

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN RE: ESTATE OF ROBERT A. LEE : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

APPEAL OF: ROBERT A. LEE : No. 1822 WDA 2012

Appeal from the Order Entered November 5, 2012
In the Court of Common Pleas of Washington County
Orphans' Court at No. 63-12-30

BEFORE: BENDER, P.J., GANTMAN, J. AND OLSON, J.

MEMORANDUM BY BENDER, P.J. FILED: November 27, 2013

Robert A. Lee (Appellant) appeals from the trial court's November 5, 2012 order, directing his daughter, Ashley Whitfield (Appellee), to return \$450 of guardianship fees to Appellant. For the reasons that follow, we affirm.

The trial court set forth the pertinent facts and procedural history of this case as follows:

Most of the facts are not in dispute. While [Appellant, a resident of Washington County[,], Pennsylvania[,], and his long term girlfriend, Marcie Halblieb, were spending the winter in North Carolina, he suffered a severe pancreatic attack on December 17, 2011[,], and was in a coma for three weeks. After he came out of the coma, he remained in critical condition and his cognitive functioning was impaired. During [Appellant's] hospital stay, the doctors wanted to discuss his dire condition with his next-of-kin to discuss end of life issues. [Appellant's] girlfriend, who had no legal relationship to him, contacted [Appellee], his daughter, on December 24, 2011. [Appellee] travelled to North Carolina on December 26, 2011[,], with her husband and returned home on December 31, 2011. She argued with the doctors over the course of treatment for her father and by all accounts, including that of her father, she saved his life.

[Appellee] was advised by the doctors in North Carolina to obtain legal authority to make decisions about [Appellant's] [care]. When she returned to Pennsylvania, [Appellee] contacted attorney Russell McGregor, Jr., who prepared and filed a Petition for Appointment of Guardian of the Person and Estate. Notice was provided to [Appellant's] other daughter, who was in agreement with the appointment of [Appellee] as Guardian. This [c]ourt granted temporary Guardianship to [Appellee] on January 10, 2012. A doctor's affidavit dated January 6, 2012[,] accompanied the Petition.

After obtaining temporary guardianship, [Appellee] went to [Appellant's] bank and wrote a check for \$5,000 to herself. She stated that she intended for those monies to pay for the legal fees incurred in obtaining the guardianship, to cover her expenses of the December 2011 trip to North Carolina and possibly cover [her] having to return to North Carolina in the near future.

Shortly after the temporary guardian was appointed for [Appellant], [his] medical condition greatly improved and ultimately he fully recovered. The permanent guardianship hearing was not held and the guardianship was terminated. On April 24, 2012, [Appellant] requested an accounting and the [c]ourt directed the guardian[, Appellee,] to file an accounting within thirty days. After some delay, on October 5, 2012, [Appellee] filed a document setting forth her expenditures of the monies. [Appellant] objected to most of the expenditures and requested a hearing on the matter.

At the hearing, [Appellee] testified credibly that she incurred the following expenses in discharging her duties as Guardian:

1. Attorney fees of \$1,500 paid to Attorney McGregor. Attorney McGregor testified that his fees were over \$3,000 but he knew [Appellee] was of modest means and cut his fee in half.
2. Expenses related to travel to North Carolina as follows:
 - a. Child care of \$1,300 for monies paid to a friend to care for [Appellee's] two small

children for six days, 24 hours a day, at [Appellee's] home.

- b. Travel expenses for gas and car expenses and food. [Appellee] and her husband stayed at [Appellant's] home but ate meals out as they did not want to be at the home with Ms. Halblieb.
- c. Lost wages of \$650 incurred by Mr. Whitfield, [Appellee's] husband.
- d. Pet care of \$120 for expenses for a friend taking care of [Appellee's] pets for six days.

The [c]ourt found that all of the expenses except the pet care of \$120 and \$200 of the travel expenses were reasonable and necessary. Those reasonable expenses totaled \$4,550. As [Appellee] had reimbursed herself for \$5,000, the [c]ourt ordered her to pay [Appellant] \$450.

Trial Court Opinion, 3/22/13, at 1-3 (citations to the record omitted).

Appellant filed a timely appeal from the court's order and, in accordance with the court's directive, he also filed a timely concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b).

Herein, Appellant presents one question for our review:

- A. Whether the trial court erred in finding that the following expenses incurred by [Appellee], [] while acting as Guardian for [Appellant], [] shall be approved as follows: \$1,500 for attorney fees, \$1,100 for travel expenses, \$1,300 for babysitting and \$650 for [] lost wages, for a total of \$4,550[?]

Appellant's Brief at 4 (unnumbered pages).¹

¹ We note that Appellee did not file a brief in this case.

Before assessing the merits of Appellant's issue, we note that his brief contains significant errors that impede our meaningful review. For instance, Appellant does not adequately set forth this Court's scope and standard of review. Instead, he baldly declares – with no citation to any legal authority – that this Court must “review the entire record” in assessing the validity of the trial court's at-issue order. Appellant's Brief at 3 (unnumbered pages). Even more problematic is Appellant's failure to cite any legal authority in the Argument portion of his brief. ***See Commonwealth v. Hardy***, 918 A.2d 766, 771 (Pa. Super. 2007) (citing Pa.R.A.P. 2119(a), (b), (c)) (“The brief must support the claims with pertinent discussion, with references to the record and with citations to legal authorities. Citations to authorities must articulate the principles for which they are cited.”). Based on these briefing errors, we could dismiss Appellant's appeal entirely. ***Id.*** (“[W]hen defects in a brief impede our ability to conduct meaningful appellate review, we may dismiss the appeal entirely or find certain issues to be waived.”).

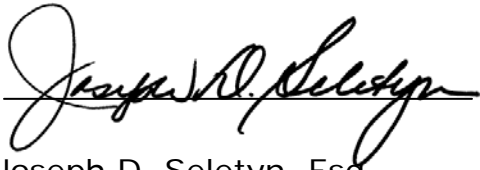
However, we decline to do so. The basis for Appellant's challenge to the court's order is clearly attacking the trial court's credibility determinations in favor of Appellee. Namely, he takes issue with the court's believing Appellee's testimony that she spent \$1,300 in childcare costs and \$1,100 in travel expenses. Appellant maintains that the court should have instead believed his testimony that Appellee obtained free childcare from a

family member, and did not spend such a significant amount in traveling to North Carolina.

"[I]t has become a bedrock principle of law that credibility determinations delivered by fact finders are sacrosanct and may not be disturbed on appeal." *Daniels v. W.C.A.B. (Tristate Transport)*, 828 A.2d 1043, 1055-1056 (Pa. 2003). Because Appellant's argument exclusively involves a challenge to the trial court's credibility determinations, we conclude that his appeal is meritless.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 11/27/2013