

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 02428

September Term, 2015

MARK SMOOT

v.

DOUGLAS WANNALL

Krauser, C.J.,
Nazarian,
Shaw Geter,

JJ.

Opinion by Shaw Geter, J.

Filed: March 13, 2017

*This is an unreported opinion, and may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This case is an appeal from the denial of appellant's Motion for Reconsideration, following dismissal of his case by the Circuit Court of Baltimore City. The underlying controversy arose over the last will and testament of D. Lynne Crawford, executed in April, 2013, and an *inter vivos* trust, executed by her in May of 2013, of which appellant is the Trustee and beneficiary.

Following Crawford's death, appellant Mark Smoot filed a Petition for Judicial Probate with the 2013 will in the Orphans' Court. Shortly, thereafter, Appellee Douglas Wannall filed a Petition to Caveat the will, and a Motion, pursuant to Maryland Rule 2-502, seeking a determination as to whether the residuary clause of the will was void for purporting to convey the residuary estate to a trust that was not in existence when the will was executed. The orphans' court ruled that the residuary clause of the 2013 will was void and further, that all the assets titled in Crawford's name at the time of her death were property of the estate.

Appellant timely filed a *de novo* appeal to the Circuit Court, which was dismissed. The court held that appellant lacked standing, and further stated that the court was "bound by the prior decision [of the Orphans' Court] that the trust is void." Appellant then filed a Motion for Reconsideration, noting that the Orphans' Court ruled that the residuary clause of the will was void, not the entire trust. His motion for reconsideration was denied.

On appeal, appellant presents the following question for our review:

1. Whether the Circuit Court for Baltimore City erred in dismissing the *de novo* appeal from the Orphans' Court for Baltimore City for lack of standing?

For the reasons set forth below, we shall reverse the order of the circuit court.

BACKGROUND

On April 26, 2013, D. Lynne Crawford executed a Will (the “Will”), with a residuary clause that devised the remainder of her estate to an *inter vivos* revocable trust (“the Trust”). The Trust, however, was executed by Ms. Crawford on May 21, 2013, three weeks after the Will was executed. On December 15, 2013, Ms. Crawford died.

Appellee initially opened Crawford’s estate by filing a Petition for Administrative Probate with a 2008 will in the Orphans’ Court. Shortly thereafter, on January 14, 2014, Appellant filed a Petition for Judicial Probate with the 2013 Will. Appellee then sought to Caveat the 2013 Will and, separately, filed a Motion, pursuant to Maryland Rule 2-502, to determine whether the residuary clause of the 2013 Will was void for purporting to convey Crawford’s residuary estate to a trust that was not in existence at the time of the Will’s execution.

By Consent Order on June 2, 2014, the orphans’ court admitted to probate the 2013 Will; appointed W. Randolph Shump, appellant’s attorney, as Special Administrator of the Estate; and scheduled a hearing on appellee’s Rule 2-502 Motion. After briefing and argument, the court held that the residuary clause of the will was “invalid and void as it leaves the residuary estate to a Trust dated May 21, 2013 which was not in existence at the time of the execution of the will.”

Also at issue before the court was a “Revised Inventory” filed by Special Administrator Shump, which deleted from the original inventory certain real properties and financial accounts. These properties were titled in the name of Ms. Crawford at the time of her death, but were also listed as part of the Trust. Special Administrator Shump

contended that these properties were not, therefore, probate estate assets. The orphans' court disagreed and held that a "retitling of real property and financial accounts before death was required to transfer those assets into trust."

Appellant, along with Special Administrator Shump, subsequently filed a *de novo* appeal to the Circuit Court for Baltimore City on March 10, 2015. A Motion to Dismiss was filed by appellee on June 10, 2015, wherein he argued that neither appellant nor Shump had standing to appeal. The circuit court ultimately granted appellee's motion, ruling that the "Court is bound by the prior decision that the trust is void as a matter of law." The court continued, "[i]f the trust is void, then [appellant] does not have a personal interest in the appeal."

Thereafter, appellant filed a Motion for Reconsideration, arguing that the conclusion by the circuit court that he lacked standing was based on an incorrect assumption that the Crawford Trust had been found invalid. The orphans' court, appellant contended, had only invalidated the residuary clause of the will, not the entire Trust. On December 14, 2015, the circuit court denied the motion for reconsideration.

This appeal followed.

STANDARD OF REVIEW

"The proper standard of reviewing the grant of a motion to dismiss is whether the trial court was legally correct." *Higginbotham v. Public Service Com'n of Maryland*, 171 Md. App. 254, 265 (Md. Ct. Sp. App. 2006).

DISCUSSION

The Circuit Court erred in dismissing the *de novo* appeal from the Orphans' Court for lack of standing.

Appeals to the circuit courts from a final judgment of the orphans' court are governed by Maryland Code, Courts and Judicial Proceedings § 12-502. It allows a party to “appeal to the circuit court for the county from a final judgment of an orphans' court,” instead of directly to this Court. Md. Code Ann. Cts. & Jud. Proc. § 12-502. Appellant attempted to comply with this Rule but was ultimately denied relief. He now seeks review by this Court regarding his standing to appeal a final judgment of the orphans' court to the circuit court.

“[W]e have consistently noted that the only requirement [for standing in an appeal from a judgment of an orphans' court] is that the individual or entity seeking appellate review must be ‘aggrieved’ by the [o]rphans’ [c]ourt’s decision, meaning that the actions of the [o]rphans’ [c]ourt must have a ‘direct tendency’ to adversely affect the interests of the ‘party.’” *Knight v. Princess Builders, Inc.*, 393 Md. 31, 49 (2006); *see also Alston v. Gray*, 303 Md. 163, 166 (1985) (“The settled law of this state is that only an ‘aggrieved party’ may appeal from an order of the [o]rphans’ [c]ourt adjudicating an estate.”).

Appellant contends that, as a “primary beneficiary of the trust,” he was aggrieved by the holding of the orphans' court that certain real properties and financial accounts were, in fact, part of the probate estate, and not the Trust. He argues that the ruling that he lacked standing “was predicated on the erroneous assumption that the Orphans' Court previously determined that the Crawford Trust was void.”

Appellee, on the other hand, argues that, because the orphans' court's ruling effectively removed the Trust as a legatee of the estate, it also removed appellant's status as an interested party with standing to appeal. Moreover, appellee contends that the circuit court did not base its decision on the mistaken belief that the orphans' court had voided the entire Trust, and, even if, *arguendo*, it had, the court was correct "based on the law and the record."

The circuit court's Memorandum and Order dismissing appellant's appeal specifically states:

"Although Mr. Smoot is entitled to appeal in his individual capacity, he can only do so if the actions of the court have a direct tendency to adversely affect his interest. Mr. Smoot was named as a potential beneficiary of the D. Lynne Crawford Revocable Trust. On June 27, 2014, the [orphans' court] determined that Item 6 of the April 26, 2013 will, which provides that a devise of the Decedent's residuary estate to a trust that was not in existence at the time of the will's existence, is void as a matter of law. On June 27, 2014 Judge [DiPietro] affirmed this decision. Although Mr. Smoot has noted an appeal to the Court of Special Appeals it is well settled that a court's decision is binding until it is overturned. [internal citations omitted] **Thus, this Court is bound by the prior decision that the trust is void as a matter of law. If the trust is void, then Mr. Smoot does not have a personal interest in the appeal. Consequently, Mr. Smoot does not have standing to appeal the [orphans' court's] February 20, 2015 decision.**"

The orphans' court's order, which the circuit court reviewed and based its decision on, reads in pertinent part:

"ORDERED that pursuant to Sections 4-441 and 4-107 and the Maryland Estates and Trust Article, Paragraph Six (Disposition of Residuary Estate) of the Last Will and Testament of D. Lynne Crawford dated April 26, 2013 and admitted to probate on June 2, 2014 is found to be invalid and void as it leaves the residuary estate to a Trust dated May 21, 2013 which was not in existence at the time of the execution of the Will."

Nonetheless, appellee insists that the circuit court’s reliance on the “prior decision” refers solely to the orphans’ court’s ruling on the residuary clause. The court’s Memorandum and Order, however, is contrary to this assertion and is plain and unambiguous – “this Court is bound by the prior decision *that the trust is void as a matter of law.*” The court goes on to unequivocally state that appellant’s lack of standing is *because* the orphans’ court voided the trust. It is clear, therefore, that the circuit court did base its decision on the erroneous belief that the orphans’ court had voided the entirety of the Trust.

Appellee’s argument that appellant lost his status as an ‘interested party’ for standing purposes because the decision of the orphans’ court removed the trust as a legatee of the estate is also unpersuasive. In the case at bar, appellant’s interest in the estate was clearly adversely affected by the actions of the orphans’ court. The decision effectively removed all or most of the Trust’s assets and thus unmistakably “aggrieved” all the beneficiaries of the Trust, including appellant, by allocating the assets as property of the estate. As such, the circuit court’s decision was error.

Appellant, as an individual whose interests were adversely affected by the court’s action, has standing to seek review in the Circuit Court for Baltimore City. *See Knight*, 393 Md. at 49.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
REVERSED. COSTS TO BE PAID
BY APPELLEE.**