

SUPREME JUDICIAL COURT OF MAINE

Guardianship of Cardner

709 A.2d 731 (Me. 1998) · Decided April 23, 1998

SUMMARY

Nelson Johnson appealed a Maine probate court order requiring him to cooperate in transferring annuity payments and other assets to Edward Cardner’s guardian. The Maine Supreme Judicial Court held that Johnson submitted to the probate court’s jurisdiction by filing a demand for notice, participating through counsel, and seeking court confirmation of an agreement protecting him from liability, and it affirmed the judgment.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Dana, Justice; Clifford; Dana; Lipez; Roberts; Rudman; Saufley; Wathen
JURISDICTION	Maine
DECIDED	April 23, 1998
DISPOSITION	affirmed
PROCEDURAL POSTURE	Nelson Johnson appealed a Waldo County Probate Court judgment ordering him to cooperate in transferring Edward Cardner's assets, including annuity payments, to Cardner's guardian.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential.
PARTIES	Nelson Johnson v. Carmela Dufour

TOPICS

- guardianship procedure
- personal jurisdiction
- standing
- probate procedure
- appellate procedure

PRACTICE AREAS

- guardianships
- probate
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether Johnson submitted to and was bound by the personal jurisdiction of the probate court through his participation in the guardianship proceedings and his request for court protection.

2. Whether Johnson had standing to challenge the probate court's authority to order the scholarship fund to hold an annuity payment in escrow.

HOLDINGS

1. Johnson submitted to the probate court's jurisdiction by filing a demand for notice, participating through counsel, and seeking court confirmation of an agreement protecting him from potential liability; he was therefore bound by the court's orders.
2. Johnson lacked standing to assert the scholarship fund's rights because he was attempting to raise the rights of a third party.

KEY QUOTATIONS

"Having sought the court's protection in this manner, Johnson has submitted to its jurisdiction." (732)

FACTUAL BACKGROUND

Edward Cardner granted Nelson Johnson, a New Jersey attorney, a durable power of attorney. Johnson used Cardner's funds to purchase a \$200,000 annuity naming a New Jersey nonprofit corporation as payee, although Cardner opposed that use of his funds. After Cardner moved to Maine, Dufour sought appointment as his guardian and conservator, and Johnson participated in the probate proceedings through counsel, filed a demand for notice, and sought court confirmation of an agreement intended in part to limit his liability. The probate court ultimately treated the annuity as an asset of Cardner's estate and ordered Johnson to cooperate in transferring the annuity payments to Cardner.

PROCEDURAL HISTORY

Carmela Dufour petitioned for appointment as Cardner's guardian and conservator in the Waldo County Probate Court. Johnson participated through Maine counsel, filed a demand for notice, negotiated an agreement concerning the transfer of Cardner's assets, and objected to a motion concerning the annuity. The probate court later found Johnson to be an interested person bound by its orders and ordered him to cooperate in transferring the annuity payments. The Supreme Judicial Court of Maine affirmed.

DISPOSITION

affirmed

CASES CITED

- *Donn-Griffin v. Donn*, 615 A.2d 253, 254-55 (Me. 1992)
- *Common Cause v. State*, 455 A.2d 1, 6 (Me. 1983)