

SUPREME COURT OF NORTH DAKOTA

Brakke v. Bell State Bank & Trust

2017 ND 34 · No. No. 20160045 · Decided February 23, 2017

SUMMARY

The North Dakota Supreme Court affirmed approval of a settlement resolving Timothy Brakke’s challenge to Bradley Brakke’s capacity to create a trust. The court held that the Uniform Probate Code provisions governing compromises in probate proceedings applied to a judicial settlement involving a challenge to the trust’s validity, rather than the Uniform Trust Code’s nonjudicial settlement provisions. The court concluded the challenge was brought in good faith and that the settlement was just and reasonable.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Crothers, Justice; Daniel J. Crothers; Lisa Fair McEvers; Dale V. Sandstrom, S.J.; James D. Hovey, D.J.; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	February 23, 2017
DOCKET	No. 20160045
DISPOSITION	affirmed
PROCEDURAL POSTURE	Bell State Bank & Trust appealed from a district court judgment approving a family settlement agreement and dismissing Timothy Brakke's petition challenging Bradley Brakke's capacity to create a trust.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. The court declined to decide whether approval of the settlement was reviewed for abuse of discretion or de novo because the judgment was correct under either standard.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Bell State Bank & Trust, Trustee of the Bradley K. Brakke Trust v. Timothy A. Brakke

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QUESTIONS PRESENTED

1. Whether North Dakota's Uniform Probate Code provisions governing court-approved compromises apply to a settlement in a judicial proceeding challenging the settlor's capacity to create a trust.
2. Whether the settlement satisfied the statutory requirements that the controversy be in good faith, the agreement be just and reasonable, and the affected competent beneficiaries consent.
3. Whether the district court properly approved the settlement without Vicki Brakke's signature when the settlement affected only residuary distributions after expiration of her life estate.

HOLDINGS

1. N.D.C.C. §§ 30.1-22-01 and 30.1-22-02 authorize court approval of a settlement resolving litigation that challenges a settlor's capacity to create a trust. N.D.C.C. § 59-09-11 does not govern a settlement presented in an ongoing judicial proceeding of that kind.
2. A court may approve a family settlement when the underlying challenge to the governing instrument is a genuine, good-faith controversy; the court need not decide the ultimate merits of the challenge.
3. A settlement may be just and reasonable when approval is necessary to prevent dissipation of estate assets through further litigation and protect the beneficiaries' interests.
4. The district court properly approved the settlement without Vicki Brakke's signature because the settlement affected only residuary distributions after her life estate ended and did not affect her beneficial interest.

KEY QUOTATIONS

“Those authorities evidence an intent that a court may apply N.D.C.C. §§ 30.1-22-01 and 30.1-22-02 to settlements in judicial proceedings challenging a settlor’s capacity to create a trust.” (¶ 22)

“The district court did not err in approving the family settlement agreement by all persons having beneficial interests affected by the agreement to achieve a just and reasonable result in good faith litigation.” (¶ 37)

FACTUAL BACKGROUND

Bradley Brakke created a 2013 trust and later a 2014 restatement that largely excluded his niece, Alanna Rerick, from the residue of his estate. Timothy Brakke alleged that Bradley lacked capacity because of severe alcoholism and that the trust violated a family agreement concerning distribution of Bradley's property. Rerick assigned her estate-related rights to Timothy, and the parties entered a settlement providing Rerick an additional 1,060 acres while preserving Vicki Brakke's life estate.

PROCEDURAL HISTORY

Timothy Brakke petitioned to challenge the validity of the 2013 trust based on Bradley Brakke's alleged lack of capacity and later moved to amend the petition to challenge the 2014 restatement and to approve a settlement. The district court denied the trustee's summary-judgment motion, allowed the amendment, approved the settlement under N.D.C.C. §§ 30.1-22-01 and 30.1-22-02, and dismissed the petition. The North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Hector v. City of Fargo, 2012 ND 80, ¶ 30, 815 N.W.2d 240
- Amerada Hess Corp. v. State ex rel. Tax Comm'r, 2005 ND 155, ¶ 12, 704 N.W.2d 8
- In re Estate of Allmaras, 2007 ND 130, ¶ 13, 737 N.W.2d 612
- In re Estate of Gleeson, 2002 ND 211, ¶ 7, 655 N.W.2d 69
- Erickson v. Olsen, 2014 ND 66, ¶ 20, 844 N.W.2d 585
- Matter of Estate of Stanton, 472 N.W.2d 741, 745-46 (N.D. 1991)
- In re Estate of Harms, 2012 ND 62, ¶ 12, 814 N.W.2d 783
- Wilson v. Dallas, 743 S.E.2d 746, 758-67 (Ga. 2013)
- In re Estate of Schroeder, 441 N.W.2d 527, 530, 533 (Minn. Ct. App. 1989)
- Denny v. Deutsche Bank AG, 443 F.3d 253, 273 (2d Cir. 2006)
- In re Guardianship & Conservatorship of Thomas, 2006 ND 219, ¶ 7, 723 N.W.2d 384
- Muhlhauser v. Becker, 76 N.D. 402, 417, 37 N.W.2d 352, 362 (1948)
- Matter of Estate of Hedstrom, 472 N.W.2d 454, 456 (N.D. 1991)
- Schroeder v. Buchholz, 2001 ND 36, ¶ 21, 622 N.W.2d 202

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