

SUPREME COURT OF NEBRASKA

In re Estate of Beltran

310 Neb. 174 (2021) · No. No. S-20-691 · Decided September 24, 2021

SUMMARY

The Nebraska Supreme Court dismissed Mario Beltran’s appeal from a probate court order denying his petition for instruction and related discovery requests. The court held that the order was interlocutory because it did not affect a substantial right or end a discrete phase of the probate proceedings, and therefore was not a final, appealable order.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	September 24, 2021
DOCKET	No. S-20-691
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from the Lancaster County Court's order denying Mario Beltran's verified petition for instruction and related requests for discovery and examination in a probate proceeding.
STANDARD OF REVIEW	A jurisdictional question not involving a factual dispute is reviewed as a matter of law, and questions of law are resolved independently of the lower court's conclusions.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Mario Beltran v. Marina Beltran-Barrett

TOPICS

- probate procedure
- appellate jurisdiction
- final judgment rule
- interlocutory appeal
- discovery dispute

PRACTICE AREAS

- Probate
- Appellate Procedure
- Civil Procedure

QUESTIONS PRESENTED

1. Whether the county court's order denying Mario Beltran's verified petition for instruction was a final, appealable order under Nebraska's final-order statute.
2. Whether the denial of the petition and related discovery requests affected a substantial right in a special probate proceeding.
3. Whether the appeal should be dismissed for lack of appellate jurisdiction.

HOLDINGS

1. An order in a probate proceeding is final under Neb. Rev. Stat. § 25-1902 only if it was entered in a special proceeding and affected a substantial right; the order denying Mario Beltran's petition did not affect a substantial right and therefore was not final or appealable.
2. An order effectively denying discovery under § 30-402 is generally interlocutory and not immediately appealable when it does not affect a substantial right or end a discrete phase of the probate proceedings.

KEY QUOTATIONS

“The probate court’s order, as one effectively denying discovery, did not end a discrete phase of the probate proceedings.” (183)

“For that reason, we lack a final, appealable order.” (183)

“Accordingly, this court lacks appellate jurisdiction and we dismiss Mario’s appeal.” (183)

FACTUAL BACKGROUND

Armengol Beltran died in November 2016, and a probate estate was opened. Mario Beltran suspected that Marina Beltran-Barrett had transferred money from Armengol's accounts and that Marina and her husband had failed to repay loans owed to Armengol and Rosa Beltran. After unsuccessful efforts to obtain Bruce Barrett's tax returns through a deposition subpoena and motion to compel, Mario filed a verified petition seeking investigation, examination, and instructions concerning potential estate assets and liabilities. The county court denied the petition without reaching the substance of Mario's allegations.

PROCEDURAL HISTORY

Mario Beltran sought an order directing the personal representative to investigate alleged estate claims and requiring Marina Beltran-Barrett to appear and account for estate assets under Neb. Rev. Stat. § 30-402. The county court denied the petition, concluding that it did not satisfy the statutory requirements and that Mario could not invoke the relevant statutory procedures in the manner requested. After the Court of Appeals questioned appellate jurisdiction, the Nebraska Supreme Court moved the case to its docket and dismissed the appeal for lack of a final, appealable order.

DISPOSITION

dismissed

CASES CITED

- State v. A.D., 305 Neb. 154, 939 N.W.2d 484 (2020)
- Becher v. Becher, 299 Neb. 206, 908 N.W.2d 12 (2018)
- In re Interest of A.A. et al., 307 Neb. 817, 951 N.W.2d 144 (2020)
- In re Estate of Gsantner, 288 Neb. 222, 846 N.W.2d 646 (2014)
- In re Estate of McKillip, 284 Neb. 367, 820 N.W.2d 868 (2012)
- In re Estate of Potthoff, 273 Neb. 828, 733 N.W.2d 860 (2007)
- In re Estate of Abbott-Ochsner, 299 Neb. 596, 910 N.W.2d 504 (2018)
- In re Estate of Larson, 308 Neb. 240, 953 N.W.2d 535 (2021)
- Furstenfeld v. Pepin, 287 Neb. 12, 840 N.W.2d 862 (2013)
- In re Estate of Bloedorn, 135 Neb. 261, 280 N.W. 908 (1938)
- In re Estate of Rose, 273 Neb. 490, 730 N.W.2d 391 (2007)