

Filed February 4, 2009

IN THE APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2009

In re ESTATE OF)	Appeal from the Circuit Court
)	of the 12th Judicial Circuit,
KATHLEEN SAVIO, Deceased.)	Will County, Illinois
)	
)	No. 04-P-188
)	
)	Honorable
)	Carmen Goodman,
)	Judge, Presiding.

JUSTICE CARTER delivered the opinion of the court:

The father and four of the siblings of the above decedent filed a petition to reopen her estate, to remove the prior executor, and to appoint the father and one of the siblings as coexecutors of the reopened estate. After a hearing on the matter, the trial court granted the petition. The former executor of the estate and the decedent's ex-husband, who is also the guardian and father of decedent's two minor children, appeal the trial court's ruling, arguing that the trial court erred in: (1) reopening the estate, and (2) removing and replacing the former executor. We affirm.

FACTS

On March 1, 2004, 40-year-old Kathleen Savio was found dead in the bathtub of her home. An autopsy revealed that she had drowned. The death was classified in the initial autopsy report as accidental.

Savio was survived by her two minor children, K.P. and T.P, and by her ex-husband, Drew Peterson. Peterson is the natural father of the two minor children and also the children's guardian. Savio and Peterson were divorced in October or November of 2003 in a bifurcated proceeding. Although the bonds of marriage had been legally dissolved, the division of property between Savio and Peterson had been reserved and was still pending at the time of Savio's death. At the initial coroner's inquest, Savio's sister testified that she believed that Peterson was responsible for Savio's death and that Savio was scared that something might happen to her because of the upcoming property division hearing in the divorce case.

Initially, it was believed that Savio had died without leaving a will. The public guardian, Richard Kavanagh, was appointed as the independent administrator of Savio's estate. At some point later, however, a will was produced. The handwritten will, dated March 2, 1997, made a joint disposition of decedent's and Peterson's property. In the will, decedent and Peterson each provided that all of their property would pass to the other upon either of their deaths. The will provided further that if decedent and Peterson passed away at or about the same time, all of the property was to be divided equally between K.P. and T.P. and between Peterson's two adult children (S.P. and E.P.) from a previous marriage. Set forth in the will was a specific list of some of the property of Savio and Peterson, including certain life insurance policies, a pension, certain real estate, and a certain business interest. The will also provided that James Carrol was to serve as the executor of the estate.

In September of 2004, Peterson filed a petition to have James Carrol appointed as executor. Carrol followed up that request with a petition of his own. In March of 2005, an order was entered admitting Savio's will to probate, discharging Kavanagh as the independent administrator, and

