

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Antonio M. Hernandez, Sr. v. Eusebio G. Hernandez

230 So. 3d 119 (Fla. 3d DCA 2017) · No. No. 3D16-1464 · Decided September 6, 2017

SUMMARY

The Florida Third District Court of Appeal affirmed an order holding that Antonio M. Hernandez, Sr. lacked standing to object to attorney-fee awards paid from his mother’s guardianship assets. The court concluded that his participation in the guardianship proceedings and status as next of kin did not make him an interested person entitled to notice of fee proceedings, while the dissent would have found standing based on his potential financial interest and the absence of factual findings establishing the alleged misconduct.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Rothenberg, C.J.; Suarez, J.; Emas, J.
JURISDICTION	Florida
DECIDED	September 6, 2017
DOCKET	No. 3D16-1464
DISPOSITION	affirmed
PROCEDURAL POSTURE	Antonio appealed probate-court orders denying his objections to and motion to vacate orders approving attorney's fees and costs in a guardianship proceeding, asserting that he was an interested person entitled to notice and standing to object.
STANDARD OF REVIEW	De novo review of the probate court's determination of standing.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Antonio M. Hernandez, Sr. v. Eusebio G. Hernandez, etc.

TOPICS

- guardianship procedure
- guardianships
- appellate procedure
- standing
- standard of review

PRACTICE AREAS

- Guardianship
- Probate
- Appellate procedure

QUESTIONS PRESENTED

1. Whether Antonio, as the ward's son, next of kin, and an active participant in the guardianship proceedings, was an interested person entitled to notice of and standing to object to attorney's-fee and cost petitions.
2. Whether the probate court erred by determining that Antonio lacked standing to challenge the fee orders concerning services rendered in the guardianship proceedings and related adversary litigation.

HOLDINGS

1. Antonio was not an interested person for purposes of the attorney's-fee proceedings because his participation in the guardianship proceedings, as described by the probate court, arose from allegations that he had mistreated the ward and misappropriated her funds; therefore, he was not entitled to notice of or standing to object to the fee requests.

KEY QUOTATIONS

“Thus, ‘the definition of ‘interested person’ requires the trial court to evaluate the nature of both the proceeding and the interest asserted.’” (230 So. 3d at 123)

“We, therefore, find no error in the probate court’s determination that Antonio lacks standing to object to the attorney’s fees requests pertaining to the services rendered as to these guardianship proceedings.” (230 So. 3d at 124)

“It permits the probate court and the guardian to carefully scrutinize the fee requests but limits the ‘endless challenges by those whose only interest is to maximize their potential inheritance.’” (230 So. 3d at 124)

FACTUAL BACKGROUND

The ward, an eighty-five-year-old woman, was found totally incapacitated, and her son Eusebio was appointed plenary guardian over her and her property. Eusebio obtained authorization to retain counsel for guardianship matters and claims against Antonio and his family involving alleged mistreatment of the ward, undue influence, and misappropriation of the ward's assets. The probate court approved attorney's fees and costs associated with those matters without notice to Antonio, who objected and sought to vacate the fee orders.

PROCEDURAL HISTORY

Eusebio was appointed plenary guardian of the ward and obtained authorization to pursue litigation and other guardianship-related actions. The probate court approved attorney's fees and costs without notice to Antonio, denied his objections and motion to vacate, and determined that he was not an interested person under the Florida Probate Code and therefore lacked standing. Antonio appealed, and the Third District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Bivins v. Rogers, 147 So. 3d 549 (Fla. 4th DCA 2014)
- William F. Hayes, Jr., et al. v. Guardianship of Mae E. Thompson, etc., Hayes v. Guardianship of Thompson, 952 So. 2d 498 (Fla. 2006)
- Rudolph v. Rosecan, 154 So. 3d 381, 385 (Fla. 4th DCA 2014)
- Agee v. Brown, 73 So. 3d 882 (Fla. 4th DCA 2011)
- Wheeler v. Powers, 972 So. 2d 285 (Fla. 5th DCA 2008)

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