

MICHIGAN COURT OF APPEALS

Long v. Swanson, 98 Mich. App. 347

296 N.W.2d 256 (Mich. Ct. App. 1980) · No. 48056 · Decided June 17, 1980

SUMMARY

The Michigan Court of Appeals held that a probate court order disallowing a creditor's claim against a decedent's estate was a final order appealable as of right directly to the Court of Appeals. The court concluded that the general court rule governing final judgments did not apply to probate proceedings and denied the application for leave to appeal from the circuit court's dismissal.

CASE DETAILS

COURT	Michigan Court of Appeals
WRITING FOR THE COURT	R.B. Burns, P.J.; Bashara, J.; M.F. Cavanagh, J.
JURISDICTION	Michigan
DECIDED	June 17, 1980
DOCKET	48056
DISPOSITION	other
PROCEDURAL POSTURE	The probate court disallowed Long's claim against the decedent's estate. The circuit court dismissed Long's appeal for lack of jurisdiction, and Long applied for leave to appeal from that dismissal.
STANDARD OF REVIEW	The court determined appellate jurisdiction and the finality of the probate court order as a matter of law.
PRECEDENTIAL VALUE	Published Michigan Court of Appeals opinion
PARTIES	Sherwood Long v. Swanson Estate

TOPICS

- probate procedure
- creditor claims
- appellate jurisdiction
- final judgment rule
- statutory interpretation

PRACTICE AREAS

- Probate
- Appellate procedure
- Civil procedure

QUESTIONS PRESENTED

1. Whether the probate court's order disallowing a creditor claim was a final order under MCL 600.861 and therefore appealable as of right directly to the Michigan Court of Appeals.
2. Whether GCR 1963, 518.2, which concerns final judgments resolving fewer than all claims or parties, applied to the probate proceeding.
3. Whether the circuit court properly dismissed Long's appeal for lack of jurisdiction under MCL 600.863.

HOLDINGS

1. The general court rules do not apply to probate court proceedings unless the probate court rules specifically adopt them; therefore, GCR 1963, 518.2 did not apply to this probate proceeding.
2. A probate court order disallowing a claim filed against a decedent's estate is a final order appealable as of right to the Michigan Court of Appeals under MCL 600.861.
3. The circuit court correctly dismissed Long's appeal because the probate order was appealable directly to the Court of Appeals under MCL 600.861 and was not appealable to the circuit court under MCL 600.863.

KEY QUOTATIONS

“The question of finality, therefore, is one which can be determined only by analysis of the issues decided by a particular probate court order and its precise effect on the rights of the parties involved.” (at 351)

“The right to appeal should be determined not by the form of the order but by its effect.” (at 352)

“We therefore conclude that the probate court order disallowing the appellant's claim in this cause was a final order appealable as a matter of right to this Court under MCL 600.861; MSA 27A.861.” (at 352)

FACTUAL BACKGROUND

Sherwood Long filed a creditor claim against the estate of Bert George Swanson. Following a full hearing and review of a referee's report and recommendation, the Macomb County Probate Court disallowed the claim. The order left Long with no remaining interest in the estate or further probate proceedings other than appellate review.

PROCEDURAL HISTORY

Long timely filed a claim against Bert George Swanson's estate. After a referee's full hearing, the Macomb County Probate Court disallowed the claim by order dated August 1, 1979. Long appealed as of right to the Macomb County Circuit Court, which dismissed the appeal for lack of jurisdiction. The Michigan Court of Appeals denied Long's application for leave to appeal, holding that the probate court order was directly appealable as of right to the Court of Appeals rather than to the circuit court.

DISPOSITION

other

CASES CITED

- In re Estate of Cook, 245 So. 2d 694, 695 (Fla. App. 1971)
- Comm'r of Ins v. Lloyds Ins. Co. of America, Inc., 287 Mich. 599, 607, 283 N.W. 703 (1939)
- Equitable Trust Co. v. Bankers Trust Co., 268 Mich. 394, 397-398, 256 N.W. 460 (1934)
- Reist v. Bay Circuit Judge, 396 Mich. 326, 333, 350, 352-353, 241 N.W.2d 55 (1976)

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