

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

THE HUMANE SOCIETY OF THE	:	IN THE SUPERIOR COURT OF
HARRISBURG AREA, INC.	:	PENNSYLVANIA
	:	
v.	:	
	:	
WARREN PRINCE, AS THE PERSONAL	:	
REPRESENTATIVE FOR THE ESTATE OF	:	
REBECCA L. ROBERTS	:	
	:	
COMMONWEALTH OF PENNYLVANIA	:	
	:	
v.	:	
	:	
REBECCA L. ROBERTS	:	
	:	
IN RE: ESTATE OF: REBECCA L.	:	
ROBERTS, DECEASED	:	
	:	
APPEAL OF: WARREN H. PRINCE,	:	
PREVIOUSLY ADMINISTRATOR OF THE	:	
ESTATE OF REBECCA L. ROBERTS,	:	
DECEASED	:	No. 448 MDA 2018

Appeal from the Order Entered February 16, 2018
In the Court of Common Pleas of Dauphin County
Civil Division at No(s): 2015-CV-8449

BEFORE: GANTMAN, P.J., KUNSELMAN, J., and MUSMANNO, J.

MEMORANDUM BY GANTMAN, P.J.: **FILED OCTOBER 10, 2018**

Appellant, Warren H. Prince, appeals from the order entered in the Dauphin County Court of Common Pleas, which removed Appellant as administrator of the estate of Rebecca L. Roberts, Deceased, and vacated Appellant’s letters of administration. We affirm.

The trial court opinion comprehensively sets forth the relevant facts and procedural history of this case. Therefore, we have no need to restate them.

We add that Appellant timely filed a notice of appeal on March 12, 2018,¹ and a voluntary concise statement of errors complained of on appeal, per Pa.R.A.P. 1925(b), the next day.

Appellant raises three issues on appeal:

WHETHER THE COURT ABUSED ITS DISCRETION BY REMOVING [APPELLANT] AS THE ADMINISTRATOR OF THE ESTATE OF [DECEDENT] WITHOUT CONDUCTING A HEARING AND TAKING ANY EVIDENCE TO SUPPORT THE FINDINGS SET FORTH IN THE ORDER, THEREBY DEPRIVING [APPELLANT] OF HIS RIGHT TO DUE PROCESS?

WHETHER THE COURT ABUSED ITS DISCRETION BY REMOVING [APPELLANT] AS A PERSONAL REPRESENTATIVE OF THE ESTATE OF [DECEDENT] PURSUANT TO 20 PA.C.S. § 3182 AND § 318[3] WITHOUT CONDUCTING A HEARING AND TAKING ANY EVIDENCE TO SUPPORT THE FINDINGS SET FORTH IN THE ORDER?

WHETHER THE COURT ABUSED ITS DISCRETION BY REMOVING [APPELLANT] AS A PERSONAL REPRESENTATIVE OF THE ESTATE OF [DECEDENT] WITHOUT CLEAR PROOF THERE WAS AN INHERENT CONFLICT IN [APPELLANT] ACTING AS THE ADMINISTRATOR AND BEING THE PRINCIPAL OF THE LAW FIRM REPRESENTING THE ESTATE IN THE CIVIL MATTER?

(Appellant's Brief at 6).

Our well-settled standard of review is:

[T]he findings of a trial court sitting without a jury have the same force and effect on appeal as a jury's verdict. We will reverse the trial court only if its findings are predicated upon

¹ Generally, an order removing a personal representative is immediately appealable as a collateral order. **See generally** Pa.R.A.P. 342(a)(5); ***In re Estate of Krasinski***, 188 A.3d 461 (Pa.Super. 2018) (*en banc*) (reviewing orders which are immediately appealable without any pre-appeal requirements).

an error of law or are unsupported by competent evidence in the record. On review, it is not within our province to find facts or to substitute our judgment for that of the trial court. Moreover, the trial court is free to believe all, part, or none of the evidence that is presented, to make all credibility determinations, and to resolve any conflicts in the evidence.

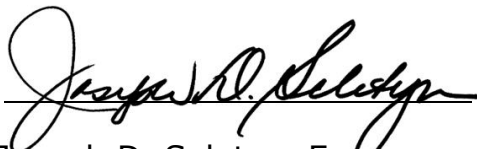
Scobell Inc. v. Schade, 688 A.2d 715, 718 (Pa.Super. 1997) (quoting ***Hodges v. Rodriguez***, 645 A.2d 1340, 1343 (Pa.Super. 1994)).

After a thorough review of the record, Appellant's brief, the applicable law, and the well-reasoned opinion of the Honorable Andrew H. Dowling, we conclude Appellant's issues merit no relief. The trial court opinion comprehensively discusses and properly disposes of the questions presented. (**See** Trial Court Opinion, dated February 16, 2018, at 4-10) (finding Appellant's actions wasted estate assets at expense of Appellee; Appellant and Appellant's colleague represented estate at costs of \$300/hour and \$250/hour, respectively; additionally, Appellant hired "outside counsel" for civil case at cost of \$500 retainer fee and \$180/hour for attendance at trial; after reviewing transactions dated up to 10/31/17, court prohibited Appellant from making further estate distributions without approval; Appellant's colleague complained of receiving lower paycheck as result of order and asked court to amend order to allow immediate payment; upon review of an updated accounting for 11/1/17 to 1/18/18, as well as Appellant's petition for release of further funds, court removed Appellant as administrator of estate, where Appellant had conflict of interest in acting as personal representative of estate in Orphans' Court division and in civil action filed by Appellee; accountings

showed \$22,860 in commissions paid to Appellant personally and over \$39,000 paid to Appellant-owned law firm; court found these payments unreasonably high where estate was only worth approximately \$300,000; moreover, when Appellee filed civil lawsuit, Appellant had already sold Decedent's farm; nevertheless, Appellant filed petition seeking return of horses, even though estate had nowhere to house horses; Appellant also continued to pursue unlawful seizure theory at civil trial, despite fact that criminal court had denied motion to suppress on same grounds; court had legitimate concern that Appellant would continue to pursue civil case until he depleted all estate's assets; Appellee continues to accrue expenses for care of Decedent's horses; to protect rights of Appellee, if ultimately successful, and estate, court found it necessary to remove Appellant and appoint new administrator). Accordingly, we affirm on the basis of that opinion.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 10/10/2018