

SUPREME COURT OF THE STATE OF MONTANA

In re the Guardianship and Conservatorship of G.O.

2016 MT 298N (Supreme Court of the State of Montana 2016) · No. DA 16-0011 · Decided November 15, 2016

SUMMARY

The Montana Supreme Court affirmed the District Court's order in a guardianship and conservatorship proceeding involving G.O. The court held that the decedent's brothers lacked standing to challenge changes to transfer-on-death beneficiary designations made while G.O. was alive. The court also upheld the District Court's findings concerning initial conservatorship expenses, concluding they were supported by credible bank-statement evidence.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Patricia Cotter; Patricia Cotter; Mike McGrath; Michael E. Wheat; Beth Baker; James Jeremiah Shea
JURISDICTION	Montana
DECIDED	November 15, 2016
DOCKET	DA 16-0011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from the Montana Eighth Judicial District Court's findings of fact, conclusions of law, and order to pay costs and disburse conservatorship assets.
STANDARD OF REVIEW	Findings of fact are reviewed for clear error. A finding is clearly erroneous when it is not supported by credible evidence.
PRECEDENTIAL VALUE	Nonprecedential memorandum opinion; expressly designated noncitable and not precedent.
PARTIES	Doug, Bruce v. Lisa

TOPICS

[guardianships](#) [conservatorship](#) [probate procedure](#) [appellate jurisdiction](#) [standard of review](#)

PRACTICE AREAS

[guardianship](#) [conservatorship](#) [probate](#) [appellate procedure](#)

QUESTIONS PRESENTED

1. Whether Doug and Bruce had standing to challenge the modification of transfer-on-death beneficiary designations while G.O. was still alive.
2. Whether the District Court's findings regarding the first month of conservatorship expenses were clearly erroneous because they allegedly lacked evidentiary support.

HOLDINGS

1. Would-be beneficiaries of a transfer-on-death designation have no present property interest before the account holder's death and therefore lack standing to challenge their removal as beneficiaries. Because G.O. was alive when the designations were modified, Doug and Bruce lacked standing, and the court declined to reach the merits.
2. The District Court's findings regarding the first month of conservatorship expenses were not clearly erroneous because bank statements from G.O. and Lisa's joint account constituted credible evidence supporting those findings.

KEY QUOTATIONS

“Because G.O. was still alive at the time the designation of the TOD beneficiaries was changed, Doug and Bruce do not have standing to challenge the TOD beneficiary modification in the June 2012 order.” (¶ 3)

“Because the bank statements are credible evidence that support the District Court’s findings, we conclude that the District Court’s findings are not clearly erroneous.” (¶ 4)

FACTUAL BACKGROUND

G.O. suffered from a rare form of cancer and diminishing mental capacity during the last years of his life. His wife, Lisa, petitioned for appointment of a guardian and conservator, and the District Court appointed her conservator and approved modification of transfer-on-death beneficiary designations on five investment accounts. After G.O.'s death, his brothers Doug and Bruce challenged the beneficiary modification and the District Court's findings regarding the first month's conservatorship expenses, which were based on bank statements from G.O. and Lisa's joint account.

PROCEDURAL HISTORY

The District Court appointed Lisa as conservator for G.O. and later approved modification of the transfer-on-death beneficiary designations on five investment accounts. After G.O.'s death, Doug and Bruce appealed the District Court's findings, conclusions, and order concerning conservatorship costs and asset disbursement, challenging both the beneficiary modification and the evidentiary basis for the first month of conservatorship expenses. The Montana Supreme Court declined to reach the beneficiary issue for lack of standing and affirmed the findings concerning expenses.

DISPOSITION

affirmed

CASES CITED

- In re Guardianship & Conservatorship of Anderson, 2009 MT 344, 353 Mont. 139, 218 P.3d 1220
- Roland v. Davis, 2013 MT 148, 370 Mont. 327, 302 P.3d 91

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