

SUPREME COURT OF MISSISSIPPI

In the Matter of the Estate of Brian K. Cole, Deceased: Wayne E. Ferrell, Jr., James W. Nobles, Jr., and Angelo J. Dorizas v. Gregory Cole, Administrator and GuideOne Specialty Mutual Insurance Company

256 So. 3d 1156 (Miss. 2018) · No. 2017-CA-00774-SCT · Decided August 23, 2018

SUMMARY

The Supreme Court of Mississippi considered whether the Ferrell Group was an interested party entitled to notice of the final accounting of Brian K. Cole’s estate under Mississippi Code Section 91-7-295. The court held that the group lacked a direct pecuniary interest and privity with the estate because it had not probated a claim or entered into a contract with the estate. The court affirmed the chancery court’s judgment and declined to impose sanctions for a frivolous appeal.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	King, Justice; Waller, C.J.; Kitchens, P.J.; King, J.; Coleman, J.; Maxwell, J.; Beam, J.; Chamberlin, J.; Ishee, J.
JURISDICTION	Mississippi
DECIDED	August 23, 2018
DOCKET	2017-CA-00774-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Ferrell Group appealed the Jasper County Chancery Court's determination that it was not an interested party entitled to notice of the Estate's final accounting under Mississippi Code Section 91-7-295.
STANDARD OF REVIEW	A chancellor's factual findings are reviewed for manifest error or clear error and will not be disturbed unless the chancellor applied the wrong legal standard; questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential.
PARTIES	Wayne E. Ferrell, Jr., James W. Nobles, Jr., Angelo J. Dorizas, The Ferrell Group v. Gregory Cole, Administrator, GuideOne Specialty Mutual Insurance Company

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QUESTIONS PRESENTED

1. Whether the Ferrell Group was an interested party under Mississippi Code Section 91-7-295 and therefore entitled to notice of the Estate's final accounting.
2. Whether the appeal was frivolous under Mississippi Rule of Appellate Procedure 38.

HOLDINGS

1. An interested party under Section 91-7-295 must have a legal tie to the estate in the form of a direct pecuniary interest. The Ferrell Group was not an interested party because it did not probate a claim against the Estate, did not have a contract with the Estate, and showed no direct pecuniary interest in the Estate.
2. The appeal was not frivolous because the Mississippi Supreme Court had not previously decided who qualifies as an interested party under Section 91-7-295, and the Ferrell Group had shown some ties to the Estate even though those ties were insufficient to establish a statutory right to notice.

KEY QUOTATIONS

“To be an interested party under the statute, the party must have some legal tie to the estate in the fashion of a direct pecuniary interest.” (§10)

“Accordingly, it is not an interested party entitled to notice of the final account under Section 91-7-295.” (§14)

FACTUAL BACKGROUND

Brian Cole died in a motor vehicle accident in 2001, and the chancery court approved a contingency-fee contract between his Estate and attorney Eugene Tullos for wrongful-death litigation. Tullos apparently associated the Ferrell Group, but the record contained no court order approving those attorneys to represent the Estate and no contract directly connecting them to the Estate. After settlement proceeds were distributed and the Estate's sole creditor claim by GuideOne was resolved, the Estate was closed and its remaining funds were distributed to the heirs. The Ferrell Group then sought to reopen or amend the closing order, claiming entitlement to notice and to a portion of the Estate's funds.

PROCEDURAL HISTORY

Brian Cole's Estate was administered in the Jasper County Chancery Court after Cole's 2001 death. The chancery court approved Eugene Tullos's contingency-fee contract with the Estate, and the Ferrell Group later participated in the wrongful-death litigation without an order approving its representation of the Estate. After the Estate was

closed and its remaining funds distributed, the Ferrell Group sought to set aside or amend the closing order, asserting that it was an interested party entitled to notice and alternatively seeking a portion of the distribution. The chancery court denied relief, and the Mississippi Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- McNeil v. Hester, 753 So. 2d 1057, 1063 (Miss. 2000)
- Garrett v. Bohannon, 621 So. 2d 935, 937 (Miss. 1993)
- In re Estate of Necaie, 126 So. 3d 49, 56 (Miss. Ct. App. 2013)
- Matter of Estate of Smith v. Boolos, 204 So. 3d 291, 316 (Miss. 2016)

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