

Third District Court of Appeal

State of Florida

Opinion filed September 2, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-1159
Lower Tribunal No. 15-76

Quanisha Harris,
Appellant,

vs.

In Re: Estate of Willie Harris,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Mindy S. Glazer,
Judge.

Peter A. Cohen, P.A. and Peter A. Cohen; and Wasson & Associates,
Chartered, and Roy D. Wasson, for appellant.

Marva L. Wiley, for appellee.

Before FERNANDEZ, SCALES, and HENDON, JJ.

HENDON, J.

Quanisha Harris seeks to reverse an order awarding attorney's fees and costs for the administration of the deceased's estate. As the record shows no abuse of discretion, and the fee award is supported by competent substantial evidence, we affirm.

Facts

Willie Harris died intestate on October 1, 2014. Quanisha Harris ("Harris"), is the only daughter of the deceased. Carolyn Walker ("Walker") is the deceased's sister, Harris's aunt. Harris agreed to allow Walker to be appointed the personal representative of her father's estate. Walker then hired attorney Marva Wiley to administer the estate.

Willie Harris left two parcels of real property: his homestead and one of two parcels his mother left upon her death. Willie took his mother's homestead property located at 3451 NW 207 Ave. The other property, at 3450 NW 207 Ave, was located across the street from the mother's homestead and was rental property. Prior to his death, Willie Harris quitclaimed the rental property to his sister, Walker. Upon her father's death, Harris inherited her father's homestead property and the remaining 3451 property. In December 2014, Harris quitclaimed the 3451 property to Walker, her aunt. Willie Harris's homestead property was foreclosed and sold.

The Adversary Proceedings

In September 2016, Harris filed an adversary petition to compel distribution of estate property and for an accounting, alleging that Walker had been renting the 3451 property but not depositing the rents into the estate's depository. Walker responded to the petition, asserting that neither properties are part of Willie Harris's estate. Walker explained that Harris had quitclaimed the 3451 property to her in 2014, and thus Harris had no inheritance interest in that property and no rents were generated from that property. Walker also showed, and the record confirms, that the 3450 property was conveyed to her by her brother prior to his death in 2014, and thus Harris had no inheritance interest in that property either.

In October 2016, Harris followed up with a petition to cancel and set aside her quitclaim conveyance of the 3451 property. Four months later, in February 2017, the 3451 property was sold at a foreclosure sale. In January 2019, Harris amended her petition to claim the surplus from the foreclosure sale. Both parties agreed to deposit the surplus of \$128,867.40 from the foreclosure sale into the estate's restricted depository pending the disposition of the adversary proceeding. The adversary case was resolved and closed in November 2019.¹

¹ Harris's adversary challenge to the property conveyance was closed as to all parties by Final Judgment rendered November 18, 2019, denying Harris's first amended petition to cancel and set aside conveyance of real property. Harris's appeal from that Final Judgment and order denying her motion for rehearing is currently before this court in a separate case, In Re Estate of Harris, 3D20-0030, LC 15-76-CP (05) Probate Division.

The Estate Administration

Attorney Wiley filed a Petition for Order Authorizing Payment of Attorneys' Fees and Expenses for services performed "for the administration of the Estate from October 28, 2014 through [May 6, 2019]." Wiley sought fees of \$6,337.50, plus \$4,981.00 in expenses, of which the amount of \$4,500 in expenses were incurred in payments to three other attorneys "for the defense of a foreclosure action." Wiley's detailed time billing entries were attached to that petition. There is no copy of a fee agreement in the record, although Wiley and Walker refer to the fee agreement and specific hourly rate in the record.

The trial court summarily granted Wiley's petition for an award of attorney's fees and costs incurred in the estate administration and ordered the depository bank to "disburse \$11,318.50 to Marva L. Wiley, Esq. for services rendered in the estate administration." Harris appeals from the order granting Wiley's petition for attorney's fees for estate administration.

Standard of Review

Our standard of review for an award of attorney's fees, whether based on contract or statute, is abuse of discretion. Glob. Xtreme, Inc. v. Advanced Aircraft Ctr., Inc., 122 So. 3d 487, 490 (Fla. 3d DCA 2013); In re Estate of Ryecheck, 323 So. 2d 51 (Fla. 3d DCA 1975); see also Canakaris v. Canakaris, 382 So. 2d 1197, 1203 (Fla.1980).

Discussion

Harris argues that the order granting Wiley's attorney's fees for the administration of the estate should be reversed because the probate court failed to consider the fee agreement between Wiley and Walker and failed to make findings regarding the reasonableness of the rate and hours of Wiley's fees. Harris is not entitled to have the fee award reversed because the record contains competent substantial evidence supporting the contractual fees awarded to Wiley. The record reflects that Walker, as personal representative of the estate, agreed that Wiley should be paid \$325 per hour for her estate administration services, and contains Wiley's detailed billing records for her services in administering the estate. Harris has not alleged bad faith against attorney Wiley or made any showing of inequitable conduct or unreasonable charges by Wiley in her administration of the estate. An order of a probate court setting fees for the attorney for the estate is clothed with the presumption of correctness and will be disturbed on appeal only on a clear showing that it is contrary to the manifest weight of the evidence. In re Ryecheck's Estate, 323 So. 2d 51 (Fla. 3d DCA 1975); compare In re Lopez' Estate, 410 So. 2d 618, 618 (Fla. 4th DCA 1982) (reversing the fee order and remanding for further hearing where the record did not disclose substantial competent evidence of the services performed by the attorney or appraiser nor the reasonable value of those services). Section 733.6171(1), Florida Statutes (2019) provides, "[a]ttorneys for personal

representatives shall be entitled to reasonable compensation payable from the estate assets without court order.” See also section 733.6175, Florida Statutes (2019) (“[t]he court may review the propriety of the employment of any person employed by the personal representative and the reasonableness of any compensation paid to that person or to the personal representative.”). Further, section 733.6171 does not require the trial court to make detailed findings reciting the considerations set forth in the statute. See Sitomer v. First of Am. Bank-Cent., 667 So. 2d 456, 457–58 (Fla. 4th DCA 1996) (holding the statute's only requirement is that the attorney administering the estate receives reasonable compensation). There is substantial, competent evidence in the record to support the contractual fees awarded for administration of the estate, and no allegations of bad faith or overcharging. Finding no abuse of discretion or reversible error, we affirm.

Affirmed.