

COURT OF APPEALS OF OHIO, ELEVENTH APPELLATE DISTRICT,  
PORTAGE COUNTY

Basel v. Schlarb

2026-Ohio-1918 · No. 2025-P-0031 · Decided May 26, 2026

SUMMARY

The Ohio Eleventh District Court of Appeals reversed and remanded a probate court judgment finding Lori Schlarb guilty of concealing estate assets under R.C. 2109.50 and assessing penalties, damages, attorney fees, and costs. The court held that the concealment statutes generally apply only to property owned by the decedent at death, and that the narrow exception for invalid inter vivos transfers did not apply on the evidence presented. The court therefore found the second assignment of error regarding damages moot.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Ohio, Eleventh Appellate District, Portage County                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | John J. Eklund, J.; Robert J. Patton, J.; Matt Lynch, P.J.                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | Ohio Court of Appeals, Eleventh Appellate District, Portage County                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| DECIDED               | May 26, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| DOCKET                | 2025-P-0031                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | Lori Schlarb appealed a judgment of the Portage County Court of Common Pleas, Probate Division, finding her guilty of concealing, embezzling, or conveying away estate assets under R.C. 2109.50 and assessing a statutory penalty, attorney fees, and costs.                                                                                                                                                                                                                                                  |
| STANDARD OF REVIEW    | The court accepted the trial court's factual findings but reviewed the legal determination concerning unauthorized possession, impermissible disposition, and the applicability of the R.C. 2109.50 concealment proceeding for legal error. Whether the asset was exclusively estate property was treated as a question of fact reviewed under the preponderance-of-the-evidence standard; whether the defendant had unauthorized possession or impermissibly disposed of it was treated as a question of law. |
| PRECEDENTIAL VALUE    | Published Ohio Court of Appeals opinion                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

## PARTIES

Lori Schlarb v. Thomas A. Basel, individually and as executor of the Estate of Florence I. Basel, a.k.a. Florence Isabelle Basel

## TOPICS

probate procedure   probate   estate administration   appellate procedure   remedies

## PRACTICE AREAS

Probate   Estate administration   Appellate procedure   Statutory remedies

## QUESTIONS PRESENTED

1. Whether the probate court could adjudicate a concealment action under R.C. 2109.50 and 2109.52 concerning funds spent or transferred during the decedent's lifetime by an attorney-in-fact under a valid power of attorney, where the funds were not shown to be owned by the estate at the decedent's death.
2. Whether the trial court erred by failing to provide a computation of damages.

## HOLDINGS

1. An R.C. 2109.50 and 2109.52 concealment proceeding applies to property the decedent owned under law at death, including property transferred inter vivos only when the transfer is shown to be invalid. Because Schlarb acted under a valid power of attorney, Florence never transferred ownership of the assets to Schlarb, and the appellee did not prove that the underlying transactions were wrongful, fraudulent, or invalid, the funds spent for Florence's benefit during her lifetime were not exclusive property of the estate and could not be recovered through the concealment proceeding.
2. The damages assignment of error was moot because the court reversed the underlying concealment judgment for lack of authority to adjudicate the particular case.

## KEY QUOTATIONS

*"The proceeding is designed as a "discovery proceeding" conducted by the probate court and "is not a proceeding between two or more parties as is the ordinary civil action with pleadings . . . ; it is rather an inquest or inquiry into the conduct of the 'suspected persons.'"* (¶ 44)

*"The focus of the inquiry is on the ownership of the asset and whether possession of the asset is being impermissibly concealed or withheld from the estate."* (¶ 46)

*"concealment actions under R.C. 2109.50 and 2109.52 can be used to recover assets transferred inter vivos under circumstances that rendered the transfer invalid."* (¶ 58)

*"Florence's assets spent for her benefit during her life should not have been calculated as part of her estate."* (¶ 63)

## FACTUAL BACKGROUND

Florence Basel appointed her daughter, Lori Schlarb, as attorney-in-fact in 2012 and authorized her to manage Florence's assets. Before Florence's death in 2019, Schlarb withdrew or transferred funds from Florence's bank accounts, including approximately \$72,000 and proceeds from the sale of Florence's home, and testified that the money was used for Florence's care and necessities, although records were incomplete. Florence's executor later brought a statutory concealment action, and the probate court found Schlarb liable based largely on the lack of documentation and alleged self-dealing.

**PROCEDURAL HISTORY**

Thomas A. Basel filed a concealment-of-assets complaint in 2023 and an amended complaint in 2024. After a bifurcated trial, the probate court found Schlarb guilty of concealment and later assessed \$323,275 in allegedly concealed assets, a ten-percent penalty, attorney fees, and costs. The Eleventh District reversed and remanded, holding that the concealment proceeding could not reach funds Schlarb spent during Florence Basel's lifetime under a valid power of attorney where the estate did not own those funds at death.

**DISPOSITION**

reversed\_and\_remanded

**REMAND INSTRUCTIONS**

The matter was remanded for further proceedings consistent with the opinion. Any challenge to Schlarb's use or disposition of the funds under the power of attorney would have to be pursued, if otherwise appropriate, in the General Division of the Court of Common Pleas rather than through the statutory concealment proceeding.

**CASES CITED**

- Bank of Am., N.A. v. Kuchta, 2014-Ohio-4275, ¶¶ 18-19
- Pollnow v. Polivka, 2023-Ohio-2830, ¶ 24 (11th Dist.)
- Kraus v. Hanna, 2004-Ohio-3928, ¶ 35 (11th Dist.)
- In re Estate of Vitelli, 110 Ohio App.3d 181, 184 (2d Dist. 1996)
- In re Estate of Fife, 164 Ohio St. 449 (1956), syllabus paragraph one, 453-454
- Harrison v. Faseyitan, 2004-Ohio-6808, ¶¶ 29-30 (7th Dist.)
- Wozniak v. Wozniak, 90 Ohio App.3d 400, 407 (9th Dist. 1993)
- Rudloff v. Efstathiadis, 2003-Ohio-6686, ¶¶ 2-11 (11th Dist.)
- Burns v. Daily, 114 Ohio App.3d 693, 702-703 (11th Dist. 1996)
- In re Estate of Leiby, 157 Ohio St. 374 (1952)
- Mancz v. McHenry, 2012-Ohio-3285, ¶¶ 35-36, 44, 51-52 (2d Dist.)
- Goldberg v. Maloney, 2006-Ohio-5485, ¶¶ 33-34
- Burwell v. Rains, 2005-Ohio-1893, ¶ 29 (11th Dist.)

**INSTRUCTIONS FOR AN AI ASSISTANT**

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