

SUPREME COURT OF NEW HAMPSHIRE

In re Guardianship of Mary Louise Eaton, 163 N.H. 386

42 A.3d 799 (2012) · No. No. 2011-171 · Decided March 16, 2012

SUMMARY

The Supreme Court of New Hampshire held that RSA 464-A:43 does not require a proposed ward's estate to pay the attorney's fees incurred by a guardianship petitioner, even when the petitioner acted in good faith. The court interpreted the phrase "fees for the counsel" as referring to counsel for the proposed ward, not the petitioner's counsel, and affirmed the denial of the petitioner's fee request.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Conboy, J.; Dalianis, C.J.; Hicks, J.; Lynn, J.
JURISDICTION	New Hampshire
DECIDED	March 16, 2012
DOCKET	No. 2011-171
DISPOSITION	affirmed
PROCEDURAL POSTURE	Daniel Eaton appealed the Cheshire County Probate Court's denial of his motion seeking payment from the ward's estate for attorney's fees incurred in guardianship proceedings.
STANDARD OF REVIEW	The court reviewed the probate court's statutory interpretation de novo.
PRECEDENTIAL VALUE	Published opinion; precedential New Hampshire Supreme Court decision.
PARTIES	Daniel Eaton v. Michael Eaton, as guardian of Mary Louise Eaton's person and estate

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QUESTIONS PRESENTED

1. Whether RSA 464-A:43, I, requires a proposed ward's estate to pay the attorney's fees of a good-faith petitioner in a guardianship proceeding.
2. Whether RSA 464-A:26, I, or the cost-allocation provision for conservatorships in RSA 464-A:43, III, supports payment of a guardianship petitioner's attorney's fees from the ward's estate.
3. Whether legislative history or public policy requires payment of the petitioner's attorney's fees.

HOLDINGS

1. RSA 464-A:43, I, requires payment of court costs and fees for counsel representing the proposed ward, not attorney's fees incurred by the petitioner. A proposed ward is therefore not responsible for a petitioner's attorney's fees regardless of whether the petitioner acted in good faith.
2. RSA 464-A:26, I, which directs a guardian of the estate to apply money and property for the ward's support, care, and education, does not encompass attorney's fees incurred by an unsuccessful guardianship petitioner.
3. The provision requiring a conservatee's estate to pay conservatorship costs does not establish that a proposed ward's estate must pay a guardianship petitioner's attorney's fees.
4. Neither the legislative history of RSA 464-A:43 nor public-policy concerns support awarding a guardianship petitioner's attorney's fees from the ward's estate.

KEY QUOTATIONS

“We agree with the trial court's reasoning and hold that the statute's stated purpose and the statutory scheme indicate that the legislature intended the phrase “fees for the counsel” to refer to a proposed ward's counsel, not a petitioner's counsel.” (163 N.H. at 801)

“Our holding today, that the statute does not contemplate a ward's responsibility for payment of a petitioner's counsel fees, regardless of the petitioner's good or bad faith, is dispositive.” (163 N.H. at 803)

FACTUAL BACKGROUND

In March 2010, Dean Eaton petitioned for guardianship over his mother, Mary Louise Eaton, while Daniel Eaton objected and filed his own petition. The brothers entered a written settlement agreeing that Michael Eaton would serve as guardian. After the court found Mary Louise incapacitated and appointed Michael guardian of her person and estate, Daniel sought payment from the estate for attorney's fees incurred during the proceedings. The probate court denied the request.

PROCEDURAL HISTORY

Dean Eaton filed a guardianship petition concerning Mary Louise Eaton, and Daniel Eaton objected and filed his own petition. The brothers later agreed that Michael Eaton would be appointed guardian, after which the probate court found Mary Louise Eaton incapacitated and appointed Michael guardian of her person and estate. The probate court denied Daniel's request for payment of his attorney's fees under RSA 464-A:43, and the New Hampshire Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Merrimack School Dist. v. Nat'l School Bus Serv., 140 N.H. 9, 14, 661 A.2d 1197 (1995)
- State v. Bernard, 158 N.H. 43, 44, 959 A.2d 193 (2008)
- In re DeLucca, 121 N.H. 71, 72-73, 426 A.2d 32 (1981)
- In re Gamble, 118 N.H. 771, 775, 394 A.2d 308 (1978)
- In re Snow Estate, 120 N.H. 590, 592, 419 A.2d 1095 (1980)
- In re Guardianship of Henderson, 150 N.H. 349, 350, 838 A.2d 1277 (2003)
- AIMCO Props. v. Dziewisz, 152 N.H. 587, 590, 883 A.2d 310 (2005)
- Eng Khabbaz v. Comm'r, Soc. Sec. Admin., 155 N.H. 798, 805, 930 A.2d 1180 (2007)

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