

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Estate of Elise Derricotte; Claude O. Barrington, Appellant

885 A.2d 320 (D.C. 2005) · No. No. 01-PR-1210 · Decided October 27, 2005

SUMMARY

The District of Columbia Court of Appeals affirmed an order requiring attorney Claude O. Barrington to reimburse the Estate of Elise Derricotte \$36,597.08 in fees paid from estate funds without prior court approval. The court held that the reconsideration motion was governed by Super. Ct. Civ. R. 59(e), rather than Super. Ct. Prob. R. 130, and that the trial court did not abuse its discretion in granting reconsideration. The court also rejected Barrington’s arguments concerning the failure to consider his opposition, the need to file an appeal, and laches.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Washington, Chief Judge; Farrell, Associate Judge; King, Senior Judge
JURISDICTION	District of Columbia
DECIDED	October 27, 2005
DOCKET	No. 01-PR-1210
DISPOSITION	affirmed
PROCEDURAL POSTURE	Barrington appealed the Superior Court's order granting the successor personal representative's renewed motion for reconsideration and directing Barrington to reimburse the estate \$36,597.08 in attorney's fees.
STANDARD OF REVIEW	The grant of a motion for reconsideration under Rule 59(e) is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Claude O. Barrington v. Darrel S. Parker, successor personal representative of the Estate of Elise P. Derricotte

TOPICS

- probate procedure
- estate administration
- motion for reconsideration
- appellate procedure
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court's mistaken treatment of Barrington's opposition as nonexistent required reversal when the court also decided the renewed motion for reconsideration on the merits.
2. Whether Super. Ct. Prob. R. 130 governed the successor personal representative's motion for reconsideration.
3. Whether the successor personal representative was required to appeal the initial fee order rather than file a timely motion for reconsideration under Rule 59(e).
4. Whether laches barred consideration of the renewed motion for reconsideration after a three-year delay caused by the pendency of related appeals.
5. Whether the trial court properly reconsidered its prior ruling that Barrington could retain attorney's fees paid from estate funds without prior court approval.

HOLDINGS

1. The trial court erred in stating that Barrington had failed to file an opposition, but the error was harmless because the court granted reconsideration on the merits and Barrington's arguments were unsupported.
2. Super. Ct. Prob. R. 130 does not govern a motion for reconsideration in a probate matter initiated by complaints and summonses; the motion is instead governed by Rule 59(e).
3. A trial court may grant a Rule 59(e) motion to correct a manifest error of law or fact, and the trial court did not abuse its discretion in reconsidering the prior fee ruling.
4. A party is not required to appeal rather than file a timely motion for reconsideration under Rule 59(e); the choice between the two procedures rests with the movant.
5. Laches did not bar the renewed motion because the delay was excused by the related appeals, and Barrington failed to establish prejudice.

KEY QUOTATIONS

"A trial court may grant a Rule 59(e) motion in order to correct manifest errors of law or fact." (325)

"The choice to file a motion for reconsideration, rather than an appeal, is not restricted by any statute or rule." (325)

"To successfully establish the defense of laches, one must establish both that the delay was unreasonable and that one was prejudiced by the delay." (326)

FACTUAL BACKGROUND

Gilbert and Preston Phillips obtained appointment as personal representatives of Elise P. Derricotte's estate after claiming to be the sole surviving heirs, then distributed \$526,534 in estate property to themselves. They paid Claude O. Barrington \$36,597.08 for legal services in probating the estate. After litigation established that Ida Brown Bryant was the rightful heir, the Phillips brothers were removed and Darrel S. Parker became successor

personal representative. Barrington admitted that his fees were paid simultaneously with the closing of the estate, supporting the conclusion that the fees came from estate funds and had not received prior court approval.

PROCEDURAL HISTORY

The Phillips brothers were initially appointed personal representatives of the estate and paid Barrington for legal services. After litigation established that Ida Brown Bryant was the rightful heir, the brothers were removed and Darrel S. Parker was appointed successor personal representative. The Superior Court initially ruled that Barrington could retain his fees, but Parker timely moved for reconsideration. That motion remained unresolved while related appeals divested the trial court of jurisdiction; after this court decided *Derricotte I*, Parker renewed the motion, which the trial court granted on the merits. Barrington appealed, and the District of Columbia Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- *In re Estate of Elise P. Derricotte*, 744 A.2d 535 (D.C. 2000)
- *In re Estate of Barfield*, 736 A.2d 991, 995 (D.C. 1999)
- *In re Utley*, 698 A.2d 446 (D.C. 1997)
- *Perry v. Sera*, 623 A.2d 1210, 1217 (D.C. 1993)
- *Dist. No. 1—Pac. Coast Dist., Marine Eng'rs Beneficial Ass'n v. Travelers Cas. & Sur. Co.*, 782 A.2d 269, 278-79 (D.C. 2001)
- *DiPasquale v. Milin*, 303 F. Supp. 2d 430 (S.D.N.Y. 2004)
- *Federal Mktg. Co. v. Virginia Impression Prods. Co.*, 823 A.2d 513, 525 (D.C. 2003)
- *Powell v. Zuckert*, 125 U.S. App. D.C. 55, 57, 59, 366 F.2d 634, 636, 638 (1966)
- *American Univ. Park Citizens Ass'n v. Burka*, 400 A.2d 737, 740 (D.C. 1979)
- *Beins v. District of Columbia Bd. of Zoning Adjustment*, 572 A.2d 122, 128 (D.C. 1990)
- *In re S.C.M.*, 653 A.2d 398, 402 (D.C. 1995)
- *Clipper Exxpress v. Rocky Mountain Motor Tariff Bureau, Inc.*, 690 F.2d 1240, 1249 (9th Cir. 1982)