

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

IN THE MATTER OF THE ESTATE OF
STELLA O. WAKEFIELD,
AKA STELLA OVALENE WAKEFIELD,
DECEASED

:
: C.A. No. 30787
:
: Trial Court Case No. 2024 EST 00165
:
: (Appeal from Common Pleas Court-
: Probate Division)
:
: **FINAL JUDGMENT ENTRY &**
: **OPINION**

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Pursuant to the opinion of this court rendered on October 2, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



CHRISTOPHER B. EPLEY, JUDGE

LEWIS, P.J., and TUCKER, J., concur.

OPINION
MONTGOMERY C.A. No. 30787

CLAYTON M. HOWARD, Appellant, Pro Se
GREGORY M. GANTT, Attorney for Appellee

EPLEY, J.

{¶ 1} Clayton Howard, a beneficiary of the estate of Stella O. Wakefield, appeals from an order of the Montgomery County Common Pleas Court, Probate Division, ordering the reimbursement of beneficiary distributions to the estate. For the following reasons, the judgment of the trial court is affirmed.

I. Facts and Procedural History

{¶ 2} Wakefield died on December 14, 2023, leaving three biological children and three stepchildren as beneficiaries to her estate. On November 3, 2025, the fiduciary's account was filed and reflected that Howard and the other beneficiaries would each receive a distribution from the estate in the amount of \$7,159.79. On November 29, 2025, Howard and co-beneficiary Kimberly Gibbs filed exceptions to the account, challenging the fiduciary's fees as well as fees that were to be distributed to the Roberson Law Firm.

{¶ 3} On January 6, 2026, the estate filed a motion requesting that the beneficiaries reimburse their final distributions to the estate to cover ongoing legal expenses. On February 2, 2026, the trial court granted this motion and ordered all the beneficiaries to return their final distribution payments to the estate within 14 days.

{¶ 4} Howard now appeals, raising six assignments of error.

II. Appellate Review

**A. The Trial Court's Order Was Authorized by the Ohio Revised Code and the
American Rule Does Not Apply**

{¶ 5} Because Howard’s first and second assignments of error are interrelated, we address them together. In his first assignment of error, Howard asserts that R.C. 2113.53 does not authorize a probate court to compel the reimbursement of distributions from an estate to pay ongoing legal expenses.

{¶ 6} The interpretation of a statute is a question of law subject to de novo review. *Loury v. Westside Automotive Group*, 2022-Ohio-3673, ¶ 19 (8th Dist.). “Accordingly, we stand in the shoes of the trial court and conduct an independent review of the record.” *Chester/12 Ltd. v. Epiq Constr. Servs., Inc.*, 2023-Ohio-1886, ¶ 19 (8th Dist.).

{¶ 7} Pursuant to R.C. 2113.53(A), “[a]t any time after the appointment of an executor or administrator, the executor or administrator may distribute to the beneficiaries entitled to assets of the estate under the will, if there is no action pending to set aside the will, or to the heirs entitled to assets of the estate by law, in cash or in kind, any part or all of the assets of the estate. Each beneficiary is liable to return the assets or the proceeds from the assets to the estate if they are necessary to satisfy the share of a surviving spouse who elects to take against the will pursuant to section 2106.01 of the Revised Code or if the will is set aside.” However, R.C. 2117.06(K) states that “[i]f the executor or administrator makes a distribution of the assets of the estate pursuant to section 2113.53 of the Revised Code and prior to the expiration of the time for the presentation of claims as set forth in this section, the executor or administrator shall provide notice on the account delivered to each distributee that the distributee may be liable to the estate if a claim is presented prior to the filing of the final account . . . and may be required to return all or any part of the value of the distribution if a valid claim is subsequently made against the estate within the time permitted under this section.”

{¶ 8} Contrary to Howard’s assertion, R.C. 2117.06(K) does, in fact, authorize the trial court to order the reimbursement of distributions to the estate while the administration of the estate is pending. Although the estate’s request for reimbursement was based on the need to pay for ongoing legal expenses, there is nothing in the trial court’s order ordering the reimbursed funds to be used for that purpose, or any other. Instead, the trial court solely ordered the reimbursement to the estate while the administration of the estate was pending, which is authorized by the Revised Code.

{¶ 9} Further, in his second assignment of error, Howard asserts that the trial court’s order also violates the American rule regarding attorney fees. With respect to the recovery of attorney fees, Ohio adheres to the American rule, which prohibits a prevailing party in a civil action from recovering attorney fees as part of the costs of litigation. *Cruz v. English Nanny & Governess School*, 2022-Ohio-3586, ¶ 35. However, because the trial court’s order did not include an award of attorney fees, the American rule does not apply.

Howard’s first and second assignments of error are overruled.

B. R.C. 1.51 Does Not Apply Because the Statutes Are Not Irreconcilable

{¶ 10} In his third assignment of error, Howard argues that R.C. 2101.24 and 2113.53 conflict and because R.C. 2113.53 is the more specific statute, it prevails over R.C. 2101.24. We disagree.

{¶ 11} Pursuant to R.C. 1.51, conflicting statutes “shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as the exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provisions prevail.” R.C. 2101.24, which Howard asserts is the more general statute, sets forth the probate

court's jurisdictional authority, while R.C. 2113.53 sets forth the requirements for the distribution of assets.

{¶ 12} Contrary to Howard's assertion, R.C. 2101.24 and 2113.53 are not irreconcilable. Rather, R.C. 2101.24 operates to establish the probate court's jurisdiction, which includes the authority to order the distribution of estates, and R.C. 2113.53 sets forth the rules regarding the distribution of estates under specific circumstances. These statutes are not irreconcilable, and effect can be given to both. Therefore, R.C. 1.51 does not apply, and Howard's third assignment of error is overruled.

C. The Trial Court's Order Was Not An Abuse Of Discretion And Did Not Violate Howard's Constitutional Rights

{¶ 13} Howard's fourth and fifth assignments of error pertain to his assertion that the trial court's order to reimburse the estate constituted an abuse of the trial court's discretion and violated his constitutional rights. We consider them together.

{¶ 14} Howard asserts that the trial court abused its discretion and violated his right to due process by issuing an order to reimburse the estate without identifying the specific statutory basis for the order or holding an evidentiary hearing. However, the law in Ohio grants the trial court authority to order the reimbursement of distributions to the estate, and it does not include a requirement that the trial court hold an evidentiary hearing prior to issuing such an order.

{¶ 15} Further, due process requires that an individual be given notice and an opportunity to be heard in accordance with what is appropriate to the nature of the case. *Matthews v. Springfield-Clark CTC Board*, 2023-Ohio-1304, ¶ 28. Here, Howard received notice of the estate's motion for reimbursement and responded by way of his memorandum in opposition. The estate's motion for reimbursement was fully briefed by both parties, and

there is nothing in the record to suggest that Howard did not receive notice of the pending motion or that the trial court acted unreasonably by failing to properly consider the parties' briefs and legal arguments prior to issuing the order for reimbursement.

{¶ 16} Accordingly, Howard's fourth and fifth assignments of error are overruled.

D. The Trial Court's Order Does Not Violate R.C. 2109.37 or 2113.36

{¶ 17} In his final assignment of error, Howard asserts that the trial court's order that the distributions be reimbursed to the estate violate R.C. 2109.37 and 2113.36. R.C. 2109.37 addresses the investment powers of an estate, and R.C. 2113.36 pertains to the allowance of counsel fees from an estate. Howard contends that counsel for the estate has not properly identified the estate as his client and therefore he cannot be paid from estate assets.

{¶ 18} The trial court's order does not address attorney fees or award any amount of fees to counsel for the estate. Further, counsel for the estate has not submitted an application for fees. The trial court's order merely instructed the parties to reimburse their distributions to the estate while the administration of the estate is pending. Accordingly, this argument is premature.

{¶ 19} Howard's sixth assignment of error is overruled.

III. Conclusion

{¶ 20} The judgment of the trial court is affirmed.

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LEWIS, P.J., and TUCKER, J., concur.