

IN THE COURT OF APPEALS OF IOWA

No. 9-547 / 08-1898
Filed August 6, 2009

**IN THE MATTER OF THE ESTATE OF
DORIS J. GRIFFIEON, Deceased,**

DEVANI DEARMOND,
Intervenor-Appellant.

Appeal from the Iowa District Court for Polk County, Ruth B. Klotz,
Associate Probate Judge.

Devani DeArmond appeals from a decision of the Associate Probate
Judge denying her request to reopen the estate of her grandmother, Doris J.
Griffieon. **AFFIRMED.**

Warren L. Bush, Wall Lake, for appellant.

Larry J. Handley of Handley Law Firm, Ankeny, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

SACKETT, C.J.

Devani DeArmond appeals from a decision of the associate probate judge denying her request to reopen the estate of her grandmother, Doris J. Griffieon. We affirm.

BACKGROUND AND PROCEEDINGS. Doris J. Griffieon died testate. Her will provided for a \$3000 bequest for Devani. On August 4, 2006, Devani signed a settlement agreement stating she would be paid \$3000 from Doris's estate. The agreement further provided that the parties to the agreement "shall sign a family settlement agreement embodying the terms of this Settlement Agreement" Devani refused to sign the family settlement agreement. It provided Devani waived notice, hearing, and objection to the final report and that she expressly requested the court approve the final report and authorize closure of the estate and discharge of the executor without notice to her. The matter came on for hearing on Devani's objection. Devani appeared and was represented by counsel. The district court approved the family settlement agreement on January 2, 2007. No appeal was taken from this ruling.

On April 10, 2007, a check in the amount of \$3000 for Devani's specific bequest was mailed to her and the accompanying letter indicated the check was not to be negotiated unless an enclosed receipt and waiver was first signed by Devani. The receipt and waiver stated that Devani had received a copy of the final report although in fact she had not received one. She claimed that for that

reason she did not return the receipt and waiver and did not negotiate the check.¹

The estate was closed in July of 2007, but the bank account was not closed until December of that year. At some point Devani or her attorney called the bank and learned the estate account had been closed.

On May 20, 2008, Devani filed the motion to reopen the estate, which is the subject of this appeal. She contended the estate should be reopened, payment of all bequests should be required, an accounting should be required, and the final report should be reset for hearing. She also asked that her attorney's fees be paid by the executor and his attorney. Learning of the error, the former executor mailed Devani a check for \$3000. She accepted the money and filed a receipt for it with the court on June 25, 2008.²

DENIAL OF MOTION TO REOPEN ESTATE. A decision to reopen an estate is generally reviewed for an abuse of discretion. *In re Estate of Warrington*, 686 N.W.2d 198, 202 (Iowa 2004); *see also In re Estate of Witzke*, 359 N.W.2d 183, 185 (Iowa 1984).

Devani contends the court erred in refusing to reopen the estate and abused its discretion in failing to follow Iowa Code section 633.477(9) (Supp. 2005) which requires an accounting of all income and disbursements unless waived by all parties. While she admits she had agreed to release claims and

¹ We understand why Devani may have been confused when the release stated she had received a copy of the final report. However, there is no evidence she made any attempt to resolve the issue until she filed the motion to reopen the estate.

² The court had assumed after the receipt was filed there was no need to schedule a hearing on the motion to reopen. However, Devani's attorney subsequently requested a hearing and it was held.

objections, waive notice of the hearing on the final report, and agreed to the approval of the final report, she points out there was language in the settlement agreement that contemplated payments would be made as soon as reasonably possible and no payment of her bequest was tendered until April of 2007.

The judge rejected her arguments in a well-reasoned opinion which we adopt as our own. The court did not abuse its discretion in denying the motion to reopen.

AFFIRMED.