

SUPREME COURT OF THE STATE OF MONTANA

In re Estate of Hannum

366 Mont. 1 (2012) · No. DA 12-0003 · Decided August 10, 2012

SUMMARY

The Montana Supreme Court affirmed the removal of Louis G. Hannum, Jr. as personal representative of his father's estate. The court held that he failed to administer the estate according to the effective will and probate code, including by omitting required bequests, including assets of questionable value, filing an untimely and deficient inventory, and failing to provide required notices.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Michael E. Wheat; Chief Justice Mike McGrath; Justice Brian Morris; Justice Beth Baker; Justice James C. Nelson
JURISDICTION	Montana
DECIDED	August 10, 2012
DOCKET	DA 12-0003
DISPOSITION	affirmed
PROCEDURAL POSTURE	The personal representative of an estate appealed an order of the Montana Twentieth Judicial District Court removing him for cause and appointing a successor personal representative.
STANDARD OF REVIEW	Removal of a personal representative is reviewed for abuse of discretion; factual findings are reviewed for clear error; and conclusions of law are reviewed for correctness.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Louis G. Hannum, Jr. v. Esther, Jim, Mike

TOPICS

estate administration probate procedure probate standard of review appellate procedure

PRACTICE AREAS

probate estate administration appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court properly treated Hannum, Jr.'s Final Accounting and Inventory as a formal request for approval rather than a proposal for distribution.
2. Whether substantial credible evidence supported the District Court's findings that the inventory and accounting were untimely, incomplete, inaccurate, or improperly served.
3. Whether the District Court abused its discretion by removing Hannum, Jr. as personal representative for cause.

HOLDINGS

1. The Final Accounting and Inventory constituted a formal request for court approval, not merely a proposal for distribution, because Hannum, Jr. asked the court to distribute the estate according to those documents without first mailing a proposal and allowing interested persons time to object.
2. Hannum, Jr. breached his duty to administer the estate according to the effective 2005 will and the probate code by omitting required bequests, including assets based on the revoked 1995 will, failing to provide required notice, filing a late and deficient inventory, and submitting an inaccurate and incomplete accounting.
3. The District Court did not abuse its discretion by removing Hannum, Jr. as personal representative for cause.

KEY QUOTATIONS

“Thus, breach of a single duty is sufficient to justify removal for cause.” (2012 MT 171, ¶ 27)

“Though we disfavor removing a personal representative, the District Court has broad discretion in its decision to remove a personal representative, and we conclude that the District Court did not abuse that discretion when it removed Louis Jr. for cause.” (2012 MT 171, ¶ 33)

FACTUAL BACKGROUND

Louis G. Hannum, Sr.'s 2005 will revoked his 1995 will, appointed Louis G. Hannum, Jr. as personal representative, provided \$1,000 bequests to seven grandchildren, and distributed the residue among his children and descendants. Hannum, Jr. failed to notify at least three devisees, filed his inventory after the statutory deadline, omitted the grandchildren's bequests, and included promissory notes derived from the revoked will, allegedly undervalued stock, and purportedly invalid gifts. He then sought approval of an accounting that substantially increased the estate's value and allocated significant fees and distributions to himself.

PROCEDURAL HISTORY

Louis G. Hannum, Jr. was appointed personal representative after informal probate of his father's 2005 will. The District Court removed him for cause after finding that he failed to administer the estate according to the will and probate code, filed an untimely and deficient inventory and accounting, failed to give required notice, and included questionable assets and valuations. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Estate of Anderson-Feeley, 2007 MT 354, 340 Mont. 352, 174 P.3d 512
- In re Everett, 2012 MT 8, 363 Mont. 296, 268 P.3d 507
- In re Estate of McDermott, 2002 MT 164, 310 Mont. 435, 51 P.3d 486
- In re Estate of Greenheck, 2001 MT 114, 305 Mont. 308, 27 P.3d 42
- In re Estate of Townsend, 243 Mont. 185, 793 P.2d 818 (1990)

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