STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0978

In re the Estate of: Ronald F. Bunde, Deceased.

Filed January 21, 2020
Affirmed
Connolly, Judge

Dakota County District Court
File No. 19HA-PR-17-305

John E. Trojack, Trojack Law Office, P.A., West St. Paul, Minnesota (for appellant James Brown)

Joseph D. Kantor, Timothy R. Maher, Guzior Armbrecht Maher, Minneapolis, Minnesota (for respondent Thomas Bunde)

Aaron R. Bransky, Andrew & Bransky, P.A., Duluth, Minnesota (for respondents Diana Nelson and Donald Roodell)

Daniel S. Kufus, Roseville, Minnesota (for respondents Patricia Burket-Jones and Cheryl Glanz)

Considered and decided by Bratvold, Presiding Judge; Worke, Judge; and Connolly, Judge.

U N P U B L I S H E D O P I N I O N

CONNOLLY, Judge

Appellant challenges the denial of his claim against an estate on the ground that the claim was time-barred, arguing that equity requires the claim to be assessed on its merits

at an evidentiary hearing and that the doctrine of quantum meruit entitles him to compensation for his services to the decedent. Because we see no error in the district court's decision, we affirm.

FACTS

Ronald Bunde died in January 2017, leaving an estate of over $1.3 million. For about nine years prior to his death, he was cared for by his neighbor, appellant James Brown, a handyman. Appellant took Bunde to his medical appointments, administered his medications, assisted him with use of the bathroom, helped him bathe, and responded to his phone calls on a 24/7 basis. Because of appellant's care, Bunde was able to remain in his own home and not go to a nursing home.

Bunde did not compensate appellant for his services, but he did tell appellant that he would be compensated through Bunde's will. However, shortly before his death, Bunde told appellant he had not made a will, and Bunde died intestate. Appellant had never asked to see the will; nor had he and Bunde ever discussed the amount of service appellant provided to Bunde or a rate of compensation for that service.

In April 2017, appellant filed a petition for formal adjudication of intestacy, determination of heirs, and formal appointment of himself as personal representative (PR); in the petition, he named himself as a claimant/creditor of Bunde's estate. Bunde's heirs were determined to be respondents, five first cousins of Bunde.

On June 5, 2017, the attorney for the conservator of one respondent wrote to appellant's attorney, saying, "[Appellant] states in the Petition that he is a claimant/creditor of the estate, however he lists $0 for probate indebtedness in Exhibit B of the Petition. If

[appellant] is a creditor could you please provide the amount that he is claiming is owed?" In an affidavit, the conservator's attorney later said, "I do not recall ever receiving a response from [appellant's attorney] to this letter regarding the claim of [appellant] . . . ." The district court appointed appellant as PR.

The attorney's affidavit also said, "The first time I was made aware of the amount of [appellant's] purported claim against the Ronald Bunde estate . . . was with [appellant's] petition for approval of the claim that was filed with this Court on April 23, 2018, 15 months after Bunde's death and ten months after appellant was appointed PR when he filed another "Petition to Determine Heirship, Appropriate Distribution Plan, and Allow Claim." In May 2018, appellant supplied 11 handwritten pages of notes of his services to decedent, in response to respondents' attorney's request. He quantified his claim at $274,560, stating that, between 2009 and 2017, he had worked 9,152 hours and charged $30 per hour. Respondent filed a petition to remove appellant as PR, and the district court appointed another PR.

In his response to respondents' request for admissions, appellant asserted that he began providing services to Bunde in 1995, Bunde first promised to leave appellant money in his will in 2007, appellant was never paid for the service he provided Bunde and never discussed a rate of pay with Bunde, had a written contract with him, made a claim against him, or sought proof that Bunde had in fact made a will that compensated appellant.

Respondents brought alternative motions for either dismissal of the claim as untimely or summary judgment on the ground that the claim was invalid. The district court granted both motions. Appellant challenges the dismissal on the ground that the claim was

not untimely and the grant of summary judgment on the ground that he was entitled to an evidentiary hearing on the validity of the claim.

D E C I S I O N

Standard of Review

An appellate court reviews a district court's findings of fact concerning wills and trusts under a clearly erroneous standard and reviews its conclusions of law de novo. *In re Estate of Short*, 933 N.W.2d 533, 537 (Minn. App. 2019).

1. Timeliness of appellant's claim

Claims against an estate arising before death must be presented within one year of death, Minn. Stat. § 524.3-803(a) (2018); claims arising after death must be presented within four months after they arise, Minn. Stat. § 524.3-803(b)(2018). Claims against an estate must be either presented to the PR or filed with the court; if presented to the PR, they must include a written statement indicating the basis of the claim, the name and address of the claimant, and the amount claimed. Minn. Stat. § 524.3-804 (2018). A PR's claim for personal service to the decedent in excess of $3,000 must be made by petition. Minn. Stat. § 524.806(a), (b) (2018). It is undisputed that Bunde's death occurred in January 2017 and that appellant did not file a petition or make any claim until April 2018. As the district court found, "This [i.e., April 2018] was the first time any of the heirs (and the Court) had been made aware of the nature and extent of the [c]laim. It had been hidden until that time." The finding that the extent of appellant's claim had been hidden is supported by the fact that appellant's petition said Bunde's estate had an indebtedness of $0 and the fact that

no reply was received to the June 2017 letter asking for the amount of appellant's claim against the estate.

The district court did not err when it concluded appellant's claim was untimely.

2. Validity of appellant's claim

Appellant argues first that he "has a prima facie claim based on quantum meruit."

> Quantum meruit is restitution for the value of a benefit conferred in the absence of a contract under a theory of unjust enrichment. . . . To prove a claim in quantum meruit, the [claimant] must prove (1) that the services were rendered; (2) under circumstances from which a promise to pay for them should be implied; and (3) their value.

Faricy Law Firm, P.A. v. API, Inc. Asbestos Settlement Tr., 912 N.W.2d 652, 657-58 (Minn. 2018) (quotations and citations omitted). The district court concluded that, because appellant admitted that he was never paid for the services he performed for Bunde, never discussed a rate of compensation with Bunde, and never confirmed with Bunde that a will had been prepared, there was no support for appellant's claimed $30 per hour rate of compensation for 9,152 hours of service. Quantum meruit is inapplicable when "the value [of the services performed] cannot be quantified." *Stemmer v. Estate of Sarazin*, 362 N.W.2d 406, 408 (Minn. App. 1985).

Although appellant claims he intended to be compensated through Bunde's will, he took no steps to see that a will even existed, let alone that it provided for his compensation. For an unjust-enrichment action to lie,

> it must be shown that a party was unjustly enriched in the sense that the term unjustly could mean illegally or unlawfully[, or] . . . the defendants' conduct in retaining the benefit is morally wrong[, or the enriched party's] . . . conduct was similar in

> nature to fraud[, or there are] circumstances that would make it unjust to permit retention[, or] a party's conduct has been unconscionable by reason of a bad motive, or where the result induced by that conduct will be unconscionable either in the benefit to [the complainant] or the injury to others.

Schumacher v. Schumacher, 627 N.W.2d 725, 729-30 (Minn. App. 2001) (quotations and citations omitted). Here, as in *Stemmer*, "[t]o allow the decedent's estate to keep the benefits of appellant['s] generosity would not *unjustly* enrich it at the expense of appellant[]." 362 N.W.2d at 408.

The district court agreed with appellant that decedent was possibly saved many thousands of dollars because appellant enabled him to live in his own home rather than go to a nursing home, but it also quoted *Schwab v. Pierro*, 46 N.W. 71, 72 (Minn. 1890): "It is not enough that the services should be rendered merely in the hope or expectation of a legacy, and relying solely on the generosity of the testator." Appellant, by doing nothing either to verify that Bunde had in fact made a will that would benefit appellant or to quantify with Bunde the amount of the benefit to which appellant was entitled, in effect "rendered [service] merely in the hope or expectation of a legacy" and "rel[ied] solely on the generosity of the testator." *See id.*

The district court's determination that an action for unjust enrichment will not lie because there is no valid means of quantifying appellant's claim is not erroneous.

3. Evidentiary hearing

Appellant argues that "[t]he [district] court must conduct an evidentiary hearing to determine that there is no basis in equity to relieve [a]ppellant's claim from being time

barred." But he provides no support for this argument, nor does he refute the district court's finding that

> [n]o rationale for [appellant's] neglect of these deadlines [for filing claims against an estate] has been provided by [appellant,] except for an assertion on his behalf that he was involved in a complicated search for the decedent's heirs. The neglect is inexcusable because it was not due to hardship, misunderstanding, or diligent but mistaken procedures.

See In re Estate of Henry, 426 N.W.2d 451, 459 (Minn. App. 1988) (agreeing with a district court's refusal to allow a claim that "was presented too late to meet the statutory requirement" and the claimant "ha[d] not shown sufficient cause").

Appellant cites *Strong Bros. Enters., Inc. v. Estate of Strong*, 666 P.2d 1109 (Colo. App. 1983), for the proposition that, "[i]f the estate receives reasonable notice of the claim by the required time, the claim should be deemed submitted to further both speedy disposition of the estate and the meeting of bargained-for obligations." But here, as the district court noted, both the nature and the extent of appellant's $274,560 claim "had been hidden" from the heirs for 15 months, until appellant's second petition was filed.

Moreover, *Strong Bros*., in addition to having no precedential value in Minnesota, is distinguishable. In that case, the decedent and his brother had been the only two shareholders of a corporation that had repurchased all the decedent's stock, and the brothers had agreed to share any tax liability. *Strong Bros.*, 666 P.2d at 1110. When the IRS notified the corporation of an audit, the corporation sent the attorney for the PR of the decedent's estate a letter notifying her of the audit and enclosing copies of the IRS letter and the brothers' agreement to share any tax liability. *Id.* When the PR did not respond,

the corporation petitioned to allow its claim for the decedent's share of the liability, and the estate moved to dismiss the claim for lack of jurisdiction because of lack of compliance with the relevant statute. *Id*. at 1111. The district court allowed the claim, and that decision was affirmed: "[T]he conclusion is inescapable that the [corporation's] letter gave the [PR's] attorney adequate notice of the claim." *Id*. at 1112. Here, there was no such notice.

Appellant also argues that, whenever he made his claim, "[r]espondents would have objected vehemently" to it. This may well be true, but the fact that heirs may object to claims made against an estate does not entitle the claimant, even if he is also the PR, to ignore the statutory requirements for making a claim. Appellant argues further that he "filed as a claimant creditor with an unliquidated claim," but the fact that the claim was unliquidated was due to appellant's failure to liquidate it: when he chose to liquidate it, he did so.

Appellant provides no convincing support for his view that he was entitled to an evidentiary hearing on his entitlement to file an untimely claim. Although the decision may seem unfair to appellant, this court is obligated to follow the law.

Affirmed.