

STATE OF MICHIGAN
COURT OF APPEALS

In re Guardianship and Conservatorship of LARRY JOHN POBANZ.

CHRISTOPHER L. POBANZ, Guardian and Conservator of LARRY JOHN POBANZ, a legally incapacitated person,

UNPUBLISHED
December 9, 2021

Appellant.

No. 356546
Huron Probate Court
LC Nos. 19-041808-GA;
19-041809-CA

Before: RICK, P.J., and KRAUSE and LETICA, JJ.

LETICA, J. (*concurring*).

I agree that the probate court had jurisdiction over the guardianship and conservatorship without the payment of the filing fees, that the probate court erred in ordering the guardian ad litem (GAL) fees be paid because the GAL failed to perform his statutory duties,¹ that the probate court did not violate petitioner’s due process rights, and that Judge Clabuesch could address petitioner’s grievances and enter dispositional orders. I further agree that MCL 600.880(1), MCL 600.880a(1), MCL 600.1986, and MCR 5.101(B) required petitioner to pay the filing and electronic system fees for the guardianship and conservatorship cases when he commenced those actions by filing the petitions on November 6, 2019. And, despite the probate court’s best intentions through its long-time policy, in my view, the plain language of those provisions read together with the provisions permitting waiver or suspension, in whole or in part, upon a showing by an affidavit of indigency or inability to pay, MCL 600.880d and MCR 2.002, does not otherwise authorize a waiver, suspension, or deferral of the required fees in the court’s discretion. Cf. *In re DeCoste Estate*, unpublished opinion per curiam of the Court of Appeals, issued November 6, 2014 (Docket No. 316896) (The probate court denied the petitioner’s motion for a waiver of filing fees associated

¹ I would not address whether the court’s order for payment “otherwise compensated” the GAL.

with an application for informal probate and/or appointment of personal representative of his deceased mother's estate based on his receipt of public assistance. The probate court's denial was apparently based on its policy that the estate had funds to pay the required fee; this Court reversed, explaining that the appropriate procedure was to waive or temporarily suspend the fee and require the petitioner to pay it when the reason for the suspension disappeared). See also *In re DeCoste Estate (After Remand)*, 317 Mich App 339, 342-344; 894 NW2d 685 (2016). Regardless, I concur in the relief ordered because I agree that petitioner owed the fees, including the accounting fee, which the court properly ordered him to pay after he had an opportunity to be heard.

/s/ Anica Letica