

SUPREME COURT OF MONTANA

In the Matter of the Guardianship and Conservatorship of Elizabeth Saylor

328 Mont. 415, 2005 MT 236 (2005) · No. No. 04-183 · Decided September 20, 2005

SUMMARY

The Montana Supreme Court reviewed whether a conservator breached fiduciary duties by leasing conservatorship property to a family member on terms that allegedly provided no financial benefit to the protected person. The Court held that the conservator's leasing judgment did not require removal, but remanded for an audit and possible reformation of the lease arrangement. A separate opinion concurred in the merits but dissented from the sua sponte remand.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	James C. Nelson; W. William Leaphart; Patricia O. Cotter; Brian Morris; Karla M. Gray; Jim Rice; John Warner
JURISDICTION	Montana
DECIDED	September 20, 2005
DOCKET	No. 04-183
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Elizabeth Saylor appealed the Ninth Judicial District Court's dismissal of her petition seeking removal of Tim Saylor as conservator of her Montana property and alleging breach of fiduciary duty.
STANDARD OF REVIEW	Questions of law are reviewed de novo. Findings of fact are reviewed for clear error, meaning the findings lack substantial evidentiary support, the district court misapprehended the effect of the evidence, or the reviewing court is left with a firm conviction that a mistake was made. Conservatorship accountings must be accurate, complete, and verifiable.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Elizabeth Saylor v. Tim Saylor

TOPICS

conservatorship

guardianship procedure

trustee duties

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PRACTICE AREAS

guardianships

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QUESTIONS PRESENTED

1. Whether alleged breaches of the trustee duties imposed on conservators by section 72-5-423, MCA, constitute good cause for removal under section 72-5-414, MCA.
2. Whether Tim Saylor breached his fiduciary duties or abused his position as conservator by leasing Glen Willow to his brother on the challenged terms.
3. Whether the Supreme Court could remand for an audit and possible reformation of the lease despite affirming the District Court's determination that Tim had not breached his duties so as to require removal.

HOLDINGS

1. A conservator's breach of any trustee duty imposed by Title 72, Chapter 34, Part 1, through section 72-5-423, MCA, constitutes good cause for removal under section 72-5-414, MCA.
2. Tim did not breach his fiduciary duties so as to require his removal as conservator because the District Court reasonably found that the lease was the best arrangement available under the property's agricultural and economic conditions.
3. The Court remanded for an audit of the lease arrangement, with authority for the District Court to require reformation of the lease figures and to reconsider its prior determinations if the audit disclosed facts warranting revision.

KEY QUOTATIONS

"Since conservators are under the same duties as trustees, and since the nature of their responsibilities is cognate with that of trustees, we conclude likewise that when a conservator breaches the duties, set forth by Title 72, Chapter 34, Part 1, Montana Code Annotated (Duties of Trustees), which § 72-5-423, MCA, imposes upon him, he gives a court good cause to remove him as conservator." (328 Mont. at 418-19; ¶ 17)

"The conservator must shun even the appearance of impropriety, an appearance which the procedure followed in the present case could not help but foster in Elizabeth's mind." (328 Mont. at 421; ¶ 29)

"Courts sitting in equity are empowered to determine all the questions involved in the case and to do complete justice; this includes the power to fashion an equitable result." (328 Mont. at 423; ¶ 33)

FACTUAL BACKGROUND

Elizabeth's Montana property included approximately 690 acres known as Glen Willow. Tim leased the property to his brother Pat for a five-year term, with nominal annual rent subject to offsets for an irrigation system and maintenance of the residence. The irrigation system had not been used for several years, yet Pat continued receiving a \$12,000 annual credit, and Tim admitted that the credit figures were essentially fabricated to cancel

Pat's rental obligation. The property was difficult to farm because of leafy spurge and poor irrigation conditions, and the District Court found the lease arrangement economically reasonable overall.

PROCEDURAL HISTORY

Tim Saylor was appointed temporary guardian in 1999. In 2000, the parties agreed to a guardianship and two limited conservatorships, with Tim serving as conservator of Elizabeth's Montana property. Elizabeth, her estate, and Deane Sadler later petitioned for Tim's removal and alleged breaches of fiduciary duty arising principally from a lease of conservatorship property to Tim's brother. After a hearing, the District Court dismissed the petition, and Elizabeth appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The District Court must order an audit of the Glen Willow lease arrangement. The audit may support reformation of the lease so its figures conform more closely to actualities, and the District Court may revise its prior determinations if further scrutiny reveals facts not appearing in the appellate record.

CASES CITED

- Matter of Conservatorship of Kovatch, 271 Mont. 323, 896 P.2d 444 (1995)
- Eschenbacher v. Anderson, 2001 MT 206, ¶ 22, 306 Mont. 321, 34 P.3d 87
- Interstate Production Credit v. DeSaye, 250 Mont. 320, 820 P.2d 1285 (1991)
- Matter of Estate of Clark, 237 Mont. 179, 772 P.2d 299 (1989)
- Redies v. Cosner, 2002 MT 86, ¶ 37, 309 Mont. 315, 48 P.3d 697
- Riis v. Day, 188 Mont. 253, 613 P.2d 696 (1980)
- Blaine Bank of Montana v. Haugen, 260 Mont. 29, 858 P.2d 14 (1993)
- Reickhoff v. Consolidated Gas Co., 123 Mont. 555, 217 P.2d 1076 (1950)
- Arrowhead School District #75, Park County v. Klyap, 2003 MT 294, 318 Mont. 103, 79 P.3d 250
- Mallak v. State, 2002 MT 35, 308 Mont. 314, 42 P.3d 794
- Larson-Murphy v. Steiner, 2000 MT 334, 303 Mont. 96, 15 P.3d 1205
- Armstrong v. State, 1999 MT 261, 296 Mont. 361, 989 P.2d 364
- State v. Worrall, 1999 MT 55, 293 Mont. 439, 976 P.2d 968
- Craig v. Schell, 1999 MT 40, 293 Mont. 323, 975 P.2d 820
- State v. Santos, 273 Mont. 125, 902 P.2d 510 (1995)
- State v. Zabawa, 279 Mont. 307, 928 P.2d 151 (1996)