

STATE OF MICHIGAN
COURT OF APPEALS

In re ESTATE OF ELSIE M CLEMENCE.

LESTER CLEMENCE,

Appellant.

UNPUBLISHED
November 28, 2017

No. 336570
Kent Probate Court
LC No. 99-167964-DE

Before: SWARTZLE, P.J., and SAWYER and MARKEY, JJ.

PER CURIAM.

Appellant appeals from an order of the Probate Court denying his petition to reopen his deceased mother's estate. We affirm.

Elsie Clemence died in 1999. According to the lower court docket entries, an estate was opened in 1999, thereafter closed, reopened again in 2005 and closed, and reopened yet again in 2011 and closed. In 2017, appellant sought to again reopen the estate. This time, he did so to pursue, as he describes it, "a civil rights case" against an attorney who gave his mother bad advice in 1993 regarding her desire to recover land that had been sold the previous year while she was a ward of the court.¹

The Probate Court denied the petition to reopen the estate. The court concluded that, because the potential underlying action arose in the 1990s, any possible period of limitations had long since expired. Therefore, the court determined that good cause had not been shown to reopen the estate. See MCR 5.312. On appeal, appellant makes no showing that there is any possible claim for which the period of limitations has not expired. Rather, he merely argues that he "should be granted the right to bring a civil rights violation on behalf of his mother's estate

¹ According to appellant in his brief, the property was sold by court order in order to pay the attorney fees of the attorney representing the deceased. Appellant also states that it was eventually determined that his mother was not an incapacitated person and that that case was dismissed. From appellant's statements at the hearing in the Probate Court on his petition to reopen the estate, he is seeking to bring an action against that original attorney.

and whether the law suit is a successful, unsuccessful or even summarily dismissed should be up to the Judge and possible jury assigned to that particular civil rights suit.”

We agree with the probate court that appellant has failed to show good cause to reopen the estate.

Affirmed.

/s/ Brock A. Swartzle

/s/ David H. Sawyer

/s/ Jane E. Markey