

SUPREME COURT OF WYOMING

In the Matter of the Estate of Edward Dale George

2003 WY 129, 77 P.3d 1219 (Wyo. 2003) · No. No. 03-16 · Decided October 15, 2003

SUMMARY

The Supreme Court of Wyoming affirmed an order authorizing the personal representative to sell the decedent's undivided interest in Sheridan County real property to pay estate obligations. The court held that the district court did not abuse its discretion and that any improper venue would not deprive the court of subject-matter jurisdiction.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Voigt, Justice; Hill, C.J.; Golden, J.; Lehman, J.; Kite, J.; Voigt, J.
JURISDICTION	Wyoming
DECIDED	October 15, 2003
DOCKET	No. 03-16
DISPOSITION	affirmed
PROCEDURAL POSTURE	The heirs appealed from a probate-court order authorizing the personal representative to sell the decedent's undivided one-tenth interest in Sheridan County real property over their objection.
STANDARD OF REVIEW	The authorization of a sale of estate property under the applicable probate statutes is reviewed for abuse of discretion. The appellate court evaluates whether the district court could reasonably reach its decision and whether the ruling was arbitrary or capricious. When appellants fail to provide a complete record, factual findings supported by the available record are accepted and review is limited accordingly.
PRECEDENTIAL VALUE	Published precedential Wyoming Supreme Court opinion
PARTIES	Nellie Lue George, Virginia May Horton-Ferguson, Beverly Ann Straight, Tammie Jo George v. Karen Allen, Personal Representative of the Estate of Edward Dale George

TOPICS

- probate procedure
- estate administration
- appellate procedure
- subject matter jurisdiction
- venue

PRACTICE AREAS

Probate

Estate Administration

Appellate Procedure

Real Property

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by authorizing the personal representative to sell the decedent's interest in real property to pay estate obligations and for the best interests of the estate and its creditors.
2. Whether the Johnson County District Court lacked subject matter jurisdiction, or was an improper venue, because the decedent allegedly resided and died in Sheridan County and the property was located there.

HOLDINGS

1. The district court did not abuse its discretion in authorizing the personal representative to sell the decedent's undivided one-tenth interest in real property because the estate had substantial obligations, insufficient liquid funds, and the sale was found to be in the best interests of the estate and its creditors.
2. The Johnson County District Court had subject matter jurisdiction over the petition to sell estate property, and any alleged defect in probate venue did not deprive the court of jurisdiction or require reversal of the sale order.

KEY QUOTATIONS

“Since jurisdiction, with its inherent power to render judgment, is present despite any impropriety with respect to venue, it is unnecessary for us to consider whether the District Court of the Eighth Judicial District in and for Converse County properly followed § 27-12-601.” (77 P.3d at 1225)

“Unless specifically mandated by statute, the absence of proper venue does not result in a dismissal, a reversal, or a new trial.” (77 P.3d at 1225)

FACTUAL BACKGROUND

Edward Dale George died intestate in 2000, and the Johnson County District Court opened his estate and appointed his sister Beverly Ann Straight as personal representative. Karen Allen later replaced Straight and determined that the estate had at least \$21,786 in obligations but only \$3,503.49 in its bank account. Allen sought authority to sell the decedent's undivided one-tenth interest in Sheridan County real property, valued at \$2,448 but subject to an agreement to sell for \$16,000. The appellants objected based on the property's asserted family significance, potentially recoverable estate assets, and alleged lack of jurisdiction.

PROCEDURAL HISTORY

Edward Dale George died intestate, and the Johnson County District Court appointed Beverly Ann Straight as personal representative and issued letters of administration. Karen Allen later replaced Straight and petitioned to sell estate real property to pay estate obligations and creditor claims. After a hearing, the district court authorized the sale for \$16,000; the appellants appealed, arguing that the sale was improper and that the Johnson County court lacked jurisdiction because the decedent and property were connected to Sheridan County.

DISPOSITION

affirmed

CASES CITED

- *Hodgins v. State*, 1 P.3d 1259, 1261 (Wyo. 2000)
- *Nimmo v. State*, 607 P.2d 344, 348 (Wyo. 1980)
- *Young v. HAC, LLC*, 2001 WY 50, ¶ 6, 24 P.3d 1142, 1144 (Wyo. 2001)
- *Carlton v. Carlton*, 997 P.2d 1028, 1031 (Wyo. 2000)
- *Vaughn v. State*, 962 P.2d 149, 151 (Wyo. 1998)
- *Erhart v. Evans*, 2001 WY 79, ¶ 18, 30 P.3d 542, 547 (Wyo. 2001)
- *Wood v. Wood*, 865 P.2d 616, 617-618 (Wyo. 1993)
- *Stadtfeld v. Stadtfeld*, 920 P.2d 662, 664 (Wyo. 1996)
- *Matter of Manning's Estate*, 646 P.2d 175, 176 (Wyo. 1982)
- *Smith v. Smith*, 2003 WY 87, ¶ 11, 72 P.3d 1158, 1161 (Wyo. 2003)
- *Willowbrook Ranch, Inc. v. Nugget Exploration, Inc.*, 896 P.2d 769, 771 (Wyo. 1995)
- *Williams v. Dietz*, 999 P.2d 642, 645 (Wyo. 2000)
- *Weiss v. Pedersen*, 933 P.2d 495, 498 (Wyo. 1997)
- *White v. Allen*, 2003 WY 39, 65 P.3d 395 (Wyo. 2003)
- *Small v. Convenience Plus Partners, Ltd.*, 6 P.3d 1254, 1255 (Wyo. 2000)
- *Lacey v. Lacey*, 925 P.2d 237, 238 (Wyo. 1996)
- *Fuller v. State*, 568 P.2d 900, 903 (Wyo. 1977)
- *Murrell v. Stock Growers' National Bank of Cheyenne*, 74 F.2d 827, 831 (10th Cir. 1934)
- *Urbach v. Urbach*, 52 Wyo. 207, 73 P.2d 953 (1937)
- *McGuire v. McGuire*, 608 P.2d 1278 (Wyo. 1980)
- *State v. District Court of Eighth Judicial District in and for Natrona County*, 33 Wyo. 281, 238 P. 545 (1925)
- *Sil-Flo Corporation v. Bowen*, 98 Ariz. 77, 402 P.2d 22, 27 (1965)
- *Myuskovich v. State ex rel. Osborn*, 59 Wyo. 406, 141 P.2d 540, 543 (1943)
- *Hronek v. St. Joseph's Children's Home*, 866 P.2d 1305, 1309-1310 (Wyo. 1994)
- *In re Pohl*, 980 P.2d 816, 819 (Wyo. 1999)
- *In re Potter's Estate*, 396 P.2d 438, 445 (Wyo. 1964)
- *Matter of Larsen*, 770 P.2d 1089, 1092 (Wyo. 1989)

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