

IN THE SUPREME COURT
STATE OF NORTH CAROLINA

SUPREME COURT NO. 24020147

APPEAL FROM THE DISTRICT COURT, HUNTERDON COUNTY,
NORTH CAROLINA, SOUTH CENTRAL DISTRICT, HUNTERDON COUNTY,
COUNTY OF HUNTERDON, HONORABLE JUDGE OF THE DISTRICT COURT

IN RE: ENVIRONMENTAL APPEALS AND OTHER

James M. Gandy, Attorney
for the Respondent Representative

Case No. 58534
Docket No. 03665

FILED IN THE DISTRICT COURT, HUNTERDON COUNTY,
NORTH CAROLINA, SOUTH CENTRAL DISTRICT, HUNTERDON COUNTY,
COUNTY OF HUNTERDON, HONORABLE JUDGE OF THE DISTRICT COURT

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ISSUE PRESENTED FOR REVIEW

The successor personal representative is responding only to one of the issues as set forth by the appellant as follows:

4. Whether the District Court abused its discretion when it ordered the decedent's estate to pay the successor representative's fees for his services.

STATEMENT OF THE CASE

A. NATURE OF THE CASE

The underlying case at hand is the probate of the estate of John T. Gleeson, who died on January 28, 1992. I will not repeat the summary of the facts and proceedings as are set forth in the briefs of the appellant, appellee and the several appendix' filed by their attorneys.

B. PROCEEDINGS AND DISPOSITION IN THE DISTRICT COURT BELOW

During the course of the proceedings from and after March 6, 2000, I reviewed the record and prior proceedings, was appointed as successor personal representative of the estate (on April 27, 2000) and proceeded to administer/probate the estate and its assets, including the filing of five separate interim reports, statements and accounts, with a sixth and final account and report in February, 2002. The process and administration of all probate activity was done under the supervision of the district judge and various orders were issued by the Court approving the same.

All billing statements as presented by the successor personal representative were also reviewed, ordered to be amended and ultimately approved by the district judge.

Notice of appeal was filed by George Gleeson on or about May 10, 2002.

STATEMENT OF THE FACTS RELEVANT TO
ISSUE No. 4 PRESENTED FOR REVIEW

The successor personal representative by reference, restates the basic set of facts as set forth above, particularly as it relates to the extensive docket summarized above, together with the successor personal representative's six separate interim reports and accounts, motions, responses to motions, pleadings and court orders.

The successor personal representative was appointed as such PR on April 27, 2000. This date was more than 8 years after the decedent's death and following 8 years of prior estate administration by a Jerome Gleeson, the first or initial PR. Needless to say, the case, file, assets and all matters having to do with the administration of the estate was disorganized and in a state of turmoil. Two of the residuary heirs, George Gleeson (the appellant) and Jerome Gleeson (initial PR) were very adversarial to each other. George Gleeson was also very adversarial to the successor PR.

Over the next 21 months, as successor PR, I worked and spent a great deal of time administrating the estate. I am an attorney licensed to practice law in the state of

North Dakota, so in order to keep costs and fees reasonable for the estate and heirs, I chose not to hire nor retain outside legal counsel nor accountants to assist with the estate administration. My work, time and effort consisted of numerous meetings, conferences, telephone conferences, trips and mileage to banks and courthouse, dealing with the contract for deed purchaser, obtaining appraisal of assets, accounting of funds, making and filing of estate statements and reports, drafting of warranty deed, reviewing and preparing fiduciary income tax returns, responding to requests and demands issued and motions filed, and all other necessary matters. Attached is a copy of my billing statements which particularly itemize my time, work and effort on behalf of the estate.

The estate administrative process was further greatly complicated in that George Gleeson filed numerous complaints against me through the ND attorney disciplinary board, which required responses by me. George Gleeson further threatened and terrorized me both personally [at my office] and in the presence of other third parties. He was charged in Morton County District Court with terrorizing; the case was later reduced to disorderly conduct, which charge he pled guilty to, and he spent a couple of weeks in jail. See Morton County Criminal No. 30-00-159 (App. 56). There presently exists a protection order against George Gleeson as a condition of his probation in this case.

Further, Jerome Gleeson refused and/or failed to repay the estate pursuant to the court order. He was not in the state (reports were that he moved to Mexico) and was not available nor to be found.

All work, time, effort on my part on behalf of the estate has been capped as of February, 2002. For example, the legal work associated with this appeal is not being billed nor paid. I stand by and will certify my work, time and billing statements as presented, approved by the trial court and paid. If I could bill for all of my time, work and effort expended, the estate of John T. Gleeson would actually additionally owe me many hundred, possibly thousands of dollars more than already paid.

CONCLUSION

A close and thorough review of the record as a whole leaves a reasonable person with a clear, firm and definite conviction and conclusion that no mistakes and clear error have been made by the trial court, nor has the court abused its discretion and by approving the successor personal representative's billing for services.

Accordingly, the successor personal representative, respectfully requests that the Orders of the trial court be upheld.

Dated this 24th day of October, 2002.

Submitted by:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 24, 2002, he served by hand delivery a copy of the Supplemental Appellee's Brief, to the law offices of David Boeck, 400 E. Broadway Ave., Bismarck, ND and to the law offices of Benjamin C. Pulkrabek, 402 First Street NW, Mandan, ND.

The undersigned further certifies that he hand delivered an original and seven copies of the same, and a 3 1/2' computer diskette containing the full text of the said brief.

Bryan L. Giese

Bryan L. Giese