

Minutes
Jefferson County Commission
Thursday, September 12, 2013

A meeting of the Jefferson County Commission was held on Thursday, September 12, 2013 in the County Commission meeting room in the Old Charles Town Library located at 200 E. Washington Street, Charles Town, WV 25414 at 9 a.m. (An audio tape of the September 12, 2013 meeting is available through the Jefferson County Commission Office.)

PRESENT: Dale Manuel, President
Walter Pellish, Vice President
Patsy Noland, Commissioner
Jane Tabb, Commissioner
Lyn Widmyer, Commissioner
Sandy McDonald, Deputy County Commissioner
Lynn Fields, Deputy Probate Clerk
Stephanie Grove, Assistant Prosecuting Attorney
Cynthia Schott, Executive Administrative Assistant

Probate Attorney's: D. Frank Hill, III, Esquire – Fiduciary Commissioner
Stephen Skinner, Esquire

Probate Witnesses: Kathy D. Warden - Estate of William E. Dunn
Donna Smoot – Estate of William E. Dunn
Veronica Bennett – Estate of Lester Pete Snider
Evone E. Williams – Estate of Elva N. Crawford
Fred G. Crawford – Estate of Elva N. Crawford

In re: To conduct Hearings in regard to Probate Matters.

Commissioner Manuel opened the session at 9:00 a.m.

Commissioner Widmyer led the Pledge of Allegiance

1. Estate of William E. Dunn, PETITION TO DENY FIDUCIARY COMMISSIONER, D. FRANK HILL, III'S, ORDER TO DENY CLAIM OF KATHY WARDEN – Ms. Warden filed a claim for \$96K with the probate office against the estate of William E. Dunn for care she provided up until the end of his life. The claim was referred to D. Frank Hill, III when it was denied by the Executor, Donna Smoot. At a subsequent hearing, the claim was further denied by D. Frank Hill, III. Ms. Warden is appearing before the Commission to request they overrule Mr. Hill's ruling and demand the estate pay the claim.

Ms. Warden and Ms. Smoot were sworn in by the Clerk. Ms. Warden presented her case to the County Commissioners as to why she believed the Fiduciary Commissioner's ruling should be overruled.

Ms. Warden submitted the following into the record as evidence:

- 1A – Social Security Administration form TOE 210 – Claim for Amounts Due In the Case of Deceased Beneficiary.
- 2A - Medical Power of Attorney and Living Will.
- 2B – Handwritten note from Mr. William Dunn to Chase Bank stating Ms. Warden speak on his behalf regarding his mortgage loan.
- 2C – Note of sympathy from Hospice to Ms. Warden.
- 2D – Notice of Appearance and Certificate of Service from Andrew C. Skinner.
- 2E – Notice to Ms. Lynn Fields, Deputy Probate Clerk – Affidavit of Donna Smoot, as fiduciary of the Estate of William Ellard Dunn, Deceased. Denying the claim filed by Kathy D. Warden.

- 3A – Letter from Karen Olden, Deputy Probate Clerk, letter from Lynn Fields, Deputy Probate Clerk, letter from Dale A. Buck, Esquire regarding a claim affidavit.
- 3B – Letter from Ms. Smoot forwarded to Ms. Warden from Ms. Fields, Deputy Probate Clerk regarding Ms. Warden's claim.
- 3C – Summary of claim Ms. Warden intended to file against the estate of William E. Dunn, written by Ms. Warden.

- 4A – Assignment of Proceeds of Insurance document.
- 4B – Copy of a check received from Insurance Company.
- 4C – Copy of bank statement of William E. Dunn.

Ms. Warden called Ms. Smoot to testify. Mr. Skinner objected to Ms. Smoot being called as a witness.

Commissioner Manuel sustained Mr. Skinner's objection.

Mr. Skinner spoke on behalf of the Ms. Smoot presenting a case as to why Mr. Hill's ruling should not be overruled.

Mr. D. Frank Hill, III, Fiduciary Commissioner testified, affirming his report in full, submitted to the Commission. Ms. Grove requested Mr. Hill clarify if Ms. Warden's witnesses were allowed to testify, but sequestered, so witnesses could testify one at a time, so they did not hear what other witnesses testified to. A court reporter was present and a record made. Ms. Grove stated this is a very common practice.

- **Motion by Mr. Pellish to accept Mr. Hill's recommendation. Motion seconded and unanimously approved. So ordered to Counsel.**

2. Estate of Lester Pete Snider – PETITION TO PROBATE IN SOLEMN FORM, The Executrix for the estate of Lester Peter Snider is only able to find a copy of the Last Will and Testament. Mr. Dorsey, Esquire, prepared the Will and attested to the validity of this Will as it was executed in his office May, of 2011. The Executrix is requesting the Commission grant permission for her to probate the will in solemn form and admit the copy of the will to record. The Probate office sees no reason why the copy of the will cannot be admitted to record. Mrs. Bennett had done due diligence to attempt to find the original Will and to notify all interested parties and potential heirs at law.

Ms. Bennett was sworn in by the Clerk.

- **Motion by Ms. Noland to accept a copy of the Last Will and Testimony of Lester Pete Snider as presented to the Commission and permit the estate to be open for probate purposes. Motion seconded and unanimously approved.**

3. The Commission broke for recess at 9:50 am
The Commission reconvened at 10:00 am
4. Estate of Elva Nellie Crawford, PETITION TO REMOVE CO-PERSONAL REPRESENTATIVE OF THE ESTATE OF ELVA NELLIE CRAWFORD - The three (3) children of the deceased were previously qualified as co-executors of the estate. They have appeared before the Commission before for a dispute regarding the selling of the real estate of the estate. Two of the co-executors have been unable to reach a compromise or agreement with the third co-executor regarding the fair market value of the real estate. The two co-executors are requesting that the third co-executor be removed from his duties because he is wasting the assets of the estate and prohibiting them from selling the property and bringing the estate to a close. This estate in West Virginia is an ancillary estate; Ms. Crawford was probated in Maryland. Ms. Williams and Mr. Crawford were granted their request to have Carroll M. Crawford to be removed as co-e executor.

Ms. Evon E. Williams and Mr. Fred G. Crawford were sworn in by the Clerk.

Ms. Grove, Legal Counsel inquired the following for the record:

Ms. Grove stated the probate office received an email from Mr. Carroll Crawford requesting a continuance. Mr. Crawford contacted the office on Friday, September 6, 2013.

- Mr. Crawford received notice of the hearing 14-16 days prior to the hearing date.
- Ms. Fields stated Mr. Crawford did not request the hearing be rescheduled and it is Ms. Field's belief that Mr. Crawford would not be able to attend a hearing in the future due to many health issues.
- In phone conversations and emails, Mr. Crawford indicated he would be working on a rebuttal to the allegations in the packet he received. As of September 11, 2013 Mr. Crawford had not sent his rebuttal in. In a phone conversation Mr. Crawford indicated he was unable to work on his rebuttal due to his health.
- Ms. Grove stated without objection, Mr. Carroll's email will be entered into the record.

- **Motion by Ms. Noland to deny the continuance from Mr. Carroll Crawford. Motion seconded and unanimously approved.**

Ms. Williams and Mr. Crawford provided testimony as to why they believe Mr. Carroll Crawford should be removed as a co-executor.

- **Motion by Mr. Pellish to remove Mr. Carroll M. Crawford as a co-personal representative. Motion seconded and unanimously approved.**

Motion by Ms. Noland to adjourn at 10:22 a.m. Motion seconded and unanimously approved.

DALE MANUEL, COMMISSION PRESIDENT

Respectfully submitted,
Cynthia C. Schott
Executive Administrative Assistant