In The
Court of Appeals
Sixth Appellate District of Texas at Texarkana

No. 06-17-00063-CV

IN THE ESTATE OF BOBBY SINGLETON, DECEASED

On Appeal from the County Court at Law
Bowie County, Texas
Trial Court No. 41,426-CCL

Before Morriss, C.J., Moseley and Burgess, JJ.
Memorandum Opinion by Chief Justice Morriss

MEMORANDUM OPINION

In December 2014, Dorothy Johnson applied to be named Independent Administrator of the relatively modest decedent's estate of Bobby Ray Singleton, who had died apparently without a will and as a still-single widower. In late March 2016, at least in part supported by various affidavits apparently sponsored by Johnson, the County Court at Law of Bowie County entered two orders, one appointing Johnson as *Dependent* Administrator of the Estate of Bobby Singleton, Deceased, and the other declaring that Singleton had died intestate, leaving a single heir, his son, Jahsaun Arnett. Johnson promptly signed an oath of office as Dependent Administrator and thus qualified for that office.

During the next year, Johnson and Arnett apparently became estranged.

Just over a year after the 2016 orders, on April 6, 2017, after Arnett and Johnson had become adversaries in the court, the trial court entered its order reciting, again, that Arnett was the sole heir, finding that Arnett had turned eighteen years of age and was therefore an adult, finding that there were no claims approved against the estate, finding that the estate had certain specific assets but no debts, vesting title to the estate assets in Arnett, and closing the estate.

Johnson, joined by her husband, David Johnson, appeal, complaining of three allegedly improper actions of the trial court: (A) ordering a dependent administration, (B) declaring Arnett to be the sole heir, and (C) denying the Johnson creditor's claim against the Estate. We affirm the trial court's actions, because (1) we are without jurisdiction to review the order granting a dependent administration or the order naming Arnett the sole heir and (2) to the extent other cognizable issues urged by Johnson can be discerned by this Court, they fail.

(1) We Are Without Jurisdiction to Review the Order Granting a Dependent Administration or the Order Naming Arnett the Sole Heir

Johnson's appellate challenges to the order for a dependent administration and to the order declaring Arnett as the sole heir must fail here, because those issues must have been challenged on appeal in 2016, within the time for appeal after they were decided by the trial court. Here, the trial court signed, on March 30, 2016, both its Judgment Declaring Heirship, which named Arnett as the sole heir, and its Order Granting Letters of Administration, which ordered the dependent administration. As explained below, the two 2016 orders were final and appealable when rendered, and an attempted appeal of those orders that is filed in excess of one year later comes too late.

In an ordinary appeal, a "notice of appeal must be filed within 30 days after the judgment is signed," except under one of the exceptions set out by Rule 26.1 of the Texas Rules of Appellate Procedure, none of which are applicable here. *See* TEX. R. APP. P. 26.1. If an appeal is late, the court of appeals is without jurisdiction to hear that appeal. *Thomas v. Davis*, 553 S.W.2d 624, 626 (Tex. 1977). Generally, appeals may be taken only from final judgments. *De Ayala v. Mackie*, 193 S.W.3d 575, 578 (Tex. 2006).

When dealing with decedents' estates, however, there may be more than one final, appealable judgment. *Id.* "A final order issued by a probate court is appealable to the court of appeals." TEX. EST. CODE ANN. § 32.001(c) (West 2014).

Over the years, the question of when a court order in a decedent's estate is final and appealable has not been entirely clear in all cases. *See De Ayala*, 193 S.W.3d at 578; *see also Crowson v. Wakeham*, 897 S.W.2d 779, 783 (Tex. 1995). If a statute expressly declares an order ending a particular phase of a probate case to be final, the statute controls. *De Ayala*, 193 S.W.3d

at 578; *Crowson*, 897 S.W.2d at 783. If, however, there is no governing statutory declaration of finality, a probate order is considered final and appealable if the order effectively disposes of a proceeding within, or a particular phase of, the probate case; otherwise, it is interlocutory. *De Ayala*, 193 S.W.3d at 578; *Crowson*, 897 S.W.2d at 783.

"The judgment in a proceeding to declare heirship is a final judgment." TEX. EST. CODE ANN. § 202.202(a) (West 2014). Such a judgment is subject to the same time limits for appeal as other probate judgments. TEX. EST. CODE ANN. § 202.202(b) (West 2014). Therefore, the March 2016 order determining that Arnett was the sole heir of Singleton was final and appealable. *See Young v. First Cmty. Bank, N.A.*, 222 S.W.3d 454, 456 (Tex. App.—Houston [1st Dist.] 2006, no pet.); *see also In re Estate of Rogers*, 322 S.W.3d 361, 363 (Tex. App.—El Paso 2010, no pet.).

Because the order determining heirship was not appealed on a timely basis, we are without jurisdiction to address the heirship issue raised by Johnson. *See Thomas*, 553 S.W.2d at 626. We therefore overrule that issue.

Because there appears to be no statutory declaration that the appointment of an administrator is final, that question rests on caselaw precedent. But that precedent is clear. The appointment of an administrator of a decedent's estate has consistently been declared final and appealable. *In re Estate of Arizola*, 401 S.W.3d 664, 670 (Tex. App.—San Antonio 2013, pet. denied);[1] *In re Estate of Gober*, 350 S.W.3d 597, 598–99 & n.1, 2 (Tex. App.—Texarkana 2011, no pet.); *In re Estate of Washington*, 262 S.W.3d 903, 905 (Tex. App.—Texarkana 2008, no pet.); *In re Estate of Crenshaw*, 982 S.W.2d 568, 570 (Tex. App.—Amarillo 1998, no pet.).

[1]*Arizola* lists a number of similar holdings. *Arizola*, 401 S.W.3d at 670.

Because the order appointing Johnson as Dependent Administrator was not appealed on a timely basis, we have no jurisdiction to address the dependent-administration issue raised by Johnson. *See Thomas*, 553 S.W.2d at 626. We therefore overrule that issue.

(2) To the Extent Other Cognizable Issues Urged by Johnson Can Be Discerned by this Court, They Fail

Johnson's second point of error is multifarious and may be overruled on that basis. A point of error that raises more than one specific ground for appeal is multifarious. *In re S.K.A.*, 236 S.W.3d 875, 894 (Tex. App.—Texarkana 2007, pet. denied). Multifarious issues risk being summarily overruled. *Newby v. State*, 169 S.W.3d 413, 414 (Tex. App.—Texarkana 2005, pet. ref'd); *Harris v. State*, 133 S.W.3d 760, 764 n.3 (Tex. App.—Texarkana 2004, pet. ref'd); *Parra v. State*, 935 S.W.2d 862, 875 (Tex. App.—Texarkana 1996, pet. ref'd). Johnson's arguments within her second point of error are also largely insufficiently briefed and subject to being overruled on that basis as well. Appellants are required to present "a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record." TEX. R. APP. P. 38.1(i); *In re Estate of Curtis*, 465 S.W.3d 357, 379 (Tex. App.—Texarkana 2015, pet. dism'd). "Bare assertions of error, without argument or authority, waive error." *Curtis*, 465 S.W.3d at 379 (quoting *McKellar v. Cervantes*, 367 S.W.3d 478, 484 n.5 (Tex. App.—Texarkana 2012, no pet.)). Because Johnson's arguments largely are without specific argument or appropriate citation to authority, we overrule them, except to the extent we can, in the interest of justice, discern cognizable issues within point of error number two as urged by Johnson.

Part of Johnson's second point of error complains of the trial court's determination that Arnett is Singleton's sole heir. We are without jurisdiction to consider that point, as explained in

section one of this opinion, above. That lack of jurisdiction also finally disposes of Johnson's argument on appeal that the trial court erred in awarding the entire estate to Arnett.

There remain for our disposition two discernable assertions by Johnson arising from the order of the trial court dated April 6, 2017, closing the estate. Those two cognizable assertions include the allegation that the trial court improperly closed the estate and that it improperly rejected Johnson's two creditor's claims against the estate.

Administration of an estate "shall be settled and closed" when all debts have been paid, to the extent possible, and there is no further need for administration. TEX. EST. CODE ANN. § 362.001 (West 2014). That result can be compelled by someone other than the administrator in proper circumstances. *See* TEX. EST. CODE ANN. § 362.002 (West 2014). From the record before us, we see no contention that there is any further need for the administration of Singleton's estate, except for the obvious issue of Johnson's two claims. Therefore, Johnson's appellate issue challenging the closing of the estate rests on the issue of the rejection of Johnson's two creditor's claims.

Johnson's two claims against the estate total $10,538.42—the sum of $8,714.86 alleged to have been expended by Johnson for insurance, maintenance, utilities, and property taxes for the estate property and $1,823.56 alleged to have been expended by Johnson for attorney fees and costs for the administration of the estate. They were opposed by Arnett in his Objection to Claims, which asserted that the Johnson expenditures were "not necessarily and reasonably incurred," that many were not verifiable, and that they were made without approval of the trial court as ordinarily required in a dependent administration. Arnett also asserted that, between October 2014 and

January 2015, Johnson was payee of Arnett's social security checks totaling $3,400.00 and that Arnett believed Johnson paid expenses out of those funds. Finally, Arnett also asserted that Johnson improperly prolonged the administration to incur expenses.

While Johnson was represented by trial counsel, her attorney entered, on her behalf, into a Rule 11 agreement with Arnett's counsel agreeing, among other things, not to oppose Arnett's above-described Objections to Claims; and that agreement was filed in the papers of the trial court on September 13, 2016. "[A]n attorney may execute an enforceable Rule 11 agreement on his client's behalf." *Green v. Midland Mortg. Co.*, 342 S.W.3d 686, 691 (Tex. App.—Houston [14th Dist.] 2011, no pet.). This record contains nothing that gives us insight into the reasons for the Rule 11 agreement entered into by the attorneys for the opposing parties here. It also contains nothing that rebuts the presumption that Johnson's attorney had authority to enter into the agreement for his client. *See City of Roanoke v. Westlake*, 111 S.W.3d 617, 629 (Tex. App.—Fort Worth 2003, pet. denied).

For the above reasons, Johnson's complaints about the order denying her claims and closing the administration cannot prevail.

We affirm the trial court's ruling.

Josh R. Morriss, III
Chief Justice

Date Submitted: September 12, 2017
Date Decided: September 21, 2017