MISSOURI COURT OF APPEALS
WESTERN DISTRICT

CHARITON GROVE CEMETERY ASSOCIATION,

Appellant,

v.

GREGORY LOVE, et al.,

Respondents.

DOCKET NUMBER WD84657

Date: February 1, 2022

Appeal from:
Macon County Circuit Court
The Honorable Mike Greenwell, Judge

Appellate Judges:
Division Two: Alok Ahuja, P.J., and Edward R. Ardini, Jr., and Janet L. Sutton, JJ.

Attorneys:
Benjamin J. Gray, Kirksville for appellant
Gregory Love, Laplata, Respondent, Pro Se, Andrew Farwell, Kirksville, for respondent Daniel Bechtle; Marissa Bechtle, Shreveport, LA, Respondent, Pro Se, Cheryl Lock, Laplata, Respondent Pro Se; C. David Rouner, Kirksville, for Resp Northeast Mo State Bank

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

CHARITON GROVE CEMETERY ASSOCIATION, Appellant,
v.
GREGORY LOVE, et al., Respondents.

WD84657 Macon County

Before Division Two Judges: Alok Ahuja, P.J., and Edward R. Ardini, Jr., and Janet L. Sutton, JJ.

Donna Lynn Siebold died in 2020, and a will she had executed in February 2019 was presented to the Circuit Court of Macon County for probate. Although it was entitled to one-half of Siebold's estate under the 2019 will, Chariton Grove Cemetery Association was the sole beneficiary under an earlier will which Siebold had executed in 2016.

The Cemetery Association filed a petition in the circuit court to contest the 2019 will. The Cemetery Association's petition also sought to discover assets allegedly belonging to Siebold's estate, which were held by third parties. The circuit court dismissed the Cemetery Association's petition on its own motion, finding that the Cemetery Association had failed to comply with the six-month limitations period for will contests established by § 473.083, RSMo.

The Cemetery Association appeals.

AFFIRMED IN PART AND REVERSED IN PART, AND REMANDED FOR FURTHER PROCEEDINGS.

Division Two holds:

The Cemetery Association does not have standing to contest the validity of the 2019 will. A party only has standing to contest a will if that party would benefit by setting aside the will, or would lose by the will's admission to probate. Although the Cemetery Association is entitled to one-half of Siebold's estate under her 2019 will, it would be entitled to the entirety of her estate under her earlier 2016 will. The Cemetery Association admits, however, that the 2016 will was not timely presented to the circuit court under § 473.050, RSMo; the 2016 will is accordingly "forever barred" from being enforced. The Cemetery Association's only remaining

interest in Siebold's estate is under the 2019 will. In these circumstances, it has no standing to challenge the 2019 will, since it would receive no benefit if the 2019 will were declared invalid.

Besides seeking to contest Siebold's 2019 will, the Cemetery Association's Petition also sought to discover assets held by third parties, which allegedly belonged to Siebold's estate. The Cemetery Association has standing to prosecute the discovery of assets proceeding, because it is a beneficiary of Siebold's 2019 will, which has been admitted to probate. Further, the Cemetery Association's discovery of assets claim is not subject to the six-month limitations period in § 473.083, RSMo, which is applicable only to will-contest claims. The discovery of assets claim should not have been dismissed as untimely.

Opinion by: Alok Ahuja, Judge February 1, 2022

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.