

Circuit Court for Prince George's County
Case No. CAE21-09349

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1895

September Term, 2023

IN THE MATTER OF THELMA FLOYD

Friedman,
Shaw,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: August 13, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to MD. RULE 1-104(a)(2)(B).

In this appeal, Sharon Bates challenges the order of the Circuit Court for Prince George’s County allowing Thomas Leahy, in his capacity as a court-appointed guardian of Bates’ sister, Thelma Floyd, to transfer Floyd’s home to Floyd’s stepsons. For the reasons that follow, we affirm the order of the circuit court granting Leahy the ability to transfer the home.

BACKGROUND

The briefs in this case are not a model of clarity and reflect the acrimony of the litigation more than they illuminate the issues. Nevertheless, we understand the gravamen of the question to be, did the circuit court abuse its discretion in granting Leahy’s motion to transfer Floyd’s home to her stepsons. We hold that the circuit court did not abuse its discretion and affirm the grant of the motion to transfer. Before we get to that core question, however, we will lay out the long history of this case and address additional issues that the parties raise in their briefs.

In 2007, Floyd married. Her husband brought to the marriage his two stepsons and his home in Temple Hills, Maryland. In 2014, her husband died, and Floyd and her stepsons agreed that she would reside at the home for life, or until she moved out, at which time the home would transfer to the stepsons. In August 2014, Floyd memorialized this agreement in a revocable living trust, naming herself the settlor-trustee and her brother and a stepson as successor trustees. The Temple Hills property was deeded to the trust.

In 2016, Floyd was diagnosed with frontotemporal dementia. In light of her diagnosis, Floyd modified the 2014 trust with an affidavit stating that Floyd would not sell

the property during her lifetime and that the property would be left to her stepsons upon her death or if a permanent disability required her to leave the property.

In September 2018, Floyd set up a second revocable living trust. She again named herself the settlor-trustee but this time named Bates as successor trustee. The 2018 Trust did not mention her stepsons and bequeathed all of Floyd's property to Bates.

In October 2021, the circuit court declared Floyd incapacitated, and Bates began to act with power of attorney over Floyd's affairs. Shortly thereafter, the Department of Family Services for Prince George's County filed a petition to remove Bates, raising questions regarding her care of Floyd's finances and person. A hearing was held at which the Department raised concerns about why there was a \$400,000 transfer to a bank account that listed Bates as beneficiary; about admissions that, despite having power of attorney, Bates never checked the balances on Floyd's account; and about how Floyd wore unclean clothing, did not take showers or baths, and did not have supervision throughout the day. After a hearing, the circuit court appointed Karen Sylvester as guardian of Floyd's person and Leahy as guardian of Floyd's property.¹ Bates appealed the appointment of both guardians to this Court. We affirmed the assignment of the guardians to Floyd's person and property.²

¹ We note that in his capacity as guardian of Floyd's property, Leahy brought an action against Bates alleging that she had engaged in fraudulent financial transactions involving Floyd's assets. Bates was found liable for conversion, unjust enrichment, constructive fraud, breach of fiduciary duty, civil conspiracy, and financial exploitation of Floyd's funds. Bates appealed, and this Court affirmed the judgments against her. *Bates v. Leahy*, No. 0613, Sept. 2024 (Jun. 13, 2025).

² *Matter of Floyd*, No. 1960, Sept. 2022 (Feb. 5, 2024).

With this background, we arrive at the present case. Leahy, in his capacity as guardian of Floyd’s property, filed a motion with the circuit court to abandon Floyd’s interest in the Temple Hills property and transfer the home to the stepsons. On October 3, 2023, the circuit court held a hearing on that motion. At the hearing, Leahy also asked that he be named successor trustee of both trusts. The circuit court named Leahy the successor trustee of both of Floyd’s trusts and allowed him to transfer the home to Floyd’s stepsons. Bates appeals from that decision.

ANALYSIS

The core issue here, as we mentioned above, is whether the circuit court erred in granting Leahy’s motion to transfer the home to the stepsons. The parties also raise, however, four additional issues that we must address first, as their resolution informs our holding.

First, the parties question, without explicitly asking us to address, which trust is controlling. Bates assumes that the 2018 Trust controls, while Leahy and the stepsons assume that regardless of the validity of the 2018 Trust, the property, deeded to the 2014 Trust, is still subject to the 2014 Trust. While this is certainly an interesting question, resolving it requires a finding of fact that is beyond the scope of this Court’s appellate review authority. MD. CODE, ESTS. & TRS. (“ET”) § 14.5-602(c) (stating the factual requirements for revoking a trust); MD. R. 8-131(a) (“[A]n appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court.”). As we will explain, however, the question of which trust controls is not

material to our review of the appointment of Leahy as successor trustee or the transfer of the property.

Second, Bates raises that there is newly discovered evidence that was not available for the October 3, 2023, hearing. That there is newly discovered evidence is not properly before this Court. Such a claim should take the form of a motion filed with the circuit court pursuant to its revisory power under Maryland Rule 2-535(c). Bates, however, raises it for first time in this appeal, and we are precluded from addressing it. MD. R. 8-131(a).

Third, Bates argues that the circuit court, in reaching its decision on the motion to transfer the home, improperly relied on the unsworn testimony of the stepsons' lawyer. This argument is without merit. The testimony to which Bates refers is the argument that the stepsons' lawyer made at the October 3, 2023 hearing. We understand Bates' argument to be that because the lawyer was not sworn in prior to addressing the court, her arguments lack trustworthiness. We observe, first, that the lawyer was making a legal argument on behalf of her clients, not presenting factual testimony. Lawyers are not sworn in before making legal argument. A lawyer, moreover, must take an oath at the start of their career to uphold the legal and ethical obligations of the profession and to abide by the rules of the court. MD. CODE, BUS. OCCUPATIONS & PRO. § 10-212. This is sufficient, without further evidence to the contrary, to ensure that the argument made by the stepsons' lawyer was made with integrity.

Fourth, Bates argues that the circuit court erred in appointing Leahy as the permanent guardian of Floyd's property. This Court previously held that there was no error when Leahy was appointed the permanent guardian of Floyd's property. *Matter of Floyd*,

No. 1960, Sept. 2022 at 9 (Feb. 5, 2024). Revisiting whether the circuit court erred in appointing Leahy as the guardian of Floyd is precluded by the law of the case doctrine. The law of the case doctrine provides that “a ruling by an appellate court upon a question becomes the law of the case and is binding on the courts and litigants in further proceedings in the same matter.” *Kline v. Kline*, 93 Md. App. 696, 700 (1992). In other words, a trial court cannot relitigate questions that were decided on appeal. *Id.* The doctrine, however, applies differently to appellate courts, allowing some degree of flexibility to revisit questions that have been previously decided. *Corby v. McCarthy*, 154 Md. App. 446, 479 (2003). An appellate court may depart from a prior decision when “the evidence on a subsequent trial was substantially different, controlling authority has since made a contrary decision on the law applicable to such issues, or the decision was clearly erroneous and would work a manifest injustice.” *Id.* at 479 (citation omitted). If one of these exceptions is not met, however, then we will not disturb the previous holding of the appellate court. *Id.*

Bates previously contested the appointment of Leahy as guardian. The circuit court heard and disagreed with Bates’s arguments against the appointment, this Court affirmed the circuit court’s decision, and the Supreme Court of Maryland denied certiorari. *Matter of Floyd*, No. 1960, *cert. denied*, 487 Md. 268 (2024). Looking for an exception to the law of the case doctrine, we find none applicable. There was no subsequent trial with substantially different evidence regarding the guardianship, no new controlling authority that would result in a different decision, and the previous decision of the appellate court

was not clearly erroneous. None of the exceptions are applicable here and we will not disturb the previous holding. We hold that Leahy remains the guardian of Floyd's property.

Finally, we arrive at the core of this case. As noted above, Leahy filed a motion to transfer the home to the stepsons.³ He argues that the affidavit to the 2014 Trust was a contract which obligated him to transfer the home to Floyd's stepsons. Over Bates's objections, the circuit court granted the motion based on its understanding of contract law. We affirm the grant of the motion to transfer the home, but we do so on a different theory than the one on which the circuit court acted. We affirm the transfer of the home because it was within Leahy's powers as a guardian of Floyd's property pursuant to the Maryland Trust Act, not contract law.

Guardianships are governed by Title 13 of the Estates and Trusts Article. When a guardian is appointed, they are vested with "all property of the ... protected person that is held at the time of appointment or acquired later." ET § 13-206(c)(1)(i). "The scope of a court's discretion and authority under the [guardianship] statute[s] is guided by the statute's

³ Leahy also requested the court to name him the substitute trustee for both the 2014 and 2018 Trusts. The circuit court, finding it was in the best interest of Floyd, granted the request. On appeal, Bates argues that this was in error because, she argues, it is a conflict of interest for Leahy to be both the guardian of Floyd's property and a trustee of the trusts. Bates also alleges that Leahy represents the interests of the stepsons, not Floyd, but there has been no evidence presented to support this accusation, nor was this accusation made prior to this appeal. While it may have been redundant to name Leahy successor trustee, the circuit court still had the authority to do so. ET § 14.5-704(d) ("The court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust, whether or not a vacancy in a trusteeship exists or is required to be filled."). Here, the court thought it in the best interest of Floyd for there to be one successor trustee for both trusts. It did not err.

plain language.”⁴ *Matter of Dory*, 244 Md. App. 177, 190 (2019). If the property vested is held by a revocable trust, the “guardian of the property of the settlor ... may exercise the powers of the settlor with respect to revocation, amendment, or distribution of trust property” but “only with the approval of the court supervising the guardianship and only if the trust instrument does not provide otherwise.” ET § 14.5-602(f). The guardian must “utilize [their] powers ... to perform services, exercise [their] discretion, and discharge [their] duties for the best interest of the ... disabled person[.]” ET § 13-206(c)(1)(iii) (quotation modified to use singular “they”); *Seaboard Sur. Co. v. Boney*, 135 Md. App. 99, 112-113 (2000) (describing the role of the guardian).

Before the circuit court declared her incapacitated, Floyd was the settlor of the 2014 and 2018 Trusts. When Leahy was made permanent guardian of Floyd’s property, he stepped into Floyd’s role as settlor-trustee of both trusts. Pursuant to ET § 14.5-602(f), once Leahy was appointed guardian of Floyd’s property, he, as “guardian of the property of the settlor,” could take any action with regard to the trusts that Floyd may have taken, given that he first ask for and receive court approval for each action.

Here, Leahy filed a motion asking the circuit court to transfer the home to the stepsons. The circuit court considered the motion, the Trusts, and the affidavit. It also heard

⁴ When interpreting a statute, “[t]he cardinal rule ... is to ascertain and effectuate” the purpose and intent of the General Assembly when it enacted the statute. *Hollingsworth v. Severstal Sparrows Point, LLC*, 448 Md. 648, 655 (2016). To do this, we first look at the plain language of the statute. *Lockshin v. Semsker*, 412 Md. 257, 275 (2010). If the “statute’s plain language is unambiguous and clearly communicates the General Assembly’s intent, then our inquiry ends,” and we apply the plain meaning of the statute. *Caruso Builder Belle Oak, LLC v. Sullivan*, 489 Md. 346, 366 (2025).

from Leahy, the stepsons, and Bates. At the hearing, there was no allegation of a conflict of interest, nor any evidence presented that the actions of Leahy were contrary to the best interest of Floyd. The court found that it was in Floyd's best interest to have one trustee for the two trusts and granted Leahy's motion to transfer the house to Floyd's stepsons. We agree and affirm.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE'S COUNTY IS
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**