

Circuit Court for Montgomery County,
Sitting as an Orphans' Court,
Case No.: W93983

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2266

September Term, 2019

RACHEL LEE BURLEY

v.

YVONNE DAWKINS

Berger,
Friedman,
Gould,

JJ.

Opinion by Gould, J.

Filed: March 12, 2021

*This is an unreported opinion, and it 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.

Lewis Burley (the “Decedent”) died in late 2017. Prior to his death, he was alleged to have handwritten a will requesting that his assets be distributed to Yvonne Dawkins. The Decedent’s niece, Rachel Burley, contests this document’s validity and instead contends that she is the sole intestate heir to the Decedent’s estate.

On March 27, 2019, Ms. Dawkins filed in the Orphans’ Court for Montgomery County a motion to admit the will and name herself as the personal representative of the Decedent’s estate. Ms. Burley filed a petition to caveat the purported will, challenging its validity and asserting that the legal requirements of a will were not met.

On July 26, 2019, the court held a hearing on Ms. Dawkins’ motion. The court denied Ms. Dawkins’ request to be named personal representative but granted her request to admit the will to probate. During the hearing, the court stated that the petition to caveat was not before it, and that it was admitting the will to probate “subject to the pending caveat.”

The court entered an order on August 5, 2019 (the “August Order”), stating:

A hearing on Interested Person, Yvonne Dawkins’, Motion to Remove Shanta Ramson, Esq. as the Personal Representative; to Appoint Yvonne Dawkins as the Personal Representative of the Estate; and to Admit the Will of the Decedent to Judicial Probate . . . having been held before the Orphans’ Court for Montgomery County, Maryland on July 26, 2019; it is this 30[th] day of July, 2019 by the Orphans’ Court for Montgomery County, Maryland,

ORDERED, that Interested Person, Yvonne Dawkins’, Motion to Remove Shanta Ramson, Esq. as the Personal Representative; to Appoint Yvonne Dawkins as the Personal Representative of the Estate; and to Admit the Will of the Decedent to Judicial Probate . . . , be and is hereby, Granted-in-Part; and it is further,

ORDERED, that the Last Will and Testament of Lewis Benjamin Burley, III, dated February 2, 2008, be and is hereby, admitted to probate; and it is further,

ORDERED, that Shanta Ramson shall continue to serve as the Special Administrator pending the outcome of the Petition to Caveat.

A hearing was scheduled in December (the “caveat hearing”) to adjudicate the caveat petition and examine the validity of the will. The caveat hearing has been continued twice, and to this day, has not yet occurred.

On October 4, 2019, Ms. Burley filed a motion to alter or amend the August Order, alleging that it was a “mistake.” She alleged that the court did not have the authority to admit the will to probate while a petition to caveat was pending. This motion was denied in an order entered on November 5, 2019 (the “November Order”). On November 14, 2019, Ms. Burley moved for reconsideration of the November Order. This motion was denied by an order entered on December 6, 2019 (the “December Order”).

Ms. Burley filed her notice of appeal on January 6, 2020.

DISCUSSION

This Court has no jurisdiction over a matter unless it is specifically granted to us by statute. *Quillens v. Moore*, 399 Md. 97, 115 (2007). One such statute is Section 12-501(a) of the Courts and Judicial Proceedings Article of the Maryland Annotated Code (2006, 2013 Repl. Vol.), which provides the right to appeal a final judgment of an orphans’ court. Final judgments in an orphans’ court are “those judgments, orders, decisions, etc. which, in caveat proceedings, finally determine the proper parties, the issues to be tried and the

sending of those issues to a court of law.” *Banashak v. Wittstadt*, 167 Md. App. 627, 657 (2006) (quoting *Schlossberg v. Schlossberg*, 275 Md. 600, 612 (1975)).

Here, the August Order maintained the status quo and resolved none of the underlying issues that were raised by Ms. Burley. Instead, as noted above, the court deferred the resolution of those issues to the caveat hearing, which has yet to occur. Accordingly, because there has been no appealable final judgment, this Court lacks jurisdiction over this matter.¹

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.

¹ In any event, even if the August Order was appealable, this appeal should be dismissed because Ms. Burley’s notice of appeal, which was filed on January 6, 2020, was untimely. *See* Md. Rule 8-202(a). Moreover, even if the November Order was appealable, the notice of appeal was untimely. *See id.* And finally, the December Order that denied the motion for reconsideration of the November Order is not appealable. *See Pickett v. Noba, Inc.*, 114 Md. App. 552, 560 (1997).