



Every month I summarize the most important probate cases in Michigan. Now I publish my summaries as a service to colleagues and friends. I hope you find these summaries useful and I am always interested in hearing thoughts and opinions on these cases.

PROBATE LAW CASE SUMMARY

BY: Alan A. May



Alan May is a shareholder who is sought after for his experience in guardianships, conservatorships, trusts, wills, forensic probate issues and probate. He has written, published and lectured extensively on these topics.

He was selected for inclusion in the 2007 through 2011 issues of *Michigan Super Lawyers* magazine featuring the top 5% of attorneys in Michigan and is listed in the 2011 and 2012 compilations of *The Best Lawyers in America*. He has been called by courts as an expert witness on issues of fees and by both plaintiffs and defendants as an expert witness in the area of probate and trust law. He is listed by Martindale-Hubbell in the area of Probate Law among its Preeminent Lawyers.

He is a member of the Society of American Baseball Research (SABR).

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DT: May 9, 2012

RE: In re Conservatorship of Stephanie Reardon
STATE OF MICHIGAN COURT OF APPEALS

NO BASEBALL COMMENTARY THIS PUBLICATION:

REVIEW OF CASE:

Reference Files: Appeal and Error
Abandonment of Appeal

Respondents/Appellants appealed the appointment by a Probate Court of a guardian and conservator of their daughter.

The Court of Appeals addressed only the conservatorship appeal as the guardianship appeal had been taken to the Circuit Court of Midland County.

Appellants cited the guardianship section of EPIC as part of their appeal, claiming that the grounds in the statute were not met.

The court called this “abandonment of appeal”, as there was a failure to cite the relevant statute regarding conservators and then prove showing that the conditions were not met.

The parties conceded that the Circuit Court appeal was dismissed as being moot, as the minor had reached 18 years of age.

Query: Why was not the conservatorship issue moot also, as it was of a minor and not a protected person?

AAM:jv:doc 713087
Attachment

STATE OF MICHIGAN
COURT OF APPEALS

In re conservatorship of STEPHANIE REARDON

DAWN HASKELL, Conservator for STEPHANIE
REARDON, Minor

UNPUBLISHED
April 10, 2012

Petitioner-Appellee,

v

MICHAEL REARDON and SANDRA
REARDON,

No. 303250
Midland Probate Court
LC No. 11-005228-CY

Respondents-Appellants.

Before: SHAPIRO, P.J., and WILDER and MURRAY, JJ.

PER CURIAM.

Respondents, Michael Reardon and Sandra Reardon, appeal as of right the lower court's opinion and order appointing a guardian and conservator over their daughter, then 17-year-old Stephanie Reardon. We affirm.

At the outset, we note that this Court has jurisdiction over respondent's claim of appeal only insofar as it involves a challenge of the probate court's appointment of a conservator for Stephanie. MCR 5.801(B)(2)(a). On the other hand, this Court does *not* have jurisdiction in this appeal to consider respondents' arguments challenging the probate court's appointment of the guardian because an appeal of a guardianship appointment must first be heard by the circuit court. MCR 5.801(C)(1). During oral argument, the parties acknowledged that the appeal of the guardianship appointment was still pending in the circuit court.¹ Thus, our opinion will address only the matter for which we have jurisdiction, the probate court's appointment of a conservator for Stephanie.

¹ It appears that subsequent to oral argument, the appeal challenging the appointment of the guardian was dismissed by the circuit court as moot after Stephanie turned 18 years old.

We conclude that respondents have abandoned their challenge of the appointment of the conservator. Respondents' brief argues at length that the probate court erred in its ruling because the conditions of MCL 700.5204(2) were not met. But MCL 700.5204(2) only addresses the requirements for an appointment of a guardian. Respondents' brief failed to address in any respects whether MCL 700.5401(2), which governs the appointment of conservators, was satisfied, and consequently, we consider the issue abandoned. *DeGeorge v Warheit*, 276 Mich App 587, 601; 741 NW2d 384 (2007).

Affirmed. Petitioner, the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Kurtis T. Wilder

/s/ Christopher M. Murray

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SHAPIRO, J. (*concurring*).

I concur in the result only.

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/s/ Douglas B. Shapiro