

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

IN RE THE GUARDIANSHIP OF:

No. 41324-8-II

SEAN RAYMOND COBB,

An Alleged Incapacitated  
Person,

CHRISTINE SCOTT and DANIEL COBB,

Petitioners/Appellants,

v.

UNPUBLISHED OPINION

LORRAINE SCOTT,

Respondent.

Worswick, A.C.J. — Christine Scott and Daniel Cobb appeal the Grays Harbor County Superior Court’s entry of an order disqualifying their attorney, Mark Didrickson, from representing them in the guardianship proceeding regarding their brother, Sean Cobb, and from representing them in the probate proceeding regarding their mother, Carmen Cobb. We vacate the disqualification order and remand.<sup>1</sup>

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<sup>1</sup> A commissioner of this court initially considered Christine Scott’s and Daniel Cobb’s appeal as a motion on the merits to reverse under RAP 18.14 and then transferred it to a panel of judges.

Carmen<sup>2</sup> died in July 2009. Among her seven children is Sean Cobb, who is developmentally disabled. Three of Sean's sisters, Christine Scott, Joyce Cobb and Susan Didrickson, represented by Mark Didrickson, filed a petition in Clark County Superior Court to establish a guardianship for Sean. Lorraine Scott filed a cross petition to become Sean's limited guardian. Daniel also filed a petition for guardianship. After a contested hearing, the Clark County Superior Court appointed Lorraine as Sean's limited guardian. And because Lorraine lives in Grays Harbor County, the Clark County judge transferred the guardianship to Grays Harbor County Superior Court.

Christine and Daniel, represented by Mark Didrickson, appealed the order appointing Lorraine as Sean's limited guardian. That appeal, *In re the Guardianship of Sean Cobb*, No. 40598-9-II (Wash. Ct. App. Apr. 9, 2010), is stayed pending this appeal. Lorraine moved in Grays Harbor County Superior Court to have Mark Didrickson disqualified from representing Christine and Daniel, asserting that under RPC 3.7, he would be a necessary witness at a future trial. Mark Didrickson acknowledged that he had borrowed money from a trust account he was holding for the estate of Carmen Cobb. He denied, however, that he still owes money to her estate. And he asserted that he had already been disqualified as attorney for that estate.

The Grays Harbor County Superior Court disqualified Mark Didrickson under RPC 1.7(a)(2) because there is a "significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or by a

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<sup>2</sup> For clarity, because this case involves multiple members of two different families, we use first names to refer to the people involved, intending no disrespect.

personal interest of the lawyer.” Report of Proceedings at 2-3. The court entered an order providing that:

Mark Didrickson is disqualified from representing any party in this action, or any other action in the State of Washington, pertaining to the estate of Carmen Cobb or the guardianship of Sean Cobb.

Clerk’s Papers at 127. The court denied a subsequent motion for reconsideration. Our commissioner granted discretionary review of the trial court. Ruling Granting Review, *In Re the Guardianship of Sean R. Cobb*, No. 41324-8 (Wash. Ct. App. Dec. 10, 2010).

Christine and Daniel argue that the disqualification order is overbroad, in that it purports to disqualify Mark Didrickson from representing them in judicial proceedings outside of Grays Harbor County, namely the Clark County proceeding in which the guardianship for Sean was established and the appeal from that guardianship pending in this court. We agree. Under RCW 2.08.190, a superior court judge is not authorized to “hear any matter outside of the county wherein the cause or proceeding is pending, except by consent of the parties.” And a superior court judge does not have jurisdiction over matters in the appellate courts. Wash. Const. art. IV, § 4, §6. By entering an order that disqualifies Mark Didrickson from representing his clients in Clark County Superior Court<sup>3</sup> and in this court, the Grays Harbor County Superior Court exceeded its authority.

Second, they argue that the Grays Harbor County Superior Court abused its discretion in disqualifying Mark Didrickson from representing them in the guardianship proceeding in that

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<sup>3</sup> Mark Didrickson asserts that he has filed a motion in Clark County Superior Court to vacate its guardianship order and that that motion is pending.

court because: (1) Lorraine brought her motion under RPC 3.7 but the court disqualified him under RPC 1.7 and (2) Lorraine did not present evidence to show a conflict of interest in the guardianship proceeding. While Mark Didrickson admitted to borrowing from Carmen's trust account, he denied owing the estate any money. And even if he did, that would only show a conflict of interest, under RPC 1.7, in the probate proceeding. He had already been disqualified as counsel in the probate proceeding, so the disqualification order affected only the guardianship proceedings. Without more evidence of a conflict of interest in the guardianship proceedings, the Grays Harbor County Superior Court abused its discretion in disqualifying Mark Didrickson from representing Christine and Daniel in the guardianship proceeding in that court.

Accordingly, we vacate the Grays Harbor County Superior Court's disqualification order and remand for further proceedings in the guardianship proceeding. We deny Christine and Daniel's request for an award of costs on appeal.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

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Worswick, A.C.J.

We concur:

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Hunt, J.

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Johanson, J.

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