Orphans' Court for Montgomery County
Estate No. W87973
Civil No. 425847

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

Nos. 1480, 1655
September Term, 2017

Nos. 501, 2312
September Term, 2018

No. 302
September Term, 2019

IN THE MATTER OF THE ESTATE OF
DINESH O. PARIKH

Kehoe,
Gould,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Gould, J.

Filed: March 23, 2020

In these consolidated appeals, appellants, Oxana Parikh and Namish Parikh,[1] challenge several orders of the Circuit Court for Montgomery County, sitting as the orphans' court, in the Estate of Dinesh O. Parikh. Tina Parikh and Lynn C. Boynton, Esquire, the Special Administrator of the estate ("SA Boynton"), are the appellees.

This is the second time that we have considered disputes regarding the disposition of Dr. Parikh's estate. Appellants' previous consolidated appeals before this Court were decided in In re Estate of Parikh, No. 1226, September Term, 2017, (filed Jan. 16, 2019), cert. denied sub nom. Matter of Estate of Parikh, 464 Md. 597 (2019) ("Parikh I"). In these five consolidated appeals, appellants present 38 questions, many of which were resolved by our opinion in Parikh I.

As to the remaining issues properly before us, we affirm the orphans' court's decisions.

BACKGROUND FACTS AND LEGAL PROCEEDINGS[2]

Dr. Dinesh O. Parikh ("Dr. Parikh") died on June 18, 2016. His will, dated July 30, 2014, left his entire estate to Oxana, the ex-wife of his son, Namish, and designated her as the personal representative of the estate. The will made no provision for Namish, his

[1] Oxana and Namish are the named appellants in appeal No. 1480, Sept. Term, 2017. Oxana is the sole named appellant in the four remaining appeals. To avoid confusion, and meaning no disrespect to the parties, we shall refer to them by their first names.

[2] The background facts of this case were explained in detail in Parikh I. We borrow liberally from that opinion for this background summary.

daughter, Tina, or his wife, Neela. On the same day the will was signed, Dr. Parikh signed a durable power of attorney, naming Oxana as his attorney-in-fact.

Approximately four months prior to Dr. Parikh's death, his doctor at the Washington Hospital Center, where he was being treated for terminal cancer, deemed Dr. Parikh "incapacitated," and advised Oxana, a registered nurse at Washington Hospital Center, that Dr. Parikh had between three months and five years to live. Shortly thereafter, Oxana, using Dr. Parikh's power of attorney, began to liquidate his assets, allegedly to pay for his medical expenses. Oxana "gifted" approximately $1.14 million of Dr. Parikh's assets to Namish. Three months before Dr. Parikh's death, while he was incapacitated, Oxana filed for an uncontested divorce from Neela on Dr. Parikh's behalf.[3]

After Dr. Parikh's death, Oxana filed a petition for small estate administration with the Register of Wills for Montgomery County.[4] On July 11, 2016, Tina filed a petition to caveat the will, claiming that "a fraud has been and continues to be committed on her father's estate." Tina also petitioned the orphans' court to remove Oxana as personal representative, appoint a successor representative, order an accounting, and impose a constructive trust for all estate assets.

[3] On May 11, 2016, the District Court for Onslow County, North Carolina, granted an absolute divorce to Dr. Parikh and Neela. Neela asserts that she never consented to the divorce or had any knowledge of it. When she learned of the divorce after Dr. Parikh's death, she filed to vacate the divorce in North Carolina.

[4] Small estate administration applies to estates valued at $50,000 or less. Oxana reported the value of the assets of the estate at $25,780.57.

Oxana opposed both petitions and, after a hearing, the orphans' court appointed SA Boynton as special administrator of Dr. Parikh's estate. The court also denied Oxana's petition to transmit issues regarding her alleged mismanagement of assets and the validity of Dr. Parikh's marriage for a jury trial in the circuit court. SA Boynton subsequently filed a complaint in the circuit court against Oxana and Namish seeking recovery of the funds improperly liquidated and transferred to Namish in the months prior to Dr. Parikh's death. The disputed funds were ultimately deposited into the court's registry pursuant to a consent order. Oxana filed an accounting "for the period of January 1, 2016 through September 9, 2016," listing the total assets of the estate at $1,225.553.90, which included the $1.14 million given to Namish.

Oxana, Namish, Tina, Neela, and SA Boynton agreed to mediate their disputes before Senior Judge Irma S. Raker. At the conclusion of the mediation, the attorneys for Oxana and Namish, Neela, Tina, and SA Boynton signed a two-page document, entitled "Terms of Agreement—Estate of Dinesh Parikh" (the "Terms of Agreement"), which provided for the division of the estate, after expenses, as follows: 57% to Namish; 43% to Tina and Neela in accordance with an agreement between them; and reimbursement to Oxana for certain expenditures.

In the months following the mediation, the parties initially worked to finalize a written agreement to be submitted to the orphans' court for approval. On or about February 8, 2017, Oxana and Namish repudiated the Terms of Agreement. Tina filed an emergency motion to enforce the Terms of Agreement, which SA Boynton and Neela supported. The orphans' court held a hearing on April 25-26, 2017 on Tina's emergency motion. At the

conclusion of the hearing, the orphans' court orally granted Tina's motion, finding that "the parties reached a binding agreement . . . reflected in the terms of the agreement document," and "to the extent" that "formal approval" by the Orphans' Court was necessary, the court "approve[s] now of the agreement." A written order was entered on May 3, 2017 (the "May 3rd Order"), granting the motion to enforce the Terms of Agreement and ordering further performance of the settlement terms by the parties. The May 3rd Order also provided that "the requirement for the Inventory and Final Accounting of the Estate is stayed . . . ."

Appellants noted an appeal of the May 3rd Order and various other pleadings, culminating in 21 questions and four consolidated appeals before this Court in Parikh I. While Parikh I was pending, appellants continued to challenge the administration of Dr. Parikh's estate in the orphans' court.

On August 24, 2017, the Register of Wills issued a "Delinquent Notice," notifying the orphans' court that SA Boynton had failed to file an interim accounting for the estate. In response to that notice, on August 29, 2017, the orphans' court issued an order clarifying its May 3rd Order and specifying that "all accounting and inventory requirements are stayed, *including Interim Accounting*, pending further Court order." ("August 29 Order"). Appellants appealed that order (No. 1480, Sept. Term, 2017).[5]

[5] In their appeal No. 1480, Sept. Term, 2017, appellants present six questions:

1. Is Ms. Oxana, the sole legatee, statutorily or as a matter of common sense and logic entitled to a full, accurate, timely, and with period updates an accounting of the estate corpus, which was bequeathed to

On September 29, 2017, the orphans' court held a hearing on outstanding petitions and motions. The court denied Oxana's second motion to remove SA Boynton as special administrator and her motion to remove the estate matter to the Orphans' Court for Baltimore City. The court held in abeyance Oxana's motions to strike and/or dismiss Tina's claims against the estate.

On October 6, 2017 (the "October 6th Order"), the orphans' court entered a written order denying SA Boynton's petition to be appointed as personal representative but issued an order "Granting Further Specific Powers" to SA Boynton to pay certain expenses of the

---

her by Dr. Parikh?

2. Did the orphan's court violate CJ §12-701(a)'s statutory stay by enforcing, modifying and/or altering the May 3, 2017 order granting Tina's motion to enforce settlement agreement, after a proper notice of appeal, by thereafter appending/modifying and/or clarifying on August 29, 2017 that Ms. Oxana is not entitled to any inventory or accounting in light of an orphans' court's May 3, 2017 order?

3. Did the orphans' court reversibly [err] by *sua sponte* ordering on August 29, 2017 a stay of all accounting and inventory, including interim accounting; and, clarifying its prior appealed order?

4. Did the orphans' court violate Ms. Oxana's [f]ederal and Maryland [d]ue [p]rocess [r]ights by *sua sponte* issuing an order without a petition from an "interested person," nor an opportunity to oppose, and/or without a hearing?

5. Did the orphans' court err by not providing a rationale for its *sua sponte* decision?

6. Must the orphans' court judge be removed, and this estate matter transferred to Baltimore City to guarantee Ms. Oxana and Dr. Parikh fair [and] unbiased treatment?

estate, including taxes and litigation expenses, and to manage the North Carolina divorce proceeding. Oxana appealed that order (No. 1655, Sept. Term, 2017).[6]

The orphans' court entered a written order denying the following petitions on December 8, 2017:

> 1. Oxana's petition to strike/dismiss Mr. Maloney's[7] claim against [the] estate for his attorneys' fees in the amount of $57,076.54; and

[6] In appeal No. 1655, Sept. Term, 2017, Oxana presents eight questions:

> 1. Was Oxana removed and Lynn[] appointed by a circuit court order docketed on 9/19/16?
>
> 2. Can a non-existent legal person be appointed as interim special administrator, much less granted additional powers?
>
> 3. (a) Can a circuit court enter an order granting additional powers to a special administrator; (b) is the circuit court order effective from the beginning of time; (c) can the circuit court evade the duty to articulate its rationale; (d) can the circuit court *sua sponte* declare that a bigamous fake-wife is Dr. Parikh's wife; (e) can a circuit court grant authority to Lynn[] to incur legal expenses for hypothetical and non-existent cases?
>
> 4. Did the circuit court violate the stay of ET § 5-207(b)?
>
> 5. Did the circuit court violate the stay of CJ § 12-701(a)?
>
> 6. Must a special administrator ***first*** obtain permission prior to acting to harm the sole-legatee?
>
> 7. Are oral motions, without notice or opportunity to prepare a response, permitted to ambush a *pro se* sole-legatee?
>
> 8. Under the cumulative weight of errors, is recusal of judge warranted?

[7] Paul Maloney is an attorney representing Tina.

2. Oxana's petition to strike/dismiss Mr. Maloney's claim against [the] estate for $800,000.

The orphans' court overruled Oxana's Opposition to Special Administrator's First Notice of Payment or Reimbursement of Expenses on April 4, 2018. Oxana appealed the orders of December 8, 2017 and April 4, 2018 (No. 501, Sept. Term, 2018).[8]

The orphans' court overruled Oxana's Opposition to SA Boynton's Second Notice of Payment on August 24, 2018. One month later, the orphans' court overruled Oxana's

[8] In appeal No. 501, Sept. Term, 2018, Oxana presents six questions:

1. (a) Is Mr. Maloney entitled to extract of $57,076.54 from the estate for his legal services? And, (b) is Mr. Maloney entitled to extract $800,000.00 from the estate predicated on a faux trust?

2. In the interest of justice, should this estate matter be removed to Baltimore City's Orphans' Court?

3. If the orders docketed in the [Registry of Wills] removing Ms. Oxana, appointing Lynn[], and granting Lynn[] superpowers were issued by a "circuit court;" then, can Lynn[], a non-legal person, lawfully extract funds from the estate?

4. Can [an] orphans' court award litigation expenses without a factual and legal finding of "best interest of the estate" and/or award costs of other tribunals and/or with no accounting and/or with no calculation of maximum permissible charges?

5. By granting Lynn[] $2,282.82, did the orphans' court disregard a legislative stay?

6. Even if Lynn[] is a special administrator, then should she be removed for innumerable *ultra vires* acts, including exercising *de facto* powers of a personal representative, holding herself out as "PR" and as *amicus curia, inter alia*?

Opposition to the Third Notice of Payment. Oxana appealed these orders (No. 2312, Sept. Term, 2018).[9]

[9] In appeal No. 2312, Sept. Term, 2018, Oxana presents ten questions:

1. Did [the orphans' court] disregard [the] legislative stay?

2. Since the orders docketed in the [Registry of Wills] removing Ms. Oxana, appointing Boynton, and granting Boynton superpowers were issued by a "circuit court;" then, can Boynton, a non-legal person, lawfully extract funds from the estate?

3. Since Dr. Parikh was single and not a "Resident" of Maryland and Montgomery County, then did [the orphans' court] err in concluding contrary to the facts and law?

4. Since [the orphans' court] intentionally besmirched Ms. Oxana and Dr. Parikh to coerce [the Court of Special Appeals] to turn a deaf ear to her appeal(s), then can any judicial decree from Montgomery County be credited as an honest appraisal of the facts/law?

5. Can [the orphans' court] award litigation expenses without factual/legal findings of "best interest of the estate" and/or award costs of other tribunals and/or with no accounting and/or with no calculation of maximum permissible charges?

6. In the interest of justice, should this estate matter be removed to Baltimore City's [Orphans' Court]?

7. By making extra-contractual distributions of [approximately] $100k is alleged contract rescinded/voided?

8. Are erroneous decisions that inflict manifest injustice, *inter alia,* subject to law of the case doctrine?

9. Was Ms. Oxana's removal by a "circuit court," the predicate of all subsequent orphans' and circuit court orders, lawful?

10. Did [the orphans' court] err in granting a petition to enforce

On March 18, 2019, the court approved SA Boynton's request for reimbursement of attorneys' fees paid to Albert Brophy, a North Carolina legal expert in the amount of $1,275.00. Oxana appealed that order. (No. 302, Sept. Term, 2018).[10]

agreement, reforming it, and awarding breach damages? Did it err in altering Dr. Parikh's distribution plan? Did it exceed its grant of limited jurisdiction?

[10] In appeal No. 302, Sept. Term, 2018, Oxana presents eight questions:

1. Does a Circuit Court have jurisdiction to docket orders in the [Registry of Wills]?

2. Did lower-court and Boynton disregard legislative stay?

3. Is Boynton's reimbursement for unlicensed [North Carolina] legal expert lawful?

4. By making extra-contractual distributions of [approximately] $100k is alleged contract rescinded/voided?

5. Does Boynton's positive and unconditional repudiation of the alleged contract render it abandoned/void/breached?

6. Can [the orphans' court] award litigation expenses without factual/legal findings of "best interest of the estate" and/or award costs of other tribunals and/or with no accounting and/or with no calculation of maximum permissible charges and/or no real party in interest?

7. Did the putative [orphans' court] reopen a prior final judgment from a circuit court? Is [Court of Special Appeals'] #1 prior erroneous decision that inflicts manifest injustice, *inter alia*, subject to law of the case doctrine?

8. Did Boynton unlawfully pursue the civil case against Ms. Oxana for fake-claims that were previously voluntarily abandoned? Did a circuit court have jurisdiction over accounting and/or constructive trust counts?

DISCUSSION

PARIKH I AND THE DOCTRINE OF LAW OF THE CASE

In Parikh I, we determined that the orphans' court did not err in finding that the parties had reached a binding agreement regarding the distribution of the assets of the estate as reflected in the Terms of the Agreement. We summarized that agreement as follows:

> [T]he Terms of Agreement … is a binding and enforceable agreement. The parties agreed to the essential terms of settlement subject only to the approval of the Orphans' Court. Tina would share with Neela a fixed percentage of the estate after expenses based on her agreement with Neela, in exchange for dismissing various claims and renouncing her interest in certain stocks; Namish would receive a fixed percentage; Neela would share a fixed percentage with Tina, receive certain financial accounts located in India and a condo in India, and she could vacate the North Carolina divorce without opposition from the other parties; Oxana would receive payments for certain expenses that she incurred. And, upon final distribution, the parties agreed to general, mutual releases.

Parikh I, slip. op. at 21. Oxana has raised issues in the present appeals that were resolved by the May 3rd Order enforcing the Terms of Agreement, and as to those issues, our decision in Parikh I constitutes the law of the case.

"The law of the case doctrine is one of appellate procedure. Once an appellate court rules upon a question presented on appeal, litigants and lower courts become bound by the ruling, which is considered to be the law of the case." Dept. of Public Safety and Correctional Servs. v. Doe, 439 Md. 201, 216 (2014) (quoting Garner v. Archers Glen Partners, Inc., 405 Md. 43, 55 (2008)).

The "doctrine lies somewhere beyond *stare decisis* and short of *res judicata.*" Tu v. State, 336 Md. 406, 416 (1994). It differs from *stare decisis* in that *stare decisis* is "concerned with the effect of a final judgment as establishing a legal principle that is

binding as a precedent in other pending and future cases," and the law of the case is "concerned with the extent to which the law applied in decisions at various stages of the same litigation becomes the governing principle in later stages." Id. (quotations omitted). Similarly, it "differs from *res judicata* in that it applies to court decisions made in the same, rather than a subsequent, case." Scott v. State, 379 Md. 170, 182 n.6 (2004) (quotations omitted).

The law of the case doctrine does not apply exclusively to trial courts, as "[d]ecisions rendered by a prior appellate panel will generally govern the second appeal at the same appellate level as well, unless the previous decision is incorrect because it is out of keeping with controlling principles announced by a higher court and following the decision would result in manifest injustice.'" Scott, 379 Md. at 184 (cleaned up). As the Court of Appeals has explained:

> It is the well-established law of this state that litigants cannot try their cases piecemeal. They cannot prosecute successive appeals in a case that raises the same questions that have been previously decided by this Court in a former appeal of that same case; and, furthermore, they cannot, on the subsequent appeal of the same case raise any question that could have been presented in the previous appeal on the then state of the record, as it existed in the court of original jurisdiction. If this were not so, any party to a suit could institute as many successive appeals as the fiction of his imagination could produce new reasons to assign as to why his side of the case should prevail, and the litigation would never terminate.

Fidelity-Baltimore Nat'l Bank & Trust Co. v. John Hancock Mut. Life Ins. Co., 217 Md. 367, 371-72 (1958). Thus, "[o]nce an appellate court has answered a question of law in a given case, the issue is settled for all future proceedings." Stokes v. American Airlines, Inc., 142 Md. App. 440, 446 (2002). The law of the case doctrine "prevents trial courts

from dismissing appellate judgment and re-litigating matters already resolved by the appellate court" in a case involving the same parties and the same claims. Id.

We reject Oxana's argument that our decision in Parikh I is "'clearly erroneous' and inflicts 'manifest injustice' by reforming a Will and forcing Ms. Oxana into a feigned contract with non-interested persons in the estate." We note that Oxana sought review of our decision in the Court of Appeals, and her petition for certiorari was denied. Accordingly, our decision in Parikh I constitutes the law of the case as to the issues raised in the present consolidated appeals issues that were decided or could have been decided in Parikh I. See Stokes, 142 Md. App. at 446.

ISSUES RESOLVED BY PARIKH I

Challenges to the Order Removing Oxana as Personal Representative and Appointing SA Boynton as Special Administrator

In these consolidated appeals, Oxana continues to challenge the validity of the September 19, 2016 order removing her as personal representative and appointing SA Boynton as special administrator of the estate. We affirmed the orphans' court's order appointing SA Boynton in Parikh I.

There, we explained:

> With the filing of the caveat, the issue before the Orphans' Court was not the removal of the personal representative under ET § 6-306 (that terminated under ET § 6-307(a)), but rather who should be appointed special administrator under ET § 6-401. In the context of the case, we are not persuaded that the Orphans' Court abused its discretion in appointing a special administrator other than Oxana or any other family member.

Parikh I, slip. op. at 36.

Because the law of the case doctrine precludes parties from raising issues in a subsequent appeal that were addressed or could have been presented in the previous appeals of the same case, see Fidelity-Baltimore Nat'l Bank & Trust Co., 217 Md. at 372, as a matter of law, we are bound to follow our prior decision in Parikh I affirming the order appointing SA Boynton as special administrator of the estate. Accordingly, we reject Oxana's continued opposition to that order.

Order of December 8, 2017

Oxana also challenges the December 8, 2017 order of the orphans' court denying her second petition to remove SA Boynton and her petitions to strike Tina's claims against the estate and for payment of Mr. Maloney's attorneys' fees.[11] Tina argues that these challenges should be dismissed pursuant to Md. Rule 8-602 as it is either not allowed by Maryland rules or laws or because the issues have become moot. We agree that Oxana's challenges were resolved by our decision in Parikh I.

In Parikh I, Oxana challenged the orphans' court's order of August 16, 2017 declaring as moot Oxana's petition to remove SA Boynton and her motion requesting the court to issue a show cause order for the hearing on April 25 and 26, 2017 on the petition to remove SA Boynton. Slip. op. at 39-40. We affirmed the orphan's court's finding, stating, "the Orphans' Court's decision to grant Tina's motion to enforce the Terms of Agreement following the April 25-26, 2017 hearing rendered all the outstanding motions

[11] We note that no attorney's fees were paid from the estate. Because the Terms of Agreement provided that each party, except Neela, pay his or her own fees, Tina is responsible for her own attorney's fees.

or petitions moot, including those specifically referenced in the hearing and those that were not." Slip op. at 39-40.

"A case is moot when there is no longer an existing controversy between the parties at the time it is before the court so that the court cannot provide an effective remedy." O'Brien & Gere Engineers, Inc. v. City of Salisbury, 447 Md. 394, 405 (2016) (quoting Clark v. O'Malley, 434 Md. 171, 192 n. 11 (2013)). Thus, because Tina's claim against the estate and her claim for attorneys' fees were resolved by the Terms of Agreement, and because Parikh I affirmed the enforcement of Terms of Agreement, see Parikh I, slip. op. at 24, there is no controversy left for this Court to decide.

ISSUES NOT RESOLVED BY PARIKH I

Order Granting Additional Powers to SA Boynton

Oxana contends that the orphans' court erred in granting further additional powers to SA Boynton in the October 6th Order arguing that the court was without authority to grant the powers under Section 6-403 of the Estates and Trusts Article ("ET") of the Maryland Annotated Code (1974, 2017 Repl. Vol.), the order violated the statutory automatic stay, and the court failed to provide a rationale for its decision.

SA Boynton petitioned the orphans' court to appoint her as personal representative of the estate to facilitate the expeditious administration of the estate and to fend off future challenges to her authority as a special administrator. The court determined that it would be more prudent to enlarge SA Boynton's powers rather than appoint her personal representative while the appeal of May 3rd Order was pending, and the orphans' court action was stayed. The court explained:

> I do think that the stay is being hamstrung by circumstance, and that some issues need to be addressed, but I do think that it's prudent, more prudent to not appoint [SA] Boynton as personal representative at this time with the matters pending on appeal. . . . I deny [SA] Boynton's motion to be appointed as personal representative. I will, however, approve specific authorization in an order that does include the ability to take care of taxes, so that we can put an end to the further deterioration of the estate, the interest … and penalties on taxes that might be owed. I will approve the expenditure of litigation expenses . . . .
>
> I will also authorize that the North Carolina proceeding may be addressed and . . . attempted to be resolved by [SA] Boynton, and she may continue to address the litigation matters as is in the best interest of the estate.
>
> * * *
>
> [COUNEL FOR SA BOYNTON]: Your Honor, can I just - - one of the other issues is, like, payment of CPA fees, and may the order also say that [SA] Boynton is authorized to pay fees incurred in the normal course of administration?
>
> THE COURT: Yes.

Contention that the Orphans' Court was not Authorized to Grant Powers to SA Boynton

The powers of a special administrator of an estate are determined by statutes and rules. Section 6-403 of the Estates and Trusts Article authorizes the orphans' court to assign specific powers to the special administrator of an estate, as follows:

> (a) A special administrator shall collect, manage, and preserve property and account to the personal representative on the personal representative's appointment.
> (b) A special administrator:
> (1) Shall assume all duties unperformed by a personal representative …, and
> (2) Has all powers necessary to collect, manage, and preserve property.
> (c) *In* addition, *a special administrator has the other powers designated from time to time by court order*.

ET § 6-403 (emphasis added). In addition, ET § 2-102(a)(1) provides that "[t]he [orphans' court] may conduct judicial probate, direct the conduct of a personal representative, and pass orders which may be required in the course of the administration of an estate of a decedent." Maryland Rule 6-454(d) further provides in part: "The special administrator shall collect, manage, and preserve property of the estate and shall account to the personal representative subsequently appointed. The special administrator shall have such further powers and duties as the court may order."

In Parikh I, we recognized the orphans' court's authority to pass orders regulating the administration of the estate:

> ET § 2-102(a) provides, "The [Orphans' Court] may conduct judicial probate, direct the conduct of a personal representative, and pass orders which may be required in the course of the administration of an estate of a decedent." In other words, the Orphans' Court has authority to "administer the estates of deceased persons," "entertain petitions of interested persons and resolve their questions concerning an estate or its administration," and "pass orders relating to the settlement and distributions of the estate." *Kaouris v. Kaouris*, 324 Md. 687, 695 (1991).

Parikh I, slip. op. at 31.

Contrary to Oxana's contention, ET § 6-403 did not require SA Boynton to obtain any additional authority "to incur legal expenses" as the court specifically "approve[d] the expenditure of litigation expenses," excluding attorneys' fees. The court's order granting SA Boynton additional powers to manage the orderly administration of the estate was within its authority to "pass orders which may be required in the course of the administration of an estate of a decedent." ET § 2-102(a). We therefore conclude that the orphans' court order granting SA Boynton the power to manage the estate proceedings and

direct the management of the litigation involving Dr. Parikh's divorce in North Carolina was a proper exercise of the court's authority pursuant to ET §§ 2-102(a) and 6-403 and Rule 6-454(d).

Contention that the Order Violated the Statutory Automatic Stay

Oxana's contention that the October 6th Order violated the automatic stay provision of the Courts and Judicial Proceedings Article ("CJP") of Maryland Annotated Code (1974, 2013 Repl. Vol.) § 12-701(a)(1)[12] is without merit. Because that order pertained to the payment of the outstanding tax liability of the estate and the expenses incurred in the administration of the estate, it did not concern the issues previously appealed and therefore did not violate the statutory stay. See CJP § 12-701(a)(2).[13]

We also reject Oxana's contention that ET §5-207(b)[14] mandated a stay of all proceedings and that the orphans' court violated this statute by granting further powers to SA Boynton. See Shealer v. Straka, 459 Md. 68, 90-91 (2018) (holding that, pursuant to ET §5-207(b), "the filing of a petition to caveat does not effect a 'stay' on the entire

[12] CJP § 12-701(a)(1) provides that "[a]n appeal from an orphans' court or a circuit court stays all proceedings in the orphans' court concerning the issue appealed."

[13] CJP § 12-701(a)(2) provides that: "[a]n appeal from an orphans' court or a circuit court does not stay any proceedings in the orphans' court that do not concern the issue appealed, if the orphans' court can provide for conforming to the decision of the appellate court."

[14] ET § 5-207(b) provides: "(1) If the petition to caveat is filed before the filing of a petition for probate, or after administrative probate, it has the effect of a request for judicial probate[;] (2) If the petition to caveat is filed after judicial probate the matter shall be reopened and a new proceeding held as if only administrative probate had previously been determined[;] (3) In either case described in paragraphs (1) and (2) of this subsection, the provisions of Subtitle 4 of this title apply."

proceeding; instead, a petition to caveat simply prevents the orphans' court from admitting the will to probate until after the judicial probate proceedings are concluded").

Oxana also argues that she was "ambushed" because the court's grant of enlarged powers to SA Boynton was a remedy that SA Boynton had not requested. We note, however, that Oxana had notice and an opportunity to be heard regarding SA Boynton's petition. In fact, Oxana attended the September 29, 2017 hearing and argued at length before the court in opposition to SA Boynton's petition for appointment as personal representative. As such, her argument fails.

Contention there was no Rationale for the Orphan Court's Decision

We further note that Oxana's contention that the court failed to provide a rationale for its decision is contradicted by the record. The orphan's court explained that it was specifically authorizing SA Boynton to pay outstanding taxes, which had already accrued interest and penalties, and to resolve the divorce litigation to avoid incurring additional expenses and further dissipation of the estate.

The August 29th Order

Oxana challenges the August 29th Order pertaining to the stay of interim accounting. According to Oxana, the August 29th Order was entered sua sponte and in violation of the automatic stay provision set forth in CJP § 12-701(a). She further contends that the August 29th Order violated her due process rights.

SA Boynton responds that the August 29th Order was a proper exercise of the orphans' court's power to control estate proceedings and clarify confusion as to whether

the May 3rd Order staying all accounting and inventory included the filing of an interim accounting.

The May 3rd Order stated that "the requirement for the Inventory and Final Accounting for the Estate is stayed …" and further provided that the inventory and final accounting be filed as follows:

> 2. SA Boynton shall file an Inventory in the Estate proceeding as soon as reasonably possible after the receipt by her of the monies held in the Registry of the Circuit Court for Montgomery County, Maryland (Civil 425847V);
>
> 3. SA Boynton shall, within 10 days of the Inventory, make partial distribution of fifty percent (50%) of the liquid assets on hand as provided in the [Terms of Agreement], to the respective interested persons in the percentage amount stated in the [Terms of Agreement];
>
> * * *
>
> 11. SA Boynton shall, within 10 days of approval of the Final Accounting, make the remaining distribution as provided in the [Terms of Agreement] to the respective interested persons in the percentage amount stated in the [Terms of Agreement.]

See Parikh I, slip. op. at 23-24 n.24.

On August 24, 2017, the Register of Wills issued a "Past Due Notice for Failure to Submit Account" regarding the estate. In response to that notice, on August 29, 2017, the orphans' court entered the August 29th Order clarifying its May 3rd Order, explaining "that all accounting and inventory requirements are stayed, including Interim Accounting, pending further Court Order."

Contention that the Order was Entered Sua Sponte and in Violation of the Automatic Stay

In Parikh I, appellants raised a similar argument. There, they asserted that the orphans' court's August 16, 2017 ruling that Oxana's outstanding motions were moot had

altered the May 3rd Order in violation of the statutory stay. Parikh I, slip. op. at 37-38. We determined that the August 16, 2017 order "was a proper exercise of the Orphans' Court's power to control the estate proceedings," as it had restated a prior ruling by the court regarding the mootness of other motions. Parikh I, slip. op. at 39.

The August 29th Order was needed to clarify the orphans' court's May 3rd Order and to satisfy the overdue interim accounting notice from the Registry of Wills. This order effectuated the parties' agreement regarding the filing of an inventory and accounting and the distribution of assets, as set forth in the Terms of the Agreement. Also, as we recognized in Parikh I, "[b]ecause the court's revisory power is generally broad, in such instances, it 'may be corrected by the court at any time on its own initiative, or on motion of any party after such notice, if any, as the court orders.'" Parikh I, slip. op. at 56 (citing Md. Rule 2-535(d)).

Consistent with our determination in Parikh I that "the May 3rd Order was a proper exercise of the court's jurisdiction to 'pass orders which may be required in the course of the administration of the estate of a decedent[,]'" pursuant to ET § 2-102(a), we conclude that the August 29, 2017 order was a proper exercise of the court's jurisdiction to manage the administration of the estate, as well as its revisory powers.

Oxana's argument that an interim accounting was necessary to ensure that the estate assets would not be dissipated—and hence deprive Oxana of her claim for reimbursement of Dr. Parikh's funeral expenses—is without merit. Oxana's claim for reimbursement of funeral expenses was included in the Terms of Agreement, which provided that she would be paid $9,780 from the estate. Because the enforceability of that agreement has been

established as the law of the case, Oxana's claim for reimbursement of funeral expenses is moot.

Contention that the Order Violated Appellants' Due Process Rights

Oxana further argues that the orphans' court violated her due process rights by entering the August 29th Order without a petition from an interested person, a hearing, and an opportunity for her to oppose it. Oxana also argues that the orphans' court erred by failing to provide a rationale for its decision.

As we noted earlier, the August 29th Order was simply a clarification of the May 3rd Order enforcing the settlement agreement, and did not involve a substantive change. We therefore perceive no due process violation. See Fisher v. Fisher, 75 Md. App. 193, 199 (1988) (finding no due process violation where "[t]he subsequent order was simply a technical clarification, not a new substantive ruling"). Moreover, we conclude that no further explanation by the court of the clarification was required because trial judges are presumed to know the law and apply it properly. See State v. Chaney, 375 Md. 168, 181 (2003).

Further, Oxana had an opportunity to address the distribution of assets and the filing of the inventory and accounting at the hearings before the court on April 25 and April 26, 2017. She did not attend those hearings. Parikh I, slip op. at 12, n.16. Her arguments are thus without merit.

Motion to Remove the Matter to the Baltimore City Orphans' Court

On August 17, 2017, Oxana filed an emergency motion to remove this matter to the Orphans' Court for Baltimore City due to her perceived inability to obtain a fair trial in

Montgomery County.[15] At the September 29, 2017 hearing on her motion before Judge Richard E. Jordan, Oxana pointed to numerous adverse rulings against her as evidence of the unfair treatment she had received. She also asserted that both SA Boynton and SA Boynton's attorney, James Debelius, were receiving "special treatment" because SA Boynton's ex-husband, Judge David A. Boynton, was a Montgomery County Circuit Court judge and because Mr. Debelius' brother, Judge John Debelius, was a retired Montgomery County Circuit Court judge.

In denying her motion, the court found that Oxana's petitions had been considered and denied on the merits and that her allegations of impartiality amounted to nothing more than generalized complaints. Further, Judge Jordan explained that a petition to remove a special administrator is not among the issues that may be transmitted to the circuit court for jury trial.

Oxana contends that Judge Jordan's bias against her was evidenced by his comments that "any lawyer in the first year of law school knows you don't get a jury trial from the orphans' court," and "it never looks good when every action taken by a personal representative or a special administrator is challenged. When there are accusations of, in essence, conspiracies and unethical conduct by attorneys and judicial officials, that doesn't look good. . . ." She also asserts that the court has repeatedly failed to recognize her as the

[15] Oxana's challenges to court's refusal to allow the removal of the estate case to Baltimore City Orphans' Court are presented in appeals No. 1480, Sept. Term, 2017; No. 1655, Sept. Term, 2017; No. 501, Sept. Term, 2018; and No. 2312, Sept. Term, 2018. We note that Oxana argues in her briefs alternatively for both removal of the estate matter and recusal of Judge Jordan. Our review of the record of the Orphan's Court indicates that Oxana filed only a motion for removal.

"sole-legatee," failed to acknowledge Dr. Parikh's will, and refused to strike the "fraudulent claims" against his will.

The Maryland Constitution, Article IV, § 8(c) provides for the right of removal of a case to another jurisdiction, and states, in pertinent part:

> [I]n all suits or actions at law . . . in this State which have jurisdiction over the cause or case, in addition to the suggestion in writing of either of the parties to the cause or case that the *party cannot have a fair and impartial trial* in the court in which the cause or case may be pending, it shall be *necessary for the party making the suggestion to make it satisfactorily appear to the court that the suggestion is true, or that there is reasonable ground for the same*; and thereupon the court shall order and direct the record of the proceedings in the cause or case to be transmitted to some other court, having jurisdiction in the cause or case, for trial.

Md. Const. Art. IV, § 8(c) (emphasis added).

The constitutional grounds for removal are set forth in Md. Rule 2-505(a):

> (1) In any action that is subject to removal . . . any party may file a motion for removal accompanied by an affidavit alleging that the party cannot receive a fair and impartial trial in the county in which the action is pending. If the court finds that there is reasonable ground to believe that the allegation is correct, it shall order that the action be removed for trial to a court of another county. . . .
>
> (2) In any action in which all the judges of the court of any county are disqualified to sit by the provisions of the Maryland Constitution, any party, upon motion, shall have the right of removal of the action to a court of another county or, if the action is not removable, the right to have a judge of a court of another county preside in the action.

"[T]he party seeking removal bears the burden of showing that a fair and impartial trial cannot be obtained." Pantazes v. State, 376 Md. 661, 675 (2003). Removal of a case "is a decision that rests within the sound discretion of the trial court." Id. (citation omitted).

The trial court's decision on removal will not be reversed absent a showing of abuse of discretion. Muhammad v. State, 177 Md. App. 188, 300 (2007) (quotation omitted).

A review of the record fails to persuade us that there were grounds upon which this case should have been transferred to another venue. There was no evidence of impropriety or personal bias against Oxana. Neither Judge Boynton nor Judge Debelius presided over any of the hearings in the case, and there is no evidence that either judge had any direct involvement or influence in the case. Further, Oxana does not contend that Judge Jordan had any kind of relationship with SA Boynton or Mr. Debelius which may have affected his ability to preside over the case with fairness and impartiality.

Oxana has also failed to show evidence of prejudice towards her beyond the court's rulings against her. "The fact that a court rules in favor of one party over the other does not automatically mean that the judge is biased or prejudiced against the losing party." Hill v. Hill, 79 Md. App. 708, 716 (1989) (finding no evidence to support appellant's contention that adverse rulings and perceived bias warranted judge's recusal). "Further, a judge is not disqualified from hearing a case because he has expressed his opinion as to the case." Id. (citations omitted). In short, there is no merit to Oxana's accusations of judicial misconduct on the part of Judge Jordan or any other member of the court. The court did not abuse its discretion in denying Oxana's ill-founded request for removal of the case to the Orphans' Court for Baltimore City.

NOTICES OF PAYMENT AND PAYMENT OF EXPERT FEE

Oxana contends that the orphans' court erred in overruling her exceptions to the First, Second, and Third Notices of Payment. She challenges SA Boynton's authority to

make the payments, the court's authority to approve the payments, and the legitimacy of the expenses paid from the estate.[16] She also challenges the payment of the fees of the North Carolina legal expert retained by SA Boynton.

We have noted that "nothing is more peculiarly within the jurisdiction of the Orphans' Court than its authority to pass on accountings by personal administrators of estates." Peterson v. Orphans' Court for Queen Anne's Cnty., 160 Md. App. 137, 178 (2004) (citation omitted). As such, "we will not overturn a decision of the Orphans' Court relating to an administrative account unless we are satisfied that the court erred or abused its discretion." Id. An order approving the payment of expenses of an estate constitutes a final judgment. Beyer v. Morgan State Univ., 139 Md. App. 609, 632-33 (2001) (holding that an orphans' court order approving payment of expenses incurred in preparing decedent's home for sale was final and appealable), aff'd, 369 Md. 335 (2002).

First Notice of Payment

On November 10, 2017, SA Boynton filed the First Notice of Payment or Reimbursement of Expenses (the "First Notice") in the amount of $2,282.82. The First Notice was supported by documentation showing expenses consisting of the circuit court filing fee, postage, printing costs for briefs and appendices in Appeal Nos. 546, 548, 1226, Sept. Term, 2017, a courier fee, and a parking fee.

[16] Oxana repeats many of her previous arguments based on her assertion that she is the rightful legatee of Dr. Parikh's will and the personal representative of the estate. As these issues were resolved in Parikh I, we shall not address them further here.

In her opposition to the First Notice, Oxana argued that the expenses were "improper/unlawful" because SA Boynton had failed to demonstrate that the charges were consistent with a fair and reasonable charge for the cost of administration pursuant to ET § 7-602(c).[17] Oxana further argued that SA Boynton failed to show that pursuant to ET § 7-603,[18] she had acted in good faith and with just cause in prosecuting and defending the litigation for which she had incurred the litigation expenses.

The court found that the expenses set forth in the First Notice were both reasonable and necessary, explaining:

> The payment or reimbursement of necessary and reasonable estate expenses during the pendency of an appeal are proper. A special administrator is not required to pay for estate expenses out of his/her own funds and the payment of expenses is not a "proceeding" in this Court that is subject to a stay pending appeal. The Court finds that the expenses claimed were reasonably and necessarily incurred, in part to protect the Estate from the many challenges to the Special Administrator's actions throughout the pendency of this matter. Furthermore, the claim is well documented in the Special Administrator's Notice.
>
> Post-death expenses are not subject to the statute of limitations or priority contended by [Oxana]. Also, the court Order does not and was not intended to apply only to expenses incurred after October 3, 2017.

[17] ET § 7-602(c) provides: "If the court shall allow a counsel fee to one or more attorneys, it shall take into consideration in making its determination what would be a fair and reasonable total charge for the cost of administering the estate under this article, and it shall not allow aggregate compensation in excess of that figure."

[18] ET § 7-603 provides: "When a personal representative or person nominated as personal representative defends or prosecutes a proceeding in good faith and with just cause, the personal representative or person nominated as personal representative shall be entitled to receive necessary expenses and disbursements from the estate regardless of the outcome of the proceeding."

ET § 7-602(c) pertains to the payment of attorneys' fees for services provided to the estate or personal representative or both. Because SA Boynton's First Notice related to reimbursement of court filing fees and administrative costs, not attorneys' fees, ET § 7-602(c) is inapplicable.

We determined in Parikh I that SA Boynton had statutory authority to protect the interests of the estate, including the filing of litigation against Oxana and Namish to recover the $1.14 million in funds that Oxana had transferred from Dr. Parikh to Namish. See Parikh I, slip. op. at 31.[19] Consistent with our recognition in Parikh I that SA Boynton had just cause to initiate the circuit court litigation, we perceive no error in the orphans' court's finding that she was entitled to reimbursement of the filing fee in that case and the administrative costs associated with the briefs submitted in Parikh I.

Payment to North Carolina Legal Expert

Oxana also challenges SA Boyton's payment of $1,275.00 to Albert Brophy, the North Carolina legal expert retained by SA Boynton in the circuit court action filed against Oxana and Namish to recover the funds transferred prior to Dr. Parikh's death. SA Boynton retained the expert to provide an affidavit regarding the nature and extent of the powers of Oxana as an attorney-in-fact under North Carolina law.

The orphans' court determined that Mr. Brophy's fee of $1,275.00, which represented 8.5 hours of time at the rate of $150 per hour was "fair and reasonable and

[19] As we stated, "[i]n light of the caveat and the competing claims of Dr. Parikh's immediate family members, a special administrator would, in our view, have been remiss in not taking action to avoid further dissipation of the estate property." Parikh I, slip. op. at 31.

incurred in good faith in the best interests of the estate in the successful effort by [SA Boynton] to collect funds improperly taken by [Oxana/Namish] from decedent prior to his death."

Oxana contends that the law of the case doctrine does not preclude review of SA Boynton's payment to Mr. Brophy. We agree that this specific issue was not decided in Parikh I. Our determination in Parikh I that SA Boynton had just cause to initiate the litigation against Oxana and Namish, and, in fact, that she would "have been remiss" in not taking action to recover those funds, was, however, a legal conclusion which we apply to our analysis of the orphans' court's approval of Mr. Brophy's fee. See Stokes, 142 Md. App. at 446 ("[o]nce an appellate court has answered a question of law in a given case, the issue is settled for all future proceedings"). Accordingly, we perceive neither error nor abuse of discretion in the orphans' court's determination that SA Boynton properly retained Mr. Brophy, and that Mr. Brophy's fees were fair and reasonable and incurred in good faith.

Second Notice of Payment

The Second Notice of Payment or Reimbursement of Expenses (the "Second Notice") represented reimbursement for the payment of Dr. Parikh's and Neela's joint state and federal income taxes for 2016, tax preparation services, and postage and delivery fees, totaling $76,068.02.

Oxana contends that the Second Notice was "unlawful" because Neela was not Dr. Parikh's lawful wife, Dr. Parikh was not a Maryland resident, the payment exceeded the orphans' court's limited jurisdiction, SA Boynton misrepresented herself as a personal

representative, and the orphans' court "intentionally besmirched" her to affect outcomes in this Court and the Court of Appeals.

The orphans' court determined that the payment of the itemized expenses was "clearly appropriate and within the proper administration and best interest of the Estate." Specifically, the court found that Oxana's "contention that the [tax] returns should have been filed in some other, unidentified state is without merit and, in fact, contradicts her own previous representations to this [c]ourt that the decedent was a resident of Maryland and that both federal and state taxes were due from the Estate." The court also found that the estate checking account which identified SA Boynton as Dr. Parikh's "Personal Representative" was not the result of any wrongdoing on the part of SA Boynton and that the error had since been corrected.

The orphans' court also rejected Oxana's contention that the filing of her appeals stayed all proceedings regarding the estate, including the payment of expenses. The court explained:

> An appeal does not stay the ministerial actions of the Special Administrator in satisfying the Estate's proper debts. To do so would be contrary to the best interests of the Estate, including, but not limited to, causing additional interest and penalties for further delay in satisfying tax obligations.

We agree.

The orphans' court retains jurisdiction to manage the administration of an estate for proceedings "that do not concern the issue appealed, if the orphans' court can provide for conforming to the decision of the appellate court." CJP § 12-701(a)(2); see also Jones v. Jones, 41 Md. 354, 360 (1975) (an appeal only stays such proceedings that could not be

carried on until its termination and does not remove the jurisdiction of the orphans' court over the administrator or the funds of the estate).

We perceive no abuse of discretion in the orphans' court's approval of the Second Notice. The validity of Neela and Dr. Parikh's marriage is no longer a dispute in this case, as the parties agreed as part of the Terms of Agreement not to challenge the order vacating the North Carolina divorce. The court's rejection of Oxana's contention that Dr. Parikh was not a Maryland resident is supported by the petition for small estate administration filed by Oxana, which stated that: "[t]he decedent, [Dr.] Parikh, was domiciled in Montgomery County, State of Maryland . . . ". And the payment of Dr. Parikh's income taxes was necessary to avoid the accrual of interest fees and further dissipation of the estate.

Third Notice of Payment

The Third Notice of Payment or Reimbursement of Expenses (the "Third Notice") represented reimbursement for expenses consisting of the second payment of Dr. Parikh's 2016 Maryland income taxes, an outstanding medical bill, the fee for the death certificate, a mediation fee, a bond premium for SA Boynton, postage, and printing and delivery expenses, in the total amount of $5,659.25.

Oxana's argument that there were not enough assets to pay the Third Notice in light of Tina's claims against the estate is moot because Tina's claims were resolved by the Terms of Agreement. See Parikh I, slip. op. at 21. Oxana's argument that the court erred in approving the Third Notice because SA Boynton had failed to file an inventory or final accounting is also moot due to the Terms of Agreement and the May 3rd Order staying the

requirement for the inventory and final accounting for the estate. See Parikh I, slip. op. at 23-24 n.4.

Although Oxana recognizes that the Register of Wills required SA Boynton to maintain a bond, she still argues that allowing payment of the bond was in error. We perceive no error in the court's determination that the payment of the bond premium was an appropriate expense of the estate. We note that there appears to be a computation error in the calculation of the expenses submitted in the Third Notice. SA Boynton requested reimbursement for $5,659.25, however, the exhibits to the Third Notice reflect expenses adding up to $5,761.18: a difference of $101.93 inuring the detriment of SA Boynton. Despite the computational error, we discern no abuse of discretion in the court's approval of the expenses submitted in the Third Notice as detailed in the supporting documentation.

JUDGMENTS OF THE ORPHANS' COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.