

STATE OF MICHIGAN
COURT OF APPEALS

In re Estate of JESSIE LEE SIMMONS, JR., a
Protected Individual.

ELLA L. SIMMONS, Conservator of the Estate of
JESSIE LEE SIMMONS, JR.,

UNPUBLISHED
December 23, 2008

Respondent-Appellant,

v

No. 281904
Wayne Probate Court
LC No. 81-724720-CA

ERIC BRAVERMAN,

Petitioner-Appellee,

and

HARTFORD FIRE INSURANCE COMPANY,

Appellee.

Before: Cavanagh, P.J., and Jansen and Meter, JJ.

PER CURIAM.

Respondent Ella Simmons appeals as of right from a probate court order disallowing an account and removing her as conservator. We affirm.

Respondent is the conservator for her son, a military veteran, and is responsible for managing the benefits he receives from the Veterans Administration (VA). In late 2005, the VA awarded respondent's son \$68,980.48 as past-due "special monthly compensation based on Aid and Attendance" for the period between December 1989 and April 2005. Respondent took the money for herself, claiming it on her annual account as an expense of the estate. Both the VA and the guardian ad litem objected. The probate court agreed that respondent's action was improper and denied the account, removed her as conservator, and ordered her to reimburse the estate.

The court may remove a conservator for good cause. MCL 700.5414. The court's decision to remove a conservator is reviewed for an abuse of discretion. See *In re Williams Estate*, 133 Mich App 1, 13; 349 NW2d 247 (1984). "An abuse of discretion occurs when the

decision results in an outcome falling outside the principled range of outcomes.” *Woodard v Custer*, 476 Mich 545, 557; 719 NW2d 842 (2006).

Respondent, as a conservator, could only expend or distribute estate income or principal without court approval “for the support, education, care, or benefit of the protected individual” or his dependents. MCL 700.5425. She owed a fiduciary duty to her son to manage his estate in a prudent manner and without self-interest. MCL 700.5416; MCL 700.7302; *In re Green Charitable Trust*, 172 Mich App 298, 312-313; 431 NW2d 492 (1988). Respondent had no receipts or other documentation to show that she had incurred an amount equal to \$68,980.48 for her son’s care and support over and above all previously allowed expenses for the years 1989 to 2005. Because she could not account for the expenses allegedly incurred on her son’s behalf, she breached her fiduciary duty as a conservator by removing the funds from her son’s estate and thus the court did not abuse its discretion in disallowing the account, removing respondent as conservator, and ordering reimbursement of the estate.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Patrick M. Meter