

Third District Court of Appeal

State of Florida

Opinion filed March 31, 2021.

Not final until disposition of timely filed motion for rehearing.

No. 3D20-565
Lower Tribunal No. 11-3672

Brian Giller, etc.,
Appellant,

vs.

Ira D. Giller, etc., et al.,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Rosa C. Figarola, Judge.

Law Offices of Andrew B. Peretz, P.A., and Andrew B. Peretz (Fort Lauderdale), for appellant.

Harper Meyer Perez Hagen Albert Dribin & DeLuca LLP, Roselvin S. Edelman and Michael A. Dribin, for appellee Ira D. Giller; Berger Singerman LLP, James D. Gassenheimer and Christina M. Perry, for appellee Anita Grossman.

Before LINDSEY, HENDON and GORDO, JJ.

GORDO, J.

Brian Giller, individually and as successor trustee of the Norman M. Giller Trust, appeals the trial court's order compelling him to prepare an accounting of his management of six properties that were determined to belong to the Estate of Norman M. Giller following a bench trial. Upon review, we conclude that we lack jurisdiction to hear the instant appeal taken from a nonfinal, nonappealable order and dismiss.

Florida Rule of Appellate Procedure 9.170(b) provides that "appeals of orders rendered in probate and guardianship cases shall be limited to orders that finally determine a right or obligation of an interested person as defined in the Florida Probate Code." "The rule enumerates a nonexclusive list of twenty-three orders that fall under the umbrella of rule 9.170(b)'s finality requirement." N. Tr. Co. as trustee of Elizabeth W. Walker Tr. v. Abbott, 46 Fla. L. Weekly D87, D88 (Fla. 2d DCA Jan. 6, 2021). The order on appeal is not among the nonexclusive list of appealable probate orders enumerated in the Rule. Nor does the order finally determine a right or obligation of an interested person. Rather, the language of the order contemplates further judicial labor concerning calculation of monies owed and distribution of the properties. See Maercks v. Maercks, 272 So. 3d 485, 487 (Fla. 3d DCA 2019) (rejecting application of Rule 1.970(b) and dismissing appeal where the probate court's "order expressly contemplates additional judicial labor"

and “does not . . . provide finality as to any issue or party in this case”); Klingensmith v. Ferd & Gladys Alpert Jewish Fam., 997 So. 2d 436, 437 (Fla. 4th DCA 2008) (dismissing appeal for lack of jurisdiction as the order “does not . . . put an end to all judicial labor”); Dempsey v. Dempsey, 899 So. 2d 1272, 1273 (Fla. 2d DCA 2005) (dismissing appeal of nonfinal, nonappealable order based on finding that the “[j]udicial labor has not yet come to an end” with regard to the rights and obligations of a party). “If an order on appeal fails to ‘terminate judicial labor or provide finality as to any issue or party in [the] case,’ it is subject to dismissal.” Abbott, 46 Fla. L. Weekly at D88. Accordingly, we dismiss the appeal for lack of jurisdiction.

Dismissed.