

SUPREME COURT OF PENNSYLVANIA

In re Barnes Foundation

582 Pa. 370 (Pa. 2005) · Decided April 27, 2005

SUMMARY

The Pennsylvania Supreme Court exercised extraordinary jurisdiction over an appeal involving approval of the restructuring and relocation of the Barnes Foundation. The Court held that Jay Raymond, who had failed to obtain intervenor status and had not timely appealed the denial of intervention, lacked the ability to appeal the orphans' court's final decree, and it quashed the appeal.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Saylor; Cappy, C.J.; Castille, J.; Nigro, J.; Newman, J.; Saylor, J.; Eakin, J.; Baer, J.
JURISDICTION	Pennsylvania
DECIDED	April 27, 2005
DISPOSITION	quashed
PROCEDURAL POSTURE	The Supreme Court of Pennsylvania exercised extraordinary jurisdiction over an appeal from the Superior Court concerning whether Jay Raymond, who was denied intervention in orphans' court and did not timely appeal that denial, could appeal the later final decree approving restructuring of the Barnes Foundation.
STANDARD OF REVIEW	Plenary review under Section 726 of the Judicial Code in exercising extraordinary jurisdiction.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania.
PARTIES	Jay Raymond v. Barnes Foundation, Office of the Attorney General

TOPICS

- intervention
- appellate procedure
- appellate jurisdiction
- charitable trusts
- trusts

PRACTICE AREAS

- appellate procedure
- civil procedure
- trusts
- charitable trusts

QUESTIONS PRESENTED

1. Whether a nonparty who was denied intervention and did not timely appeal that denial may appeal the later final decree entered in the underlying proceedings.
2. Whether an order denying intervention must be appealed within thirty days under Pennsylvania Rule of Appellate Procedure 903 or the right to appeal is lost.

HOLDINGS

1. A person who was denied intervention and therefore never became a party has no right to appeal the final decree in the underlying proceeding.
2. An order denying intervention must be appealed within thirty days of its entry when appealable under the collateral-order or other applicable interlocutory procedures; it cannot be held in reserve for appeal after final judgment.

KEY QUOTATIONS

“We hold that Mr. Raymond's failure to attain intervenor status before the orphans' court foreclosed his ability to file a cognizable appeal relative to the court's final decree.” (871 A.2d at 795)

“The appeal cannot be kept in reserve; it must be taken within thirty days of the entry of the order, or not at all.” (871 A.2d at 795)

FACTUAL BACKGROUND

The Barnes Foundation, a Pennsylvania nonprofit corporation implementing a charitable trust concerning art education and appreciation, obtained orphans' court approval to restructure its governance and relocate its art gallery. Jay Raymond, a Foundation student, unsuccessfully sought intervention in the orphans' court proceedings and did not appeal the denial of intervention. He later attempted to appeal the final decree approving the restructuring even though he was not a party to the proceedings.

PROCEDURAL HISTORY

Raymond sought intervention in the orphans' court proceedings, but intervention was denied on February 12, 2003, and he did not appeal that order. He later appealed the orphans' court's December 13, 2004 final decree, as supplemented on December 22, 2004. The Superior Court denied the Foundation's motion to dismiss without prejudice to renewing the appealability issue, after which the Pennsylvania Supreme Court accepted extraordinary jurisdiction, reviewed the existing record, and quashed the appeal.

DISPOSITION

quashed

CASES CITED

- Township of Radnor v. Radnor Recreational, LLC, 859 A.2d 1, 4 (Pa. Cmwlth. 2004)
- Haggar v. Carbon County Tax Claim Bureau, 839 A.2d 448, 450-51 (Pa. Cmwlth. 2003)

- Nemirovsky v. Nemirovsky, 776 A.2d 988, 991 (Pa. Super. 2001)
- In re Rowan, 763 A.2d 958, 961 (Pa. Cmwlth. 2000)
- Credit Francais Intern., S.A. v. Bio-Vita, Ltd., 78 F.3d 698, 703 (1st Cir. 1996)
- B.H. by Pierce v. Murphy, 984 F.2d 196, 199 (7th Cir. 1993)

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