

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of the Estate of GLORIA I. FLURY,  
Deceased.

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GERALD M. FLURY and ELIZABETH J.  
FLURY,

UNPUBLISHED  
October 29, 1999

Appellants,

v

MARVIN FLURY,

Appellee.

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No. 214316  
Macomb Probate Court  
LC No. 91-119885 IE

Before: Whitbeck, P.J., and Gribbs and White, JJ.

MEMORANDUM.

Appellants Gerald and Elizabeth Flury appeal by right from a judgment entered against them and the decedent's estate, in the amount of the appeal costs awarded to appellee Marvin Flury by this Court in connection with his successful appeal in this will contest case, *In re Flury Estate*, 218 Mich App 211; 554 NW2d 39 (1996), modified in part 456 Mich 869; 568 NW2d 832 (1997). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, appellants argue that Marvin Flury's appeal costs may only be assessed against the decedent's estate, not appellants individually. We disagree. MCR 7.219 permits a prevailing party to recover costs from any nonprevailing party in an appeal. Here, both Gerald and Elizabeth Flury were named as parties in the appellate proceeding instituted by Marvin Flury, both as appellees and as cross-appellants. Moreover, they appeared in their capacity as individuals, not as representatives of the decedent's estate.

Affirmed.

/s/ William C. Whitbeck  
/s/ Roman S. Gribbs  
/s/ Helene N. White