

No. 3-19-0216

Summary Order filed February 24, 2020

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2020

In re ESTATE OF JOHN E. WILLIAMS, SR.,)	Appeal from the Circuit Court
Deceased)	of the 10th Judicial Circuit,
)	Peoria County, Illinois.
(Lucille Jackson, a/k/a, Lucille Williams,)	
)	
Petitioner/Claimant-Appellant)	Appeal No. 3-19-0216
)	Circuit No. 16-P-410
v.)	
)	
John E. Williams, Jr., Executor,)	The Honorable
)	Mark E. Gilles,
Respondent/Cross Claimant-Appellee).)	Judge, Presiding.

PRESIDING JUSTICE LYTTON delivered the judgment of the court.
Justices McDade and O'Brien concurred in the judgment.

SUMMARY ORDER

Petitioner Lucille Jackson, a/k/a, Lucille Williams married decedent John E. Williams, Sr. in 1978. They divorced the following year. Decedent died in July 2016. Two months later, decedent's son, respondent John E. Williams, Jr., filed a petition for probate of will and for letters testamentary. The trial court issued an order admitting decedent's will to probate and appointing respondent as executor. The will provided that decedent's estate was to be distributed equally to his five children.

In December 2016, petitioner filed a petition to renounce decedent's will, alleging that she was decedent's spouse on his date of death. One month later, respondent filed a petition for citation to recover assets against petitioner, alleging that she (1) wrote a \$9,000 check to herself from decedent's account after his death, (2) unilaterally transferred titles to decedent's vehicles to her name, and (3) was collecting rent from one of decedent's properties without authority.

In June 2018, petitioner filed a notice of claim against decedent's estate. The notice asserted a "Statutory Custodial Claim" based on the parties' marriage, as well as a "claim based upon the implied contract between the Decedent and [petitioner] for services rendered."

In July 2018, respondent filed a motion to dismiss petitioner's petition to renounce decedent's will and a motion to dismiss petitioner's claim against decedent's estate, asserting neither claim was valid because petitioner and decedent were divorced in 1979. Respondent also filed a motion for leave to file an amended petition for citation to recover assets against petitioner. The amended petition alleged that, in addition to the assets set forth in the original petition, respondent was holding and refusing to return various personal items belonging to decedent's estate, including guns, jewelry, tools, keys, pipes and trophies.

On September 10, 2018, petitioner filed a notice of claim, alleging a claim against the estate of \$87,341.48, consisting of dental payments she paid on decedent's behalf, real estate taxes she paid on decedent's property, an unpaid promissory note from decedent, dated May 14, 1997, and personal property for which she sought reimbursement. Shortly thereafter, the trial court entered an order (1) dismissing petitioner's petition to renounce decedent's will, (2) granting respondent's motion to dismiss petitioner's statutory custodial claim, and (3) granting respondent leave to file the amended citation to recover assets.

In October 2018, respondent filed a motion to dismiss petitioner's September 10, 2018 notice of claim, asserting that it was barred by the statute of limitations. Respondent also filed a motion for sanctions against petitioner. On January 4, 2019, the court held a hearing on the outstanding motions.

On January 11, 2019, the trial court entered an order denying petitioner's September 10, 2018 claim because it was barred by the statute of limitations. The court also ordered petitioner to pay sanctions totaling \$2,695, after finding her "NOT credible" and her actions "frivolous, willful, [and] malicious."³ Petitioner filed her notice of appeal on April 24, 2019. On appeal, she argues that the trial court erred in denying her September 10, 2018 claim against decedent's estate.

Under Illinois Supreme Court Rule 304(b)(1), an order entered in an estate proceeding which finally determines the right or status of a party must be appealed within 30 days from its entry. Ill. S. Ct. R. 304(b)(1) (eff. March 8, 2016); *In re Estate of Kime*, 95 Ill. App. 3d 262, 267 (1981). The committee comments to Rule 304(b)(1) provide examples of "orders that are final in character although entered in comprehensive proceedings that include other matters[,] such as "an order admitting or refusing to admit a will to probate, appointing or removing an executor, *or allowing or disallowing a claim.*" (Emphasis added.) Ill. S. Ct. R. 304, Committee Comments (rev. Sept. 1988). "Orders within the scope of Rule 304(b)(1), even though entered before the final settlement of estate proceedings, *must* be appealed within 30 days of entry or be barred." (Emphasis in original.) *In re Estate of Devey*, 239 Ill. App. 3d 630, 633 (1993).

Here, the trial court disallowed petitioner's claim against decedent's estate on January 11, 2019. Petitioner filed her notice of appeal over 90 days later, on April 24, 2019. Because petitioner did not appeal the trial court's order within 30 days, as required by Rule 304(b)(1), her appeal was untimely and we lack jurisdiction to consider it. See *Devey*, 239 Ill. App. 3d at 633.

Petitioner's appeal is dismissed in accordance with Supreme Court Rule 23(c)(1) (Ill. S. Ct. R. 23(c)(1) (eff. April 1, 2018)).

Appeal dismissed.



SUPREME COURT OF ILLINOIS

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September 30, 2020

In re: In re Estate of John E. Williams, Sr., etc. (Lucille Jackson, etc.,
petitioner, v. John E. Williams, Jr., etc., respondent). Leave to
appeal, Appellate Court, Third District.
126081

The Supreme Court today DENIED the Petition for Leave to Appeal in the above
entitled cause.

The mandate of this Court will issue to the Appellate Court on 11/04/2020.

Very truly yours,

Carolyn Taft Gosbell

Clerk of the Supreme Court

**Additional material
from this filing is
available in the
Clerk's Office.**