

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

LYNDA LEONARD-BOYCE,

Appellant,

v.

GUARDIANSHIP OF TERI VAN WINKLE,

Appellee.

No. 2D20-2689

July 2, 2021

Appeal from the Circuit Court for Lee County; Keith R. Kyle, Judge.

T. Brandon Mace, and Kenneth E. Kemp, II of Patrone, Kemp & Bentley, Fort Meyers, for Appellant.

No appearance for Appellee.

LUCAS, Judge.

Linda Leonard-Boyce, an appointed guardian for Teri Van Winkle, appeals an order that authorized payment of her fees at a

reduced hourly rate from what she had sought.¹ Ms. Leonard-Boyce's petition included a timesheet that reflected she had performed guardianship work totaling 63.7 hours at a billing rate of \$95 per hour. No one contested the amount of hours or the hourly rate Ms. Leonard-Boyce requested. The circuit court's order, entered without a hearing, awarded her 63.7 hours, but at \$90 per hour. The court did not indicate the reason why it had unilaterally reduced Ms. Leonard-Boyce's rate. The court then summarily denied the guardian's motion for reconsideration. Ms. Leonard-Boyce has filed this timely appeal.

Ordinarily, "[t]he amount of guardian's fees to be awarded as compensation for services rendered is in the discretion of the trial court, and its determination will not be disturbed unless there is a lack of competent, substantial evidence to support the award."

White v. Guardianship of Lubin, 150 So. 3d 1256, 1258 (Fla. 2d DCA 2014) (quoting *In re Guardianship of Sapp*, 868 So. 2d 687, 693 (Fla. 2d DCA 2004)). "Nevertheless, in guardianship cases, as in other cases, discretionary acts are subject to the test of

¹ We have jurisdiction pursuant to Florida Rule of Appellate Procedure 9.170(b)(21).

reasonableness, i.e., they must be supported by logic and justification for the result and founded on substantial, competent evidence." *In re Guardianship of Sapp*, 868 So. 2d at 693 (citing *In re Guardianship of Sitter*, 779 So. 2d 346, 348 (Fla. 2d DCA 2000)).

In the order before us, we cannot ascertain what competent, substantial evidence supported the unilateral reduction of Ms. Leonard-Boyce's rate. Nor does it appear that the circuit court afforded Ms. Leonard-Boyce an opportunity to be heard on the matter. Both errors compel reversal of the guardian's fee order. See *In re Kesish*, 98 So. 3d 183, 185 (Fla. 2d DCA 2012) (reversing guardian's fee award as "[t]he order entered in this case fails to set out the considerations that resulted in the trial court's reduction of the only fee established by the evidence presented"); *Shappell v. Guardianship of Naybar*, 876 So. 2d 690, 692 (Fla. 2d DCA 2004) (recognizing that many guardianship expenses are disposed of informally without a hearing but that "the circuit court should not reduce the amount of compensation requested by the guardian without first providing the guardian with an opportunity to be heard on the petition"); see also *In re Guardianship of Sitter*, 779 So. 2d at 348-49 ("We will not burden guardianship division courts with a

time consuming requirement that they make findings of fact to support every award of guardian fees. But when the parties . . . question the court's reasoning, and such findings would be necessary to permit appellate review of the matter, the court should express findings either in its order or on the record." (*citing Haas v. Haas*, 552 So. 2d 221 (Fla. 2d DCA 1989))).

Accordingly, we reverse the circuit court's order and remand for the court to convene a hearing on Ms. Leonard-Boyce's petition.

Reversed and remanded with instructions.

SLEET and STARGEL, JJ., Concur.

Opinion subject to revision prior to official publication.