

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

In the matter of:
The Guardianship of
Catherine M. Scobie

Court of Appeals No. L-07-1126

Trial Court No. 2006-GDN-2524

DECISION AND JUDGMENT ENTRY

Decided: April 19, 2007

* * * * *

John J. McHugh, III, and Patrick A. Sadowski, for appellant.

Terry S. Holmes, for appellee Patricia A. Sahadi.

* * * * *

PER CURIAM.

{¶ 1} This case is before the court sua sponte. Appellant, John A. Billis, filed a notice of appeal from an order of the probate court which denied his request to be appointed guardian of his mother, Catherine M. Scobie. John and his sister, Patricia Sahadi had both applied to the court to be the guardian of their mother. The judgment states:

{¶ 2} "Based upon the hostility between the applicants and their inability to act in the best interest of the ward, this Court finds that neither is suitable to serve as the guardian of Catherine M. Scobie. * * *.

{¶ 3} "Accordingly, based on all the evidence presented, the Court finds that appointment of a guardian is necessary and that the best interest of the ward dictates the appointment of an independent third party to serve as guardian. Therefore, the Court hereby grants Attorney Kevin McManus leave to file an application to become the guardian of Catherine M. Scobie. Mr. McManus is directed to file his application with due haste * * *. It is so ordered."

{¶ 4} An order of a probate court appointing a guardian is a final appealable order. *In re Helen Riva Guardianship*, 5th Dist. No. 2006-CA-0067, 2006-Ohio-5547, ¶ 12. Such an order is appealable pursuant to R.C. 2505.02(B)(2) as "an order that affects a substantial right made in a special proceeding." Guardianship proceedings are special proceedings. *In re Guardianship of Freeman*, 4th Dist. No. 02CA737, 2002-Ohio-6386, ¶ 12; *In re Guardianship of Hosey*, 2d Dist. No.2004 CA 33, 2005-Ohio-53, ¶ 25.

{¶ 5} However, in this case the guardian has not yet been appointed. Until that time, no appeal can be taken. This court only has jurisdiction to hear appeals from final orders. See Section 3(B)(2), Article IV of the Ohio Constitution.

{¶ 6} "Courts of appeals shall have such jurisdiction as may be provided by law to review and affirm, modify, or reverse judgments or final orders of the courts of record inferior to the court of appeals * * *."

{¶ 7} Accordingly, the court orders this appeal dismissed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24. Judgment for the clerk's expense incurred in preparation of the record, fees allowed by law, and the fee for filing the appeal is awarded to Lucas County.

APPEAL DISMISSED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, P.J.

JUDGE

Arlene Singer, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.
