

STATE OF MINNESOTA
CARVER COUNTY

DISTRICT COURT
FIRST JUDICIAL DISTRICT
PROBATE DIVISION

In Re:

Court File No. 10-PR-16-46

Estate of Prince Rogers Nelson, Deceased.

**BRIANNA NELSON AND V.N.'S
OBJECTION TO OMARR BAKER,
ALFRED JACKSON, JOHN NELSON,
NORRINE NELSON, SHARON NELSON,
AND TYKA NELSON'S MOTION TO
DETERMINE HEIRS**

INTRODUCTION

On October 26, 2016, the Court issued an order excluding Brianna Nelson and V.N., a minor, as heirs to the Estate of Prince Rogers Nelson (the "Estate"). Brianna Nelson and V.N.'s appeal of the order is pending before the Minnesota Court of Appeals, and will not be decided for several months. After the Court of Appeals issues a decision, either party may file a petition for review with the Supreme Court of Minnesota, which would cause further delay to a final resolution of Brianna Nelson and V.N.'s heirship claims. In addition to Brianna and V.N.'s appeal, other previously excluded heirs, including Darcell Gresham Johnston, Loya Janel Wilson, Loyal James Gresham III, Orrine Gresham, and Venita Jackson Leverette, currently have appeals pending.

On January 12, 2017, the Court refused to determine heirs until the appeals are exhausted, recognizing that the appellants could be prejudiced by a premature determination of heirs. Still, Omarr Baker, Alfred Jackson, John Nelson, Norrine Nelson, Sharon Nelson, and Tyka Nelson ("Non-Excluded Heirs") filed a Motion to Determine Heirs, ignoring the Court's previous statement. In order to protect the interests of Brianna Nelson, V.N., and the other appellants, the Court should deny the Non-Excluded Heirs' Motion to Determine Heirs.

STATEMENT OF FACTS

Brianna Nelson and V.N.'s claims are based upon the parent-child relationship between John L. Nelson, the father of Prince Rogers Nelson, and Duane J. Nelson, Senior ("Duane"). Brianna Nelson is the daughter of Duane, who died in 2011. V.N. is the daughter of the Duane's son, the late Duane Nelson, Junior ("Duane Junior"), who was Brianna's half-brother. V.N. is the granddaughter of Duane. Because Duane was the son of John L. Nelson, Prince's father, Brianna and V.N. are the niece and grandniece of Prince, respectively.

Brianna Nelson and V.N. sought an evidentiary hearing to present the same type of social and behavioral evidence this Court and the Minnesota Supreme Court held sufficient to establish a parent-child relationship in *Estate of Palmer*, 658 N.W.2d 197 (Minn. 2003). Instead, the District Court, as a matter of law, excluded Brianna and V.N. as heirs of the Estate.

On December 22, 2016, Brianna and V.N. filed their Notice of Appeal with the Minnesota Court of Appeals, and subsequently filed their brief on April 7, 2017. The special administrator and the Non-Excluded Heirs are opposing Brianna and V.N.'s appeal. The parties need to finish briefing and set the matter for oral argument, after which time the Court of Appeals has 90 days to issue an order. Thus, the parties do not expect a decision from the Court of Appeals until the end of 2017.

ARGUMENT

- I. AS THIS COURT EXPRESSED EARLIER, THE COURT SHOULD WAIT FOR THE APPEALS TO BE EXHAUSTED BEFORE DETERMINING HEIRS IN ORDER TO PREVENT IRREPARABLE HARM TO BRIANNA AND V.N.'S INTERESTS.**

During the hearing on January 12, 2017, the Court refused to determine heirs until the pending appeals are resolved. The Non-Excluded Heirs completely disregarded the Court's previous statement and filed this Motion. They allege Brianna and V.N. will have ample opportunity and time to be added as heirs even after a determination of heirs is entered. However, the Court's concerns about a premature order determining heirs are warranted.

Pursuant to Minn. Stat. 524.3-412(2), a formal testacy order can only be vacated "if it is shown that one or more persons were omitted from the determination *and* it is also shown that the persons were unaware of their relationship to the decedent, were unaware of the death, or were given no notice of any proceeding concerning the estate, except by publication." (Emphasis added). Thus, the protections referred to by the Non-Excluded Heirs are actually in place to protect potential heirs that did not receive proper notice of the death of the decedent or the probate proceedings. This is not applicable to Brianna and V.N., who have been aggressively pursuing their heirship claims for the past year. The Court is well-aware of their claims and cannot determine heirs, knowing that they may need to be added as heirs.

Moreover, even if Brianna and V.N. were permitted to file a petition to vacate, this petition would need to be filed prior to the earlier of the following time limits:

- (i) If a personal representative has been appointed for the estate, the time of entry of any order approving final distribution of the estate, or, if the estate is closed by statement, six months after the filing of the closing statements;
- (ii) Whether or not a personal representative has been appointed for the estate of the decedent, the time prescribed by section 524.3-108 when it is no longer possible to initiate an original proceeding to probate a will of the decedent; and
- (iii) 12 months after the entry of the order sought to be vacated.

Minn. Stat. 524.3-412(3). The Non-Excluded Heirs indicated that distributions would be made after the expiration of these limitations period. (See Non-Excluded Heirs' Memorandum of Law in Support of Motion to Determine Heirs at p. 17). Unfortunately, the time necessary to resolve Brianna and V.N.'s pending appeal, along with possible review by the Supreme Court, is out of their control and will likely take much longer limitation periods set forth in § 524.3-412(3). Thus, the time to petition to vacate a testacy order determining heirs would pass before the appeals were settled.

Brianna and V.N. filed their brief with the Court of Appeals on April 7, 2017. Appellees' responsive brief is not due until May 8, 2017 after which time Brianna and V.N will need to file a reply brief then set a date for oral argument. After oral argument, the Court of Appeals has up to 90 days to issue a decision. This means that a decision by the Court of Appeals is not expected until the end of 2017.

To the extent that the Court's exclusion of Brianna and V.N. is reversed and remanded, discovery would need to be re-opened before Brianna and V.N.'s evidentiary hearing to prove their heirship. In short, Brianna and V.N. will not have the opportunity to file a petition to vacate within the limitations period set forth in § 524.3-412(3) due the time it will take for their appeal to be resolved and to present their evidence of heirship at a hearing.

II. PREMATURE DETERMINATION OF HEIRS WOULD CAUSE UNDUE BURDEN ON THE ESTATE, COURT, SPECIAL ADMINISTRATOR AND INTERESTED PARTIES.

The Non-Excluded Heirs make baseless allegations that the Personal Representative, the Estate, and the Court would be prejudiced by delaying the determination of heirs until the resolution of the appeals. This is simply not true. Comerica Bank and Trust, N.A. has been appointed as the Personal Representative, and will continue to manage the Estate until the

appeals are exhausted. Contrary to the Non-Excluded Heirs' allegations, the Estate, the Court, the Personal Representative, and other interested parties would be harmed if the heirs are determined prior to the resolution of the appeal.

If the appeals result in heirs being added or changed after a formal determination is already entered, this could result in years of additional litigation, as the new heirs would be forced to file petitions to vacate the previous testacy orders and challenge petitions filed by the determined heirs to settle and distribute the Estate. Additionally, to the extent that the Estate is mismanaged by the Non-Excluded heirs, or any assets are distributed prior to the resolution of these appeals, Brianna, V.N., and other potential heirs would need to take further legal action against the Estate and Non-Excluded heirs to remedy these damages. Ultimately, all involved parties could be burdened with years of additional litigation to remedy the damages caused by issuing a testacy order with an incomplete list of the heirs, or identifying any incorrect heirs.

CONCLUSION

The Court has rightfully expressed concern about prematurely issuing an order determining the heirs of Prince Rogers Nelson's Estate. During the hearing on January 12, 2017, the Court refused to enter any such order until the appeals are exhausted. For this reason, Brianna Nelson and V.N. request that the Court enter an order denying Omarr Baker, Alfred Jackson, John Nelson, Norrine Nelson, and Sharon Nelson's Motion to Determine Heirs. Alternatively, Brianna Nelson and V.N. request that the Court deny any subsequent petitions to settle and distribute the Estate until Brianna Nelson and V.N.'s appeal is exhausted.

Respectfully Submitted,
BRIANNA NELSON AND V.N., a minor,

By: /s/ Deanna Besbekos-LaPage

Dated: May 1, 2017

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Dated: May 1, 2017