

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Richardson v. Jones

508 So. 2d 739 (Fla. Dist. Ct. App. 1987) · No. No. 86-1025 · Decided May 29, 1987

SUMMARY

The Florida Second District Court of Appeal held that an attorney who received excessive compensation for services to a personal representative could be ordered to refund the excessive amount, even though payment was made personally by the personal representative rather than directly from the estate. The court affirmed the authority to require reimbursement but reversed and remanded because the trial court miscalculated the amount of fees actually paid.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Scheb; Danahy; Campbell
JURISDICTION	Florida
DECIDED	May 29, 1987
DOCKET	No. 86-1025
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Attorney Richardson appealed an order requiring him to reimburse an estate for excessive attorney's fees received from the personal representative.
STANDARD OF REVIEW	The appellate court reviewed the trial court's determination regarding the amount of excessive attorney's fees and the authority to order reimbursement for legal error and the record evidence concerning the amount actually paid.
PRECEDENTIAL VALUE	Published Florida District Court of Appeal opinion
PARTIES	T. Carlton Richardson v. Roosevelt Jones, Sr., as Personal Representative of the Estate of Luela King, Deceased

TOPICS

- estate administration
- probate procedure
- probate
- remedies
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court had authority to order Richardson to reimburse the estate for excessive attorney's fees when Jones paid him personally rather than from estate funds.
2. Whether the trial court correctly calculated the amount of attorney's fees Richardson had received.
3. Whether determining the reasonable amount of attorney's fees without a jury violated Richardson's constitutional right to a jury trial.

HOLDINGS

1. A probate court may order an attorney to refund excessive compensation received for services rendered to an estate even when the personal representative paid the attorney personally rather than directly from estate funds.
2. The refund must be calculated using the actual amount Richardson received from Jones, less the \$2,650.29 allowed by the trial court, rather than the erroneous \$8,018.49 figure.
3. The trial court's determination of the reasonable amount of attorney's fees did not violate Richardson's constitutional right to a jury trial.

KEY QUOTATIONS

“Any person who is determined to have received excessive compensation from an estate for services rendered may be ordered to make appropriate refunds.” (740)

FACTUAL BACKGROUND

In 1983, Roosevelt Jones, Sr., acting as personal representative, retained Richardson to provide legal services in administering Luela King's estate. The estate's only asset was real property purchased for \$18,000 with court approval. The trial court found Richardson's fees excessive, determined that \$2,500 was reasonable compensation, and ordered him to refund the difference based on an asserted payment of \$8,018.49. The appellate record showed that Richardson's invoices totaled \$6,493.40, and the court treated the invoices as paid in full.

PROCEDURAL HISTORY

The trial court determined that Richardson had received excessive compensation and ordered him to refund \$5,368.20. The appellate court agreed that reimbursement was authorized but concluded that the trial court miscalculated the amount Richardson had actually received, affirming in part, reversing in part, and remanding with directions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Recalculate the reimbursement using the actual amount Richardson received from Jones, less the \$2,650.29 allowed by the trial court.

CASES CITED

- Sheffield v. Dallas, 417 So. 2d 796 (Fla. 5th DCA 1982)
- Mid-Continent Casualty Co. v. Giuliano, 166 So. 2d 443 (Fla. 1964)

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