

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)
)
In Re: Estate of M.K. Jennings)
2010ES2800169)
)
Beverly Hennager,)
)
Appellant,)
)
vs.)
)
Mary E. Deardon, as Personal)
Representative of the Estate of)
M.K. Jennings,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Civil Action No. 2021-CP-28-00795

ORDER ON APPEAL

This matter came before the court upon an appeal of the Kershaw County Probate Court's September 3, 2021 Order. A virtual hearing was held on appeal via WebEx on May 29, 2024 before the undersigned. Appearing before the court were Beverly Hennager, pro se, on behalf of the Appellant and Moultrie B. Burns, Jr. on behalf of the Respondent, the Estate of M.K. Jennings and its Personal Representative (PR), Mary E. Deardon.

After carefully reviewing the record and considering all arguments raised by the parties, I find and conclude as follows:

BACKGROUND

The merits hearing in this matter was held July 20 and 21, 2015 resulting in Probate Judge Debra B. Branham's October 27, 2016 Order.

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After appeal by both parties, the 2016 Order was affirmed by Circuit Court Judge Alison Renee Lee's July 10, 2020 Order On Appeal.

When neither party appealed further, the 2016 Order became the law of the case. It mandated that the PR amend the accounting in compliance with the findings therein and recalculate the final distributions to the estate beneficiaries in order for the estate to be closed. The PR filed the estate closing documents, including the Amended Final Accounting.

Upon Ms. Hennager's Demand for Hearing in Probate Court the parties were heard at a two-part zoom hearing, resulting in the September 3, 2021 Order of Probate Judge Debra B. Branham, which approved the PR's Amended Final Accounting and specified steps to be taken by the PR to close the estate. The Order is appealed here.

DISCUSSION

Preparing the Amended Final Accounting in compliance with paragraph's A – K of the 2016 Order is fundamentally a mathematical task. Consequently, no discretion was granted to the PR. Judge Branham's 2021 Final Order approved the accounting submitted as being accurate, complete and in compliance with the 2016 Order.

On her appeal here, Ms. Hennager raised no questions contesting any of the PR's calculations as not being in compliance with paragraphs A – K of the 2016 Order. Instead, as the 2021 final Order concludes, Appellant's arguments would require the re-trial of issues already litigated and not appealed.

Ms. Hennager has also attempted on this appeal to raise allegations and speculations that should have been investigated during discovery. Both the 2016 Order and the 2020 Order on Appeal confirm that there was ample opportunity to do so. An example is her allegation of unpaid

promissory note from Michael Jennings to decedent. Ms. Hennager speculated about an unpaid balance as a possibility when she testified in 2016.

Under the law of the case doctrine, a party is precluded from relitigating, after an appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellant court. *Sloan Construction Co., Inc. vs. Southco Grassing, Inc.*, 395 S.C. 164, 717 S.E.2d 603 (2011); *Judy vs. Martin*, 381 S.C. 455, 458-59, 674 S.E.2d 151, 153 (2009).

ORDER

Based upon the foregoing, IT IS ORDERED that the Probate Court Order dated September 3, 2021 is AFFIRMED.

AND IT IS SO ORDERED.

The Honorable Daniel Coble

June 19, 2024.

ELECTRONIC SIGNATURE TO FOLLOW



Kershaw Common Pleas

Case Caption: M K Jennings Estate of , plaintiff, et al VS Mary E Dearden Pr ,
defendant, et al
Case Number: 2021CP2800795
Type: Order/Other

So Ordered

s/ Daniel Coble, 2774

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