

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0125**

In re: Conservatorship of June Delores Lacey, Protected Person.

**Filed August 30, 2021
Affirmed
Hooten, Judge**

Otter Tail County District Court
File No. 56-PR-18-2692

Joyce Lacey, St. Paul, Minnesota (pro se appellant)

Lutheran Social Service of Minnesota, Fergus Falls, Minnesota (pro se respondent)

Considered and decided by Hooten, Presiding Judge; Smith, Tracy M., Judge; and
Kirk, Judge.*

NONPRECEDENTIAL OPINION

HOOTEN, Judge

Appellant challenges the district court's approval of a final accounting of decedent's estate by respondent-conservator. We affirm.

FACTS

This case involves a dispute between appellant Joyce Lacey (Lacey) and respondent Lutheran Social Services of Minnesota (LSS) over the final accounting and discharge of LSS's conservatorship for appellant's mother, June Delores Lacey. We previously

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

addressed another appeal involving the same conservatorship, reversing for lack of evidentiary support for a court-ordered payment of fees claimed by LSS for its services as June's conservator. *In re Estate of June Lacey, Deceased*, No. A20-0203 (Minn. App. Nov. 18, 2020) (order op.). In this appeal, Lacey challenges the district court's order approving LSS's final accounting of its conservatorship of June's estate.

June had a diagnosis of progressive Alzheimer's disease, dementia, and inability to perform executive functions. Lacey was her primary caregiver, administering her medications, cooking and cleaning for her, and taking her to the doctor and hospital. In July 2018, Otter Tail County Human Services (the county) opened a vulnerable adult investigation regarding June based on a report that Lacey was reusing catheters, causing June recurring infections. The pair visited a hospital or clinic four times during July seeking treatment for head injuries June suffered from two falls that month. Woodlands Hospital admitted June in August 2018 for respiratory failure related to Lacey giving June excess fluids and an incorrect dosage of a medication. The hospital staff recommended that June enter a long-term care facility, but Lacey refused to allow her to do so. The hospital ultimately discharged June with the understanding that she would receive home care from a licensed provider, but Lacey declined the service when a provider contacted her. June was next evicted from her apartment in Fergus Falls at the end of August, and she and Lacey ended up with a friend in the Twin Cities. In September, Woodlands again admitted June and raised concerns over Lacey's care for her. June's social worker also began suspecting that emails she received from June were actually written by Lacey, since

the hospital reported that June was non-verbal, needed total care, and sometimes slept all day.

Based on all these circumstances, the county petitioned for an order appointing LSS as June's emergency guardian and conservator, stating that "[June] will be discharged from the hospital and Otter Tail County Human Services believes an emergency guardian needs to be appointed to ensure that [she] is placed in an appropriate care facility as required by her medical team." The district court granted the petition establishing the guardianship and conservatorship for 90 days starting September 19, 2018. LSS then moved June from Woodlands Hospital to a nursing home in Frazee. LSS and the hospital staff did not warn Lacey about the move beforehand because they feared that if she knew, she would try to remove June from the hospital because she did not want her to live in a nursing home. Following the move, a court visitor interviewed June at the nursing home and concluded that she required a guardian and conservator because she was not mentally or physically capable of caring for herself or her finances.

The county subsequently petitioned to make the guardianship and conservatorship permanent, which Lacey resisted. The parties resolved their dispute in November 2018, with the county withdrawing its petition for permanent conservatorship and proceeding with its petition for permanent guardianship, and Lacey agreeing to "take over as the conservatorship with the agreement that she would pay the bills," when the emergency order expired on December 19, 2018. Once the emergency conservatorship expired in December, "Lacey handled [June's] financial affairs through her power of attorney." The district court granted the petition to make LSS permanent guardian in January 2019.

June died on January 25, 2019. LSS filed a final accounting of its conservatorship of June's estate. According to an LSS representative who testified at the final accounting hearing, "the final accounting show[ed] everything that [LSS] paid and . . . received" during its emergency conservatorship. An auditor with the Minnesota Judicial Branch's Conservator Account Auditing Program reviewed the final accounting compared against "financial statements, property tax statements, cancelled check images, invoices, receipts and additional information obtained from the conservator." The auditor found that LSS incorrectly duplicated two payments for health care services (\$47.83 and \$100, respectively) which LSS later refunded to June's estate. The auditor also could not confirm the ending balance of two of June's accounts, held jointly with Lacey, because as of January 25, 2019, Lacey had not provided a statement of the balance of one of the accounts, and the bank had refused to provide a statement for the other account. The auditor therefore accepted the last known balance of those accounts on September 30, 2018. The auditor concluded that the ending balance of LSS's final accounting was correct and recommended that the district court approve the account "if the court finds the expenditures to be proper and detects no other concerns."

Lacey objected to the final accounting and requested an evidentiary hearing. After the hearing, the district court ordered the final accounting settled and discharged LSS from the conservatorship. Lacey moved for reconsideration under Minn. R. Gen. P. 115.11. The district court granted the motion and ordered a new hearing. The parties' attorneys agreed to a limited set of questions and stipulated exhibits, and the district court took testimony

and evidence during the hearing. The district court again ordered the final accounting settled with no corrections or changes.

Lacey appealed. LSS did not file a brief, and we ordered that the appeal proceed under Minn. R. Civ. App. P. 142.03.

DECISION

Lacey challenges the adequacy of the district court's findings supporting the final accounting. We review a district court's order allowing a final accounting for clear error, reviewing the record for support for the factual findings. *In re Conservatorship of Moore*, 409 N.W.2d 14, 16-17 (Minn. App. 1987); Minn. R. Civ. P. 52.01. The district court's findings on the accounting "must be detailed, specific and sufficient enough to enable meaningful review by this court." *In re Guardianship of Doyle*, 778 N.W.2d 342, 353 (Minn. App. 2010) (quotation omitted). But even when a district court fails to make findings adequate for our review, we may independently review the record for support for the district court's final accounting approval. *See Moylan v. Moylan*, 384 N.W.2d 859, 865 (Minn. 1986). Before addressing Lacey's arguments, we review the duties of a conservator and the district court, along with the procedures governing a final accounting in a conservatorship.

In conservatorship proceedings, the conservator has the duty to protect the estate from depletion, "to pay the reasonable charges for the support, maintenance, and education of the person . . . [,] to pay . . . all lawful debts of the person . . . [; and] to possess and manage the estate, collect all debts and claims in favor of the person," among other duties. Minn. Stat. § 524.5-417(c)(1)-(3) (2020); *In re Conservatorship of W.R.L.*, 396 N.W.2d

705, 707 (Minn. App. 1986). To ensure proper monitoring of this duty by the district court, the conservator must “[w]ithin 60 days after appointment . . . prepare and file with the appointing court a detailed inventory of the estate subject to the conservatorship, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits.” Minn. Stat. § 524.5-419(a) (2020). The conservator must “keep records of the administration of the estate and make them available for examination on reasonable request of the court, person subject to guardianship, person subject to conservatorship, or any attorney representing such persons.” *Id.*, (b) (2020). The conservator must also file an annual accounting of the estate, including “a listing of the assets of the estate under the conservator’s control and a listing of the receipts, disbursements, and distributions during the reporting period.” Minn. Stat. § 524.5-420(a)-(b) (2020).

The district court, in turn, “shall establish a system for monitoring of conservatorships, including the filing and review of conservators’ reports and plans,” to ensure the conservator satisfies its duty. *Id.*, (h) (2020); *see Doyle*, 778 N.W.2d at 347-48; *Moore*, 409 N.W.2d at 16-17. As part of its review of the accounting, the district court “may appoint a visitor to review a report or plan, interview the person subject to conservatorship or conservator, and make any other investigation the court directs.” Minn. Stat. § 524.5-420(g) (2020). The district court also “may order a conservator to submit the assets of the estate to an appropriate examination to be made in a manner the court directs.” *Id.* As a further part of its review, the district court may order the conservator to show cause to support transactions in the accounting and may hold a hearing on that order. *See*

Doyle, 778 N.W.2d at 345-48. The conservator bears the burden to present evidence to support transactions questioned by the district court. *See* Minn. Stat. § 524.5-420(g); *Doyle*, 778 N.W.2d at 347, 51.

In addition to its own review, the district court may take objections from any interested person, like Lacey, who “may submit to the court a written statement disputing account statements . . . or addressing any disciplinary or legal action that is contained in the reports and may petition the court for any order [for] appropriate relief.” Minn. Stat. §§ 524.5-420(e), 524.5-102, subd. 7 (2020). That person bears the burden of proving the alleged errors in the accounting or the conservator’s malfeasance. *See In re Conservatorship of Grunlund*, 407 N.W.2d 141, 141-43 (Minn. App. 1987).

The district court’s review of an accounting ends when it “allows” that accounting. *See* Minn. Stat. § 524.5-420(a). The district court may only allow an accounting after giving notice to all interested people and holding a hearing on the accounting, during which it should receive argument and evidence on any of its unresolved concerns and those raised by objectors. *See id.*; *Doyle*, 778 N.W.2d at 347-48; *Grunlund*, 407 N.W.2d at 141-43. Following the hearing, the district court may disallow the accounting in whole or any transactions it finds exorbitant or non-beneficial for the conservatee, as well as any unreasonable conservator fees. *See* Minn. Stat. §§ 524.5-420(a), 524.5-502(c) (2020); *Doyle*, 778 N.W.2d at 347-48, 50-53; *In re Conservatorship of Lasley*, No. A06-916, 2007 WL 1053376, at *3-4 (Minn. App. Apr. 10, 2007) (affirming district court’s disallowance of expenses that it found were not for the benefit of the conservatee). If the district court allows the accounting, it “confirms [a conservatee’s] assets, income, and expenses, [and]

adjudicates the propriety of the conservator's management of the . . . estate." *Greer v. Pro. Fiduciary, Inc.*, 792 N.W.2d 120, 128 (Minn. App. 2011). *See also* Minn. Stat. § 524.5-420(a) ("An order, after notice and hearing, allowing a final report adjudicates all previously unsettled liabilities relating to the conservatorship.").

This case followed the process described above. LSS filed a final accounting with the district court and requested that the district court approve the final accounting and discharge LSS from its role as conservator. The Conservator Account Auditing Program reviewed the final accounting and found that it accurately reflected the estate's assets. Lacey challenged the accuracy of the final accounting. The district court held a hearing during which it received testimony and evidence regarding the accounting and Lacey's alleged errors. It then allowed the final accounting and discharged LSS, finding that the final accounting accurately reflected the debits, credits, and balance of the estate during LSS's conservatorship.

Lacey argues that the district court clearly erred because the evidence shows that LSS mishandled the estate and the final accounting. Lacey does not explain how the evidence supports this claim. Lacking this guidance, we turn to the errors Lacey alleged during the district court's hearing and review the record to determine whether the district court clearly erred by implicitly finding against those errors and allowing the final accounting.

First, Lacey testified during the hearing that LSS closed some of June's bank accounts without accounting for auto-pay bills, leading to late payment of bills, overdraft fees, delayed Social Security deposits, and the cancellation of a life insurance policy.

Lacey supported this allegation with two notices for late payments. The final account shows that LSS paid the two late bills, secured refunds for the only two overdraft fees, and ensured consistent monthly Social Security deposits throughout the conservatorship, avoiding any harm to the estate. Lacey did not supply evidence to support her allegation about the lost life insurance.

Second, Lacey testified that the final accounting incorrectly stated that the estate owed LSS \$3,801.19 in conservator fees, which she claimed she paid LSS before it submitted the final accounting. She supplied the auditor's report indicating an outstanding \$3,801.19 fee, and images of a check in that amount to LSS dated December 8, 2018. LSS's representative admitted that LSS received the check and that the auditor's report incorrectly noted the fee as outstanding. But the representative explained that its final accounting did not include that fee because Lacey paid the fee from her funds, while the final accounting reflected transactions of only June's estate. The check image supports this testimony because it shows that the check issued from a bank where June had no accounts in December, suggesting the funds did not come from June's estate. Furthermore, the final accounting supports this testimony because it does not list the \$3,801.19 fee as either a debt of the estate or payment from the estate.

Third, Lacey alleged that after she assumed control of the estate assets, she paid June's bills for unnecessary expenses incurred by LSS, which the final accounting did not reflect. She testified that LSS caused "a huge . . . ambulance bill from Woodlands in the Twin Cities all the way to Frazee," unnecessary because June lived in the Twin Cities at the time and Lacey had found a nearby nursing home. She testified, "I was paying those

bills. So the conservator was not paying those bills; I paid those bills. You can imagine I could have bought a house for that ambulance bill alone.” Lacey also complained about bills for ground and air ambulance transports that were provided for June between her nursing home in Frazee and a Fargo hospital. Lacey testified that the trip back from Fargo to Frazee was unnecessary because Lacey had found a nursing home in Fargo. She also testified that the transport cost was high, and that she, as the new conservator, paid that bill along with many others:

Well, I had agreed to pay Lutheran Social Services. I had agreed to pay the attorney, Rolf Nycklemoe. I had agreed to pay my attorney. I had agreed to pay Heather, my mother’s attorney.

I agreed to pay the bills. So basically I paid the bills. And that’s how everything got paid.

The ambulance bills. And you can imagine the air flight bill from Detroit Lakes to Fargo. I mean everything. Everything was paid. As far as medically. And the attorneys were all paid. And so everything was paid up.

Lacey did not present evidence of the cost of any of those alleged bills or that she paid them using June’s estate, or explain why they should have been in LSS’s final accounting of its time as conservator. But in her brief to this court, Lacey alleges that the bills collectively cost \$204,098.46, and left the estate’s accounts nearly completely depleted after she paid them. No evidence in the record supports these claims.

In response to the allegations that the ambulance trips were unnecessary, LSS’s representative explained that they moved June from Woodlands to the Frazee nursing home because the county indicated that, according to its files, June resided in Fergus Falls. The

Frazee nursing home was the nearest nursing home to Fergus Falls that would accept June, and LSS wanted June to be close to her home. LSS only learned that June had moved to St. Paul after LSS moved her to Frazee. LSS's representative also testified that no nursing homes in the Fargo area would accept June, necessitating the trip back from Fargo to Frazee. LSS's representative further explained that the final accounting covered only deposits, debts, and payments during LSS's emergency conservatorship, not those after Lacey's assumed control of the estate's assets. For that reason, any payment of June's medical transport bills or other bills by Lacey during the time that she was the conservator would not be included in LSS's final accounting.

Fourth, Lacey alleged that LSS overpaid the Frazee nursing home in the amount of \$5,110. Lacey claimed that while the Frazee nursing home had refunded \$1,872 of this amount, it was insufficient and that LSS should pay back the remaining amount to the estate. Lacey presented no evidence to corroborate this allegation or otherwise explain why the Frazee nursing home owed an additional refund. LSS's representative testified that the nursing home, not LSS, bore responsibility for any refund to the estate and that Lacey, as the new conservator, could seek any refund due from the nursing home.

Based on this record, Lacey failed to prove that any of these alleged errors by LSS undermined the accuracy of the final accounting. The district court did not clearly err by finding the final account accurate.

Besides the errors Lacey alleged to the district court, Lacey now argues that LSS's testimony could not support the final accounting. To the extent she argues that LSS's testimony was not credible, we defer to the district court's discretion to assess credibility.

Sefkow v. Sefkow, 427 N.W.2d 203, 210 (Minn. 1988). Also, Lacey points to nothing in the record to support this argument. To the extent Lacey argues that LSS's testimony failed to factually support the final accounting, we note that the district court raised no concerns that required LSS to prove the accuracy and propriety of the accounting. *See Doyle*, 778 N.W.2d at 347, 51. Also, the district court had evidence in the form of LSS's initial inventory and final accounting, and the auditor's report verifying the accuracy of the final accounting based on a thorough review of the estate's financial records. Lacey's argument fails on this record.

Because Lacey alleges only that the final accounting was inaccurate, and we reject those arguments, we need not address whether any transactions in the final accounting were unreasonable uses of the estate's assets.

Affirmed.