

STATE OF MICHIGAN  
COURT OF APPEALS

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In re Estate of LLOYD HOLT, Deceased.

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VERONICE A. HOLT, Personal Representative of  
the Estate of LLOYD HOLT,

Appellant,

v

ARVIE J. LEE,

Appellee.

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UNPUBLISHED  
November 16, 1999

No. 211519  
Wayne Probate Court  
LC No. 91-860921 SE

Before: Cavanagh, P.J., and Doctoroff and O'Connell, JJ.

PER CURIAM.

Appellant Veronice Holt appeals as of right from the probate court's order refusing to reimburse her for claimed expenses incurred as temporary personal representative of the decedent's Michigan estate and imposing a \$4,427.09 surcharge on her. We affirm.

The probate court found that Holt's expenses were not reasonable and were incurred in furtherance of her personal interests, rather than the interests of the decedent's estate. We review a probate court's decision setting a personal representative's compensation for an abuse of discretion. *In re Baird Estate*, 137 Mich App 634, 637; 357 NW2d 912 (1984).

The compensation for expenses of a fiduciary is governed by MCL 700.541; MSA 27.5541, which provides, in part, as follows:

A fiduciary shall be allowed the amount of his or her reasonable expenses incurred in the administration of the estate and shall also have such compensation for his or her services, both ordinary and extraordinary as the court in which the fiduciary's accounts are settled deems to be just and reasonable.<sup>1</sup>

Holt argues that the probate court erred in disallowing the expenses that were attributable to her contest of the decedent's will in the Florida court system. The court found that Holt's challenge to the will was motivated by self-interest because the will effectively disinherited her. The court reasoned that had Holt been successful in her will contest, she would have received a substantial portion of the estate to which she was not otherwise entitled; however, the estate would not have benefited from a successful challenge to the will. A fiduciary is only entitled to recover for reasonable expenses incurred to benefit the interests of the estate. *In re Brack Estate*, 121 Mich App 585, 591; 329 NW2d 432 (1982). Where the administrator of an estate incurs expenses connected with an heir-determination process that advances the administrator's own interests, recovery for the expenses is not allowed. *Id.* See also *Noble v McNerney*, 165 Mich App 586, 599; 419 NW2d 424 (1988) ("The representative is not entitled to compensation for services which advanced his or her personal interest.").

Holt contends that she not only challenged the will, but also sought to have the Florida personal representative account for funds improperly withdrawn from the estate. Holt maintains that she was therefore acting in the interests of the estate. However, in connection with her challenge to the will, such an accounting was designed to increase the share that she would receive by way of intestate succession. We cannot conclude that the probate court abused its discretion in finding that Holt was acting in her own interests during the Florida proceedings. Moreover, Holt presents no authority for her argument that she was bound by fiduciary duty to challenge the will because the decedent was incompetent.

Additionally, Holt argues that the probate court erred in disallowing the expenses that were attributable to her appearances before that court. The court concluded that the expenses were unreasonable and that Holt expended funds from the estate in violation of a court order. Holt asserts that she only incurred expenses and did not expend actual funds from the estate. However, in light of the fact that Holt does not challenge the surcharge against her for expending assets of the estate, we are not persuaded that, as Holt contends, the probate court had no basis for concluding that she had expended funds. Nevertheless, Holt's claim fails because she does not demonstrate that the court abused its discretion in determining that her expenses were not reasonable and necessary. The fiduciary bears the burden of demonstrating that the services rendered were necessary and that the expenses were reasonable. *Baird, supra* at 637. The court had previously concluded, in deciding to remove Holt as personal representative, that she had caused unwarranted, unauthorized, and excessively broad discovery requests, as well as needless litigation and excessive administration expenses. In light of the deference due the probate court under the applicable standard of review in this case, we find no abuse of discretion.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Martin M. Doctoroff  
/s/ Peter D. O'Connell

<sup>1</sup> This section is repealed effective April 1, 2000. See 1998 PA 386, § 8102, Eff. April 1, 2000.