

SUPREME COURT OF OHIO

In re Guardianship of Hollins

114 Ohio St. 3d 434 (Ohio 2007) · Decided September 19, 2007

SUMMARY

The Ohio Supreme Court held that a guardianship based exclusively on a ward’s status as a minor, and the probate court’s jurisdiction over that guardianship, terminate when the ward reaches the age of majority. Orders approving a settlement and removing the guardian issued after the ward’s eighteenth birthday were therefore invalid, although the probate court retained limited jurisdiction to consider the guardian’s final accounting.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Lanzinger, J.; Moyer, C.J.; Pfeifer, J.; O'Connor, J.; Cupp, J.; Lundberg Stratton, J.; O'Donnell, J.
JURISDICTION	Ohio
DECIDED	September 19, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Discretionary appeal by successor guardian Frederick R. Nance from the Eighth District Court of Appeals' judgment vacating probate-court orders approving a settlement and removing Mark McLeod as guardian of the estate.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Frederick R. Nance v. Mark McLeod

TOPICS

guardianship procedure probate procedure statutory interpretation appellate procedure probate

PRACTICE AREAS

probate guardianships appellate procedure statutory interpretation

QUESTIONS PRESENTED

1. Whether a probate court retains jurisdiction over a guardianship of a minor after the ward reaches age eighteen.

2. Whether the probate court's post-majority order approving the settlement and order removing the guardian were valid.
3. Whether the probate court retains jurisdiction after the ward reaches majority to consider and settle the guardian's final account.
4. Whether alleged incompetency supplied continuing jurisdiction when no guardianship based on incompetency had been created.

HOLDINGS

1. When a guardianship is predicated exclusively on a ward's status as a minor, the guardian's authority and the probate court's jurisdiction over the guardianship terminate when the ward reaches the age of majority.
2. Orders concerning the oversight of a minor guardianship that are issued after the ward reaches majority are invalid for lack of jurisdiction, including an order approving a settlement and an order removing the guardian.
3. The probate court retains a limited, independent jurisdiction to consider and settle a guardian's final account after the ward reaches majority, but that jurisdiction does not extend to other guardianship matters.
4. Evidence that the ward may have been incompetent does not establish continuing probate-court jurisdiction when the only guardianship actually created was based on minority and no guardianship based on incompetency was established before majority.

KEY QUOTATIONS

“When a guardianship is predicated exclusively on a ward’s minor status, the guardian’s power and the probate court’s jurisdiction both terminate when the ward reaches the age of majority.” (114 Ohio St. 3d at 439-440)

“The probate court was therefore without jurisdiction to issue any order once Hollins turned 18; the only power the court had after that date was to consider McLeod’s final accounting.” (114 Ohio St. 3d at 440)

FACTUAL BACKGROUND

McLeod was appointed guardian of the estate of fifteen-year-old Hollins to pursue a medical-malpractice claim. Hollins turned eighteen on January 29, 2005, but the probate court did not journalize its order approving the settlement until January 31. The probate court later ordered distribution of the settlement proceeds and removed McLeod when he refused to comply, appointing Nance as successor guardian.

PROCEDURAL HISTORY

The Cuyahoga County Probate Court appointed McLeod guardian of the estate of minor Walter Hollins Jr. and later journalized an order approving a settlement two days after Hollins reached age eighteen. The probate court subsequently determined that it retained jurisdiction, ordered distribution of the settlement proceeds, and removed McLeod when he refused to comply. The Eighth District vacated those orders, holding that jurisdiction

ended when Hollins turned eighteen. The Supreme Court of Ohio accepted Nance's discretionary appeal and affirmed the Eighth District.

DISPOSITION

affirmed

CASES CITED

- Corron v. Corron, 40 Ohio St. 3d 75, 77, 531 N.E.2d 708 (1988)
- In re Guardianship of Hinerman, Hocking App. No. 00CA1 (Nov. 1, 2001)
- In re Estate of Streit, 12 Ohio Dec. 158, 161 (1901)
- State ex rel. Estate of Hards v. Klammer, 110 Ohio St. 3d 104, 2006-Ohio-3670, 850 N.E.2d 1197, ¶¶ 6, 13
- Hernandez v. Kelly, 108 Ohio St. 3d 395, 2006-Ohio-126, 844 N.E.2d 301, ¶ 30
- State ex rel. Geauga Cty. Bd. of Comm'rs v. Milligan, 100 Ohio St. 3d 366, 2003-Ohio-6608, 800 N.E.2d 361, ¶ 20
- In re Guardianship of Hollins, Cuyahoga App. Nos. 86412 and 86574, 2006-Ohio-1543, 2006 WL 825389, ¶ 12

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