

STATE OF MINNESOTA
IN COURT OF APPEALS

A24-0361

FILED

October 15, 2024

**OFFICE OF
APPELLATE COURTS**

In re the Estate of:
Kenneth Joe Van Houten, Deceased.

ORDER OPINION

Wadena County District Court
File No. 80-PR-22-61

Considered and decided by Bentley, Presiding Judge; Segal, Chief Judge; and Johnson, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. In this probate action, a friend of the decedent appeals from orders that denied her petition to vacate the final order settling the estate and awarded her \$2,000 in compensatory damages. We affirm.

2. Kenneth Joe Van Houten died in the state of Wyoming in December 2021 at the age of 71. One month later, his wife, Ruth Ann Van Houten, a resident of the state of Kansas, filed a petition for a formal adjudication of intestacy, a determination of heirs, and the appointment of a personal representative. Ruth alleged that Kenneth died without a will; that his only asset was real property in Wadena County, Minnesota; that he and she were married at the time of his death; and that his sole heirs are herself and the couple's

two adult children, who live in Missouri and Kansas. Ruth requested that she be appointed personal representative of the estate.

3. The district court scheduled a hearing on Ruth's petition. Ruth served notice of the hearing by U.S. mail on herself, the two children, and the commissioner of human services. Ruth also served notice of the hearing by publication in the *Wadena Pioneer Journal*. In March 2022, the district court appointed Ruth personal representative of the estate. In July 2022, Ruth filed an inventory stating that Kenneth's only asset was a house in Wadena County. In August 2022, Ruth filed a final accounting and a petition for the distribution of the sole asset. On August 24, 2022, the district court approved Ruth's proposal and ordered that title to the house be vested in her.

4. Approximately five months later, in January 2023, Jeanne Joelson (also known as Jeanne Joelson Van Houten) filed a petition to vacate the district court's August 24, 2022 order. Jeanne alleged that Kenneth had executed a will in which he left all his property to her, and she attached a copy of the purported will. The district court held a preliminary hearing on Jeanne's petition. In May 2023, the district court filed an order in which it denied Jeanne's request to probate Kenneth's purported will on the ground that the request was untimely. But the district court broadly construed Jeanne's petition to allege that personal property had been omitted from the estate, and the district court ruled that Jeanne was entitled to an evidentiary hearing on that issue.

5. The district court held an evidentiary hearing in September 2023. Jeanne has not provided this court with a transcript of that hearing. According to the district court's subsequent order, Jeanne testified that some items of personal property belonging to her—

specifically, clothing, boots, coats, furniture, pictures, a guitar, a collection of gold and silver coins, original paintings, and various other items—were wrongfully removed from the house and not returned to her. The district court’s order also states that Angela Cathcart, Kenneth and Ruth’s daughter, testified that she cleaned out the house and found women’s clothing, boots, and shoes inside, some of which she donated and some of which she put in a dumpster. The district court’s order further states that Cathcart testified that she called Jeanne by telephone approximately ten times about the items found in the house and that Jeanne responded only once, with a voice-mail message that was difficult to understand. In December 2023, the district court filed an order in which it concluded that Jeanne is entitled to \$2,000 in compensation for the improper disposal of her personal property.

6. Jeanne appeals on a self-represented basis. We construe her brief to raise three issues, as described below. No one filed a responsive brief. Nonetheless, this court must determine the appeal on the merits. *See* Minn. R. Civ. App. P. 142.03.

7. First, Jeanne argues that the district court erred on the ground that she did not receive proper notice of the probate proceeding. In an intestacy proceeding, a district court may vacate a formal intestacy order for lack of notice only if the petitioner proves, among other things, that a will exists or that a person was omitted from the determination of heirs. *See* Minn. Stat. § 524.3-412(1)-(2) (2022). Jeanne’s petition alleged a lack of notice only with respect to the purported will that she attached to her petition. The district court denied Jeanne’s request for vacatur of the final order on the ground that her submission of the purported will was untimely. Jeanne does not challenge that ruling on appeal. Jeanne could not prevail on a challenge to the determination of heirs because the district court

expressly found that Kenneth was married to Ruth, not Jeanne, at the time of his death, and Jeanne does not challenge that ruling on appeal. To the extent that Jeanne claims a lack of notice with respect to her personal property in the house, she cannot show that she has been prejudiced because she was given an evidentiary hearing on that issue and was awarded compensatory damages. Thus, the district court did not err by denying Jeanne's petition to vacate on the ground that Jeanne did not receive proper notice of the probate proceeding.

8. Second, Jeanne argues that the district court erred by awarding her only \$2,000 for the personal property that was improperly donated or discarded. She contends that the district court erred by not finding that she lost additional items of personal property and by not awarding her the full value of the items lost. Ordinarily, this court would apply a clear-error standard of review to the district court's findings. *See* Minn. R. Civ. P. 52.01; *see also Estate of King*, 992 N.W.2d 410, 416 (Minn. App. 2023). But Jeanne has not provided this court with a transcript of the evidentiary hearing. In general, an appellant is responsible for ordering and submitting any transcripts that are necessary for appellate review. Minn. R. Civ. App. P. 110.02, subd.1. If an appellant fails to submit a transcript, an appellate court cannot consider any arguments that require the review of a transcript. *See, e.g., Godbout v. Norton*, 262 N.W.2d 374, 376 (Minn. 1977); *Custom Farm Servs., Inc., v. Collins*, 238 N.W.2d 608, 609 (Minn. 1976); *Noltimier v. Noltimier*, 157 N.W.2d 530, 531 (Minn. 1968). Because Jeanne did not file a transcript, we cannot determine whether the district court clearly erred in its findings concerning which items of personal property belonged to Jeanne, which items were improperly discarded, and the value of the

improperly discarded items. Thus, Jeanne has not shown that the district court erred by awarding her only \$2,000 for personal property that was improperly donated or discarded.

9. Third, Jeanne argues that the district court erred by not finding that she is entitled to reimbursement for payments she allegedly made on a mortgage loan and for home-insurance premiums for Kenneth's house. Jeanne did not expressly seek such relief in her petition, but the district court broadly construed her petition to allege such claims against the estate. In its May 2023 order, the district court acknowledged Jeanne's claims based on the alleged mortgage- and insurance-related payments but stated that Jeanne had "provided no information about the time or amount of any such payments." The district court further stated that Jeanne could introduce evidence supporting those claims at the upcoming evidentiary hearing and that the court would "assess whether such claims can be brought against the probate estate." The district court record indicates that Jeanne did not introduce any exhibits at the evidentiary hearing. Without a transcript, we are unable to discern whether Jeanne submitted any other form of evidence of the alleged mortgage- and insurance-related payments. Thus, Jeanne has not shown that the district court erred by not finding that she is entitled to reimbursement for any mortgage- or insurance-related payments.

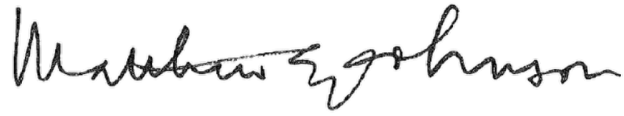
IT IS HEREBY ORDERED:

1. The district court's order is affirmed.

2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: October 15, 2024

BY THE COURT

A handwritten signature in black ink, appearing to read "Matthew E. Johnson". The signature is written in a cursive style with a large initial "M".

Judge Matthew E. Johnson