

Circuit Court for Howard County
Case No. 13-C-17-111663

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2497

September Term, 2017

MICHAEL E. DEBLASIS

v.

SAMUEL J. DEBLASIS

Friedman,
Beachley,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 1, 2019

*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.

Michael DeBlasis, appellant, appeals from an order, issued by the Circuit Court for Howard County, denying his request to remove Samuel DeBlasis, appellant, as the trustee for the Michael DeBlasis Trust (the Trust). On appeal, appellant raises three issues which reduce to two: (1) whether the court abused its discretion in denying his request to continue the case to subpoena certain witnesses and bank records, and (2) whether the court erred in denying his request to remove appellee as trustee. For the reasons that follow, we affirm.

Appellant first contends that the court erred in denying his request to continue the case, mid-hearing, to issue subpoenas for two witnesses and certain bank records concerning the Trust. We disagree. The decision as to whether to grant a continuance rests within the sound discretion of the trial court. *See Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006). Appellant claimed that issuing the subpoenas was necessary to “bring the truth to the Court” and to demonstrate the existence of a possible conspiracy between appellee and his other siblings to misappropriate money from the Trust. However, outside of appellant’s conclusory statements to the court, he proffered no evidence that would support the existence of such a conspiracy. Moreover, he did not specifically indicate what he believed the witnesses would testify to, or what the bank records would show, if they were subpoenaed to court and the case was continued. Most importantly, appellant acknowledged that he had not tried to issue any subpoenas or to utilize the discovery process to obtain the evidence that he sought prior to trial. Consequently, we cannot say

that the court abused its discretion in denying appellant’s motion to continue the case to issue his requested subpoenas.¹

Appellant also asserts that the court erred in denying his request to remove appellee as trustee. Pursuant to § 14.5-706 of the Estates and Trusts Article, the court can remove a trustee for various reasons, including if: (1) “the trustee has committed a serious breach of trust”; or (2) “because of unfitness, unwillingness or persistent failure of the trustee to administer the trust effectively, the court determines that “removal of the trustee best serves the interests of the beneficiaries.” Section 15-112 of the Estates and Trusts Article also provides for removal of a trustee where the trustee has: “shown himself incapable . . . to properly perform the duties of his office”; “breached his duty of good faith or loyalty in the management of the property of the fiduciary estate”; or “failed to perform any of his duties as fiduciary, or to competently administer the fiduciary estate.” In an action tried without a jury, we review the case on both the law and the evidence, and will “not set aside the judgment of the trial court on the evidence unless clearly erroneous[.]” Maryland Rule 8-131(c).

In his brief, appellant correctly points out that a trustee may be removed if he or she fails to disburse trust assets consistent with the terms of the trust, fails to provide trust records or an accounting, or fails to communicate with a beneficiary about the trust.

¹ Based on our review of the record, it appears the witnesses that appellant sought to subpoena did not live in Maryland. Therefore, it is not clear that the court could have subpoenaed them in any event. See *Bartell v. Bartell*, 278 Md. 12, 19 (1976) (noting that, in civil cases, the “subpoena powers of the State of Maryland stop at the state line”).

However, the circuit court determined that appellee did not engage in any of those activities. Specifically, it found that appellee had: (1) made all the payments required under the terms of the Trust; (2) “satisfied all the reasonable requests” made by appellant regarding information about the Trust; and (3) not abused his discretion in denying appellant’s requests for additional distributions because appellant had failed to explain why he needed the extra money. Those findings are supported by appellee’s testimony, which the court ultimately found to be credible. Because the court determined that appellee had not committed an offense that would have required his removal under either § 14.5-706 or § 15-112 of the Estates and Trusts Article, it did not err in denying appellant’s request to remove him as Trustee.

**JUDGMENT OF THE CIRCUIT COURT
FOR HOWARD COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**