* at 471. In an estate matter, fees may be awarded where the services were necessary and provided on

behalf of the estate. *In re Sloan Estate*, 212 Mich App 357, 361; 538 NW2d 47 (1995). Furthermore, the probate court has the authority to determine the amount that is reasonable:

In estate matters, the probate court must review a petition for attorney fees for reasonableness with an eye toward preservation of the estate's assets for the beneficiaries. *In re Krueger Estate*, 176 Mich App 241; 438 NW2d 898 (1989). After reviewing the entire record and the probate court's opinions and orders of April 30, 1991, and July 29, 1993, we conclude that the court considered the relevant factors for determining whether the fees for petitioners' attorneys were reasonable. The court properly exercised its discretion in finding that a portion of the fees being requested was unnecessary or for a duplication of effort.

In the case at bar, we are not left with a definite and firm belief that the trial court made a mistake in its findings of fact on this issue and, therefore, clearly erred. Furthermore, we are not persuaded that the trial court abused its discretion in determining the amount to be awarded. Clearly, the trial court looked to determine what amount, over the life of the estate, was reasonable to compensate petitioner for his work. We are not persuaded that the trial court erred in determining that amount.

Next, we jointly consider petitioner's remaining two issues. Petitioner argues that the trial court erred in applying MCL 700.2608, as recommended by the special fiduciary, to resolve the issues of the loans by the decedent during her lifetime to her children and the disposition of the real estate located adjacent to Lillian Mamo's home. Petitioner mistakenly relies on MCL 700.8101(2)(a) for the proposition that MCL 700.2608 does not apply to this case because the decedent died before April 1, 2000. Contrary to petitioner's assertions on appeal, MCL 700.8101(2)(a) does not provide that the Estates and Protected Individuals Code only governs estates where the decedent died after April 1, 2000. Rather, that provision requires the application of EPIC, including MCL 700.2608, where the decedent died after April 1, 2000. MCL 700.8101(2)(b) provides that EPIC also applies to estates pending in the probate court on April 1, 2000, which the case at bar was, unless the trial court determines that it is infeasible to apply a particular provision or contrary to the interests of justice to do so. We are not persuaded that it was infeasible to apply MCL 700.2608 to this case or that it was contrary to the interests of justice to apply it. Accordingly, we are not persuaded that the trial court erred in doing so.

Petitioner also suggests that the trial court erred in its findings of fact on this issue. The extent of petitioner's argument is that "there is no testimony or documented evidence introduced at trial that meets the requirements of the statute. The documentary and testimonial evidence is to the contrary." Petitioner, however, does not direct our attention to what evidence contradicts the trial court's findings nor does he specifically identify how the evidence in support of the trial court's findings is inadequate. A "party may not merely announce a position and leave it to this Court to discover and rationalize the basis for the claim." *Morris v Allstate Ins Co*, 230 Mich App 361, 370; 584 NW2d 340 (1998).

Affirmed. Respondents may tax costs.

/s/ Jane M. Beckering  
/s/ David H. Sawyer  
/s/ Karen M. Fort Hood