IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN THE MATTER OF EDWARD L. EISENSTEIN, DECEASED;	)	
MARGARET DELACY,	)	
Respondent,	)	
v.	)	WD87821
WORLD WILDLIFE FUND, MISSOURI BOTANICAL GARDEN, COUSTEAU SOCIETY, THE NATURE CONSERVANCY, AND ECOHEALTH ALLIANCE, INC., SUCCESSOR-IN-INTEREST TO WILDLIFE PRESERVATION TRUST INTERNATIONAL,	)	Opinion filed: November 18, 2025
Appellants.	)	

APPEAL FROM THE CIRCUIT COURT OF HOWARD COUNTY, MISSOURI
HONORABLE MASON R. GEBHARDT, JUDGE

Division Three: Mark D. Pfeiffer, Presiding Judge,
Edward R. Ardini, Jr., Judge and Thomas N. Chapman, Judge

At issue in this appeal is whether a purported last will and testament of Edward L. Eisenstein ("Decedent") was timely presented to probate, and whether the appointment of the personal representative of Decedent's estate should have been vacated. The probate division of the Circuit Court of Howard County ("the probate court") determined that the

purported will was not timely presented under section 473.050, RSMo,[1] and was, therefore, "a legal nullity." Additionally, the probate court declined to vacate its order appointing Decedent's sister, Margaret DeLacy ("DeLacy"), as personal representative of Decedent's estate. Appellants—five organizations that stood to benefit had the purported will been admitted to probate—appeal the probate court's judgment. Finding no error, we affirm.[2]

Factual and Procedural Background

Decedent died in January 2023. The following month, DeLacy—Decedent's sister and only heir-at-law—filed an application for letters of administration. On February 24, 2023, the probate court granted letters of administration to DeLacy, and appointed her personal representative of Decedent's intestate estate. On March 1, 2023, notice of granting letters of administration was first published, in accordance with section 473.033.

Decedent lived in Fayette, Missouri. DeLacy lived in the state of Oregon. In January 2023—within days of Decedent's passing—DeLacy engaged individuals to help secure and inventory Decedent's personal property, and she requested they search for a will or safe deposit box key. DeLacy and her attorney contacted numerous individuals inquiring about possible locations for a will or safe deposit box where a will or other estate planning documents might be located. They also contacted local and regional banks in their search for a safe deposit box.

[1] All statutory references are to RSMo 2016 as currently supplemented.

[2] Pending before this Court is DeLacy's motion to dismiss, in which she argues that the appellants' briefs fail to comply with Rule 84.04 and, as a result, we should dismiss their appeal. DeLacy's motion is denied.

In March 2023, DeLacy herself conducted a physical search of Decedent's home. DeLacy enlisted the help of Decedent's neighbor ("Neighbor") in her search efforts. When DeLacy returned to Oregon, she instructed Neighbor and two appraisers valuing Decedent's personal property and manuscript collection to continue searching for a will.

Although by summer 2023 DeLacy had not uncovered any will, she was aware of a trust agreement executed by Decedent, dated 1983, and amended and restated July 11, 1990. The trust agreement named as beneficiaries of Decedent's residuary trust estate the Nature Conservancy, World Wildlife Fund, Cousteau Society, Missouri Botanical Garden, and Wildlife Preservation Trust International, or their successors ("Interested Parties").[3]

On July 31, 2023, DeLacy—through counsel—sent Interested Parties correspondence advising that: (1) Decedent had died and his estate was being administered in the probate court; (2) there existed a trust agreement executed by Decedent, which named Interested Parties as beneficiaries of Decedent's residuary trust estate; (3) without a will leaving assets to Decedent's trust, the disposition in the trust agreement to Interested Parties was of no effect; (4) a diligent search had produced no will; (5) under section 473.050.3(1), a will cannot be admitted to probate after six months have elapsed from the date of first publication of notice of letters of administration; and (6) here, that six-month period would expire on September 1, 2023, and any will of Decedent must be admitted to probate by that date.

[3] EcoHealth Alliance, Inc. is the successor-in-interest to Wildlife Preservation Trust International. EcoHealth Alliance, Inc. is a named appellant in this action and is one of the "Interested Parties."

On October 5, 2023, Neighbor found a document purporting to be Decedent's last will and testament ("the Purported Will"). Neighbor found the Purported Will in Decedent's garage in a box marked "shred." Neighbor had been searching for the certificate of title to Decedent's handicap-lift equipped van, which DeLacy wanted to donate to a charitable organization. The box containing the Purported Will was on a shelf somewhat obscured by the van. The box also contained various bills, statements, and other papers; the Purported Will was in the middle of the stack of papers.

The Purported Will was executed by Decedent on July 11, 1990, and named two individuals—neither of whom was DeLacy—as co-personal representatives of his estate. Under the terms of the Purported Will, Decedent bequeathed DeLacy his gold watch and no other property. After making specific bequests to certain organizations, and devising his real property to the Nature Conservancy, Decedent directed that all of his remaining property be given to the trustees of his trust "to be held, administered and distributed as a part of said Trust."

Upon discovering the Purported Will, Neighbor gave it to DeLacy, who contacted her attorney. DeLacy's attorney filed the Purported Will with the probate court on October 25th, and notified Interested Parties.

Interested Parties filed a motion to vacate the probate court's order granting DeLacy's application for letters of administration. Interested Parties asserted that the discovery of the Purported Will made DeLacy's application for letters of administration inaccurate and incomplete. They requested the probate court vacate its order, remove DeLacy as personal representative, and appoint a new personal representative to probate

the Purported Will. The probate court appointed a personal representative *ad litem* "for purposes of the hearing on the Motion to Vacate." The personal representative *ad litem* filed an application for probate of the Purported Will.

The probate court held a hearing on Interested Parties' motion and the personal representative *ad litem*'s application, and permitted the parties to present evidence. DeLacy and Neighbor testified about the search for and discovery of the Purported Will. The probate court also admitted into evidence DeLacy's emails and photographs of Decedent's garage.

Thereafter, the probate court entered judgment denying Interested Parties' motion to vacate and the personal representative *ad litem*'s application for probate. The probate court found that the Purported Will was not timely presented under section 473.050.3, because it was presented outside the six-month limitation period of the statute, and thus the Purported Will was "a legal nullity, and [was] forever barred from admission to probate in this state." The probate court determined that there was no exception to the statute of limitations for fraudulent concealment or intentional withholding of a will, citing *State ex rel. Bier v. Bigger*, 178 S.W.2d 347 (Mo. banc 1944). Nonetheless, the probate court concluded no fraud or wrongdoing occurred, finding no evidence that DeLacy "acted improperly or in any way contrary to her duty under Missouri law" and that DeLacy's efforts "were more than sufficient to satisfy her legal obligation to conduct a diligent will search with due care in the manner called for by Missouri law." The probate court also concluded that DeLacy had no obligation to supplement her application for letters of administration upon discovery of the Purported Will.

Interested Parties appeal, asserting two points. In their first point, they contend the probate court erred in determining that the admission of the Purported Will to probate was barred under section 473.050.3. In their second point, they contend the probate court erred in refusing to remove DeLacy as personal representative of Decedent's estate.[4]

Analysis

Point I – Timeliness of Presentation of Purported Will

In their first point, Interested Parties assert the probate court erred in determining the Purported Will was barred from admission to probate.[5] The probate court found that the Purported Will was not timely presented under section 473.050.3(1). Interested Parties contend that the statute of limitations in section 473.050.3(1) was not triggered. Interested Parties' argument actually implicates three statues: sections 473.017, 473.033, and 473.050. We briefly explain each statute.

Section 473.017 sets forth the information that must appear in an application for letters (the application that begins the probate process). As relevant to Interested Parties' argument, section 473.017 requires that an application for letters identify the "heirs,

[4] Interested Parties filed two separate appellants' briefs: one by EcoHealth Alliance, Inc. and one by the remaining appellants. The briefs essentially raise the same points and make the same arguments, we therefore treat them as one brief for purposes of our analysis.

[5] The claim of error asserted in this point is subject to *de novo* review. *See Kan. City Chrome Shop, Inc. v. Smith*, 649 S.W.3d 19, 22 (Mo. App. W.D. 2022) ("Interpretation of statutory provisions and their application to the facts of a case are legal issues reviewed *de novo* . . . ."); *see also DiGregorio Food Prods., Inc. v. Racanelli*, 609 S.W.3d 478, 480 (Mo. banc 2020) ("The applicability of a statute of limitations is a question of law this Court reviews *de novo*.").

devisees, and legatees of the decedent, if any,"[6] § 473.017.1(2), and "the persons, if any, named as executors," § 473.017.1(6). Additionally, the statute requires that if new information becomes available to the applicant, the applicant must notify the clerk in writing with updated information:

> After letters have been granted on an estate, the personal representative or other interested person, if the information contained in the application required by subsection 1 is not complete or is no longer correct, shall communicate in writing promptly to the clerk such facts known to him as are necessary to complete or correct the same.

§ 473.017.2; *see also Bosworth v. Sewell*, 918 S.W.2d 773, 775 (Mo. banc 1996) ("If new information becomes available to the applicant, the applicant must promptly notify the court clerk in writing." (citing § 473.017.2)).

Section 473.033 comes into play after an application for letters is granted and letters are issued. Section 473.033 requires the clerk to publish notice of the granting of letters and appointment of the personal representative.

This publication of notice triggers the statute of limitations set forth in section 473.050.3(1):

> 3. No proof shall be taken of any will nor a certificate of probate thereof issued unless such will has been presented within the applicable time set forth as follows:
>
> (1) In cases where notice has previously been given in accordance with section 473.033 of the granting of letters on the estate of such testator, within six months after the date of the first publication of the notice of granting of letters . . . [.]

[6] An "heir" is a person who is "entitled under the statutes of intestate succession to the real and personal property of a decedent on his death intestate," whereas a "devisee" or a "legatee" is a person entitled to property under a will. *See* § 472.010(8) (defining "devisee"), (14) (defining "heir"), (19) (defining "legatee").

However, "[i]n cases where notice has not previously been given in accordance with section 473.033 of the granting of letters on the estate of testator," the statute of limitations to present a will is one year from the date of the decedent's death. § 473.050.3(2).

Failing to present a will within the applicable statute of limitations renders the will a legal nullity; in other words, a will that is not timely presented for probate is legally ineffective. *See* § 473.050.1 ("A will, to be effective as a will, must be presented for and admitted to probate."); § 473.050.5 ("A will not presented for probate within the time limitations provided in subsection 3 of this section is forever barred from admission to probate in this state.").

We return to Interested Parties' argument. They contend the presentation of the Purported Will was timely under section 473.050.3 because DeLacy did not comply with section 473.017. Specifically, they assert section 473.017 imposed a duty on DeLacy to supplement her application for letters of administration to identify the devisees, legatees, and executors of Decedent's Purported Will, which she did not do. Interested parties claim that, as a result, the publication of notice was defective and did not trigger the running of the six-month statute of limitations. Interested Parties also argue that, had DeLacy supplemented her application for letters of administration as required, new notice would have been published under section 473.033, and this "updated notice" would have started a six-month period to present Decedent's will for probate. We find no merit to Interested Parties' arguments. DeLacy's application for letters complied with section 473.017 and the resulting publication of notice was valid. DeLacy was not required to supplement her application for letters upon discovering the Purported Will, and even if she were, such

supplementation would not have triggered a new six-month period for admission of the will to probate.

DeLacy's application for letters contained the information required by section 473.017 when she filed the application in February 2023. The information she provided was accurate and complete based on what she knew at the time, as she was not aware of the Purported Will and thus did not know of any devisees, legatees, or executors named under the Purported Will. As a result, the March 1, 2023, publication of notice was not "defective" due to any failure by DeLacy to comply with section 473.017, and the publication triggered the running of the six-month statute of limitations.

Although DeLacy became aware of Decedent's Purported Will in October 2023, by that time the six-month statutory period for will presentment had elapsed, and thus the Purported Will was a legal nullity. *See* § 473.050.1, .5. DeLacy had no duty to supplement her application for letters to account for an ineffective will that could not be presented or admitted to probate: because the Purported Will was a legal nullity, its existence did not make the information in DeLacy's application incomplete or incorrect. *See* § 473.017.2 (supplementation is required "if the information contained in the application . . . is not complete or is no longer correct").[7]

In arguing that the Purported Will was timely presented, Interested Parties rely on the Missouri Supreme Court's decision in *Bosworth v. Sewell*, 918 S.W.2d 773 (Mo. banc

[7] Although we need not—and do not—decide this issue, arguably, DeLacy *did* supplement her application pursuant to section 473.017 by filing the Purported Will with the probate court, as section 473.017.2 only requires that the applicant "communicate in writing promptly to the clerk such facts known to [her] as [were] necessary to complete or correct" the application for letters.

1996). Interested parties contend that under the holding of *Bosworth*, the six-month limitations period to present the Purported Will "was not triggered." We disagree.

In *Bosworth*, the personal representative of the decedent's estate filed an application for letters testamentary that only identified the devisees under the decedent's will; the application did not also identify the decedent's heirs as required under section 473.017. *See* 918 S.W.2d at 774, 777. Certain of the decedent's heirs filed a petition to contest the will after the six-month statutory period had expired, asserting they had not been provided notice and "did not know of the proceedings" prior to the expiration of the statutory period. *Id.* at 774, 778. The Missouri Supreme Court found that the heirs' will-contest petition was timely, concluding that the six-month period never began to run, as "[c]ompliance with [sections 473.017 and 473.033] is essential to begin the six-month period to bring a will contest." *Id.* at 776.

Unlike in *Bosworth*, here, DeLacy's application for letters and the publication of notice complied with sections 473.017 and 473.033. As described above, DeLacy's application contained the information required by section 473.017 when she filed it. The resulting publication of notice on March 1, 2023, was therefore valid and effective, and it triggered the six-month period within which a will could be presented for probate. *Bosworth*, therefore, provides no support for Interested Parties' claim that the statute of limitations never began to run.

There is one more fallacy with Interested Parties' argument that we must address. As previously explained, DeLacy was not required to supplement her application for letters upon discovery of the Purported Will. But even if supplementation were required, such

supplementation would not start a new six-month limitation period, as Interested Parties contend. The publication of notice that opens the six-month period is "the first publication of the notice of granting of letters." § 473.050.3(1). Under the plain language of the statute, only the "first" publication triggers the six-month period, and specifically, only the first publication of "the notice of granting of letters." Thus, even if supplementation of the application resulted in re-publication of the notice of granting of letters—and we note there is no statutory provision in the probate code that directs re-publication upon supplementation—the notice would not be the "first" and thus would not start a new six-month period under section 473.050.3(1).

For these reasons, we find the probate court did not err in determining the Purported Will was barred from probate as untimely under section 473.050.3(1). Point I is denied.

Point II – Removal of DeLacy as Personal Representative

In their second point, Interested Parties assert the probate court abused its discretion by failing to vacate its February 2023 order appointing DeLacy personal representative of Decedent's estate.

Section 472.150 of the Probate Code permits a court to vacate or modify its orders "[f]or good cause." "'Good cause' depends upon the circumstances of the individual case, and a finding of its existence is largely in the discretion of the office or court to which a decision is committed." *In re Seiser*, 604 S.W.2d 644, 646 (Mo. App. E.D. 1980). We review the probate court's determination whether to vacate its prior order for abuse of discretion. *See id.*; *see also In re Kraus*, 318 S.W.3d 274, 278 n.3 (Mo. App. W.D. 2010).

Interested Parties argue the probate court abused its discretion by failing to remove DeLacy as personal representative for two reasons: her appointment contradicted Decedent's "express wishes" and she had "an ongoing conflict of interest." We disagree as to both contentions.

Interested Parties first assert that DeLacy's appointment as personal representative "contradicted Decedent's express wishes," which they contend were that "his estate be vested in" Interested Parties "rather than in the sibling he specifically chose to leave only a gold watch," as directed in the Purported Will. But—as described above in our analysis of Point I—the Purported Will was barred from probate under Missouri law and was, therefore, ineffective and a legal nullity. And section 473.087 provides that "[n]o will is effectual for the purpose of proving title to, or the right to the possession of, any real or personal property, disposed of by the will, until it has been admitted to probate." As a result, the Purported Will was ineffectual for the purpose of proving Decedent's "express wishes" as to the disposition of his property. The probate court thus did not abuse its discretion in refusing to give effect to the terms of the invalid Purported Will.[8]

Interested Parties next argue that DeLacy had an "ever-present conflict of interest" and thus should not have been appointed personal representative of Decedent's estate. To the extent that Interested Parties contend DeLacy's conflict of interest stemmed from the fact that she was due to inherit from Decedent under the laws of intestacy, the Probate Code

[8] And even if Decedent did, in fact, wish to leave DeLacy no more than his gold watch, Interested Parties fail to explain why this would constitute a basis to remove her as personal representative of his estate.

expressly provides that a personal representative may be an heir-at-law set to inherit from the decedent. *See* § 473.110.2(2) (letters of administration for an intestate estate shall be granted to "one or more of those who are entitled to distribution of the estate, who the court shall believe will best manage and preserve the estate"). To the extent that Interested Parties contend DeLacy's conflict of interest stemmed from some improper or willful motive to hide the Purported Will or to fail to diligently search for it, the probate court found, after an evidentiary hearing, that DeLacy conducted a diligent search with "due care" and there was no evidence that she acted improperly. In light of these findings, Interested Parties fail to establish the probate court abused its discretion in failing to remove DeLacy as personal representative due to a conflict of interest. *See Anglim v. Mo. Pac. R.R. Co.*, 832 S.W.2d 298, 303 (Mo. banc 1992) ("[I]n determining whether the trial court's ruling amounted to an abuse of discretion, . . . the evidence will be viewed in a light favorable to the result of the trial court," "discretionary rulings are presumed correct, and the appellant bears the burden of showing an abuse of discretion.").

For these reasons, we find the probate court did not abuse its discretion in refusing to vacate its February 2023 order appointing DeLacy personal representative. Point II is denied.

Conclusion

The judgment of the probate court is affirmed.

EDWARD R. ARDINI, JR., JUDGE

All concur.