

[Cite as *Hadley v. Valkenburgh*, 2024-Ohio-2990.]

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
ATHENS COUNTY

MILES OWEN HADLEY, :
INDIVIDUALLY AND AS :
ADMINISTRATOR OF THE : Case No. 23CA15
ESTATE OF DAVID HADLEY, :
DECEASED, :

Plaintiff-Appellant, : DECISION AND JUDGMENT ENTRY

v. :

REBECCA VAN VALKENBURGH, :
ET AL., :

Defendants-Appellees. :

APPEARANCES:

Don E. Wirtshafter, Guysville, Ohio, for appellant.

Steven T. Sloan and Andrew J. Mollica, Athens, Ohio, for appellees Charles T. Brown and Mansour Gavin LPA.

Charles M. Elsea and Mickellea M. Tennis, Lancaster, Ohio for appellee Rebecca Van Valkenburgh.

Cynthia M. Rodgers, Dresden, Ohio, for appellee Deborah Van Valkenburgh.

CIVIL APPEAL FROM COMMON PLEAS COURT
DATE JOURNALIZED: 7-30-24
ABELE, J.

{¶1} This is an appeal from an Athens County Common Pleas Court judgment that dismissed the complaint filed by Miles Owen Hadley, individually and as administrator of the estate of David

Hadley (Hadley) plaintiff below and, ostensibly,¹ appellant herein. Appellant assigns the following errors for review:

FIRST ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED AS A MATTER OF LAW BY FINDING THAT THE COMPLAINT OF PLAINTIFF-APPELLANT ESTATE FAILED TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED, PURSUANT TO CIV.R. 12(B)(6), BECAUSE THE ESTATE'S COMPLAINT INVOKED THE SUBJECT MATTER JURISDICTION SQUARELY WITHIN THE EXCLUSIVE JURISDICTION OF THE PROBATE COURT AND AS A RESULT THE PROBATE COURT HAD EXCLUSIVE JURISDICTION TO PROCEED ON ALL CAUSES PRESENTED."

SECOND ASSIGNMENT OF ERROR:

"THE TRIAL COURT ERRED AS A MATTER OF LAW BY GRANTING DEFENDANT-APPELLEES' MOTIONS TO DISMISS FOR JUDGMENT ON THE PLEADINGS NOT BASED ON THE SUFFICIENCY OF THE COMPLAINT BUT INSTEAD ON FINDINGS MADE EXTRACTED FROM EXTRANEOUS ALLEGATIONS DEFENDANT-APPELLEES PROPOUNDED."

THIRD ASSIGNMENT OF ERROR:

"THE ATHENS COUNTY PROBATE COURT, A DIVISION OF THE ATHENS COUNTY COMMON PLEAS COURT,

¹ As we explain below, Miles Owen Hadley, individually and as administrator of the estate of David Hadley, deceased, did not file the notice of appeal. Instead, Saraquoia Bryant, Substitute Administrator of the Estate of David Hadley, Deceased, filed the notice of appeal. Hadley nevertheless listed Miles Owen Hadley, individually and as administrator of the estate of David Hadley, Deceased, as the "Plaintiff-Appellant" in his appellate brief. This opinion uses the same caption as the probate court's judgment. See App.R. 3(D) ("The title of the case shall be the same as in the trial court with the designation of the appellant added, as appropriate.").

ERRED AS A MATTER OF LAW IN DISMISSING THE PLAINTIFF-APPELLANT'S CLAIMS IN THIS CASE FOR LACK OF JURISDICTION, WHERE, AS HERE, THE PROBATE COURT COULD HAVE AND SHOULD HAVE TRANSFERRED SAID CLAIMS TO THE GENERAL JURISDICTION COURT OF THE ATHENS COUNTY COMMON PLEAS COURT, RATHER THAN LEAVING THE PLAINTIFF-APPELLANT WITHOUT A REMEDY."

{¶12} In 2021, after Hadley's father passed away, Hadley was identified as the sole heir and appointed the administrator of his father's estate. After Hadley obtained title to his father's real estate through the probate court, he sold real estate located on Plantsville Road in Amesville, Ohio, to his father's long-term girlfriend, Rebecca Van Valkenburgh, and her mother, Deborah Van Valkenburgh.

{¶13} Apparently, some of Hadley's father's personal property had been located at the Plantsville Road property. Thus, in the real estate purchase contract, Hadley specified that the "seller's" personal property was excluded from the purchase contract. Hadley and DH Property Management, LLC, a limited liability company that Hadley inherited from his father's estate, were listed as the "seller" in this contract.

{¶14} Perhaps unsurprisingly, disputes arose between Hadley and the Van Valkenburghs. Thus, on November 22, 2022, Hadley filed a complaint against the Van Valkenburghs, Charles T. Brown

(the attorney who initially helped Hadley with his father's estate), and Mansour Gavin LPA (the law firm where Brown works), defendants below and appellees herein. The complaint contained seven causes of action: (1) concealment of estate assets; (2) theft of estate property; (3) conversion; (4) fraud; (5) unjust enrichment; (6) legal malpractice; and (7) fraudulent transfer of real estate.

{¶15} Hadley alleged that he had demanded a return from appellees of the following estate assets: (1) real property located on Plantsville Road in Amesville, Ohio; (2) DH Property Management, LLC, which owns two parcels of real estate; (3) personal property, including "valuable jewelry, clothing, tools, furniture, collectibles, household goods, etc."; (4) an Apple iPhone; (5) a post office box; and (6) "bank accounts, financial instruments, or other items of value that have not been inventoried." Hadley asserted that, despite his demand for a return of the property, appellees "refused to allow an inspection, inventory or recovery of said property." He also contended that the Van Valkenburghs and Brown have "hidden Estate assets." Hadley further alleged that (1) the Van Valkenburghs failed to deliver the decedent's financial records and mail and that they have depleted other estate assets, and (2) while he acted as the estate administrator, appellees made

false representations to him regarding the decedent's financial records.

{¶6} Additionally, Hadley claimed that the Van Valkenburghs have been unjustly enriched by "concealing rents that Rebecca Van Valkenburgh collected and did not report to the Estate as well as owing the fair market rental value that she should have been paying while occupying the Amesville farm." He further alleged that appellees "have failed and refused to return personal property" that Hadley owns and personal property that the estate owned.

{¶7} Hadley also asserted that the Brown defendants (Charles T. Brown and Mansour Gavin LPA) breached their "duty to competently and professionally represent" Hadley. Hadley alleged that Brown, the former estate attorney, deceived Hadley, in his individual capacity, into selling, at a below-market rate, the Van Valkenburghs the real estate that Hadley had inherited. Hadley thus contended that the real estate transaction was "a fraudulent transaction that must be set aside."

{¶8} On December 13, 2022, the Van Valkenburghs filed a joint Civ.R. 12(B)(1) motion to dismiss the complaint due to a lack of jurisdiction. Their motion alleged that all of the property named in Hadley's complaint no longer belongs to the

estate. The Van Valkenburghs argued that Hadley transferred the real property to himself in his individual capacity or as the owner of DH Property Management. They pointed out that Hadley, individually and as sole owner of DH Property Management, entered into a real estate purchase agreement to sell the Plantsville Road property to the Van Valkenburghs. The Van Valkenburghs further asserted that the real estate purchase contract showed that Hadley had transferred all of the estate's personal property that had been located at the Plantsville Road property to himself individually. They pointed out that the contract contains a clause that exempts the seller's personal property from the sale of the real estate.

{19} In response, Hadley alleged that his complaint is a "civil case" that "concerns issues of identity theft, manipulation of estate bank accounts, cybercrimes, mail tampering, legal malpractice, and unethical conduct." He asserted that he "seeks the rescission of the real estate contract and sale of the Estate's real estate located on Plantsville Road in Amesville, Athens County, Ohio." Hadley stated that the claims "are based on [his] assertion that he was tricked through a series of false inventories that Attorney Brown prepared for filing in the probate case." More specifically, Hadley alleged that Brown "tricked" Hadley "into

selling the valuable real property he inherited for a fraction of its market value.”

{¶10} Hadley claimed that the concealment issue is being heard in the underlying probate case and asserted that “R.C. 2109.50 has nothing to do with this civil estate recovery case other than that the diversions identified in the R.C. 2109.50 hearing can be recovered in the civil case along with other losses, attorney fees, and costs.”

{¶11} In reply, the Van Valkenburghs argued that appellant’s complaint involves claims regarding Miles Hadley individually and not as the administrator of the decedent’s estate.

{¶12} On December 19, 2022, the Brown defendants filed an answer. One month later, they filed a motion for judgment on the pleadings and asserted that Hadley’s legal malpractice claim is not within the court’s jurisdiction.

{¶13} Hadley responded and argued that the title of the cause of action listed in the complaint, “legal malpractice,” is not the true cause of action. He asked the court to permit him to file an amended complaint that alleges that the Brown defendants breached their fiduciary duties.

{¶14} On March 13, 2023, Hadley filed a “Notice of Substitution of Party Plaintiff.” He stated that Saraquoia Bryant has been appointed the substitute administrator of David

Hadley's estate and captioned this notice and subsequent filings as "Saraqoia Bryant, Substitute Administrator of the Estate of David Hadley, Dec."

{¶15} On July 17, 2023, the court denied Hadley's motion to amend the complaint. On that same date, the trial court granted the Van Valkenburghs' motion to dismiss the complaint and the Brown defendants' motion for judgment on the pleadings. The court found that (1) the property included in the complaint had been distributed to Hadley, (2) the property is no longer part of the decedent's estate, and (3) the court lacked jurisdiction over claims that did not concern estate assets. Consequently, the court granted the Van Valkenburghs' motion to dismiss "as to Causes of Action one through five as well as Cause of Action seven."

{¶16} The trial court further found that Hadley's legal malpractice claim against the Brown defendants is not within its jurisdiction. The court thus granted the Brown defendants' motion for judgment on the pleadings as to Cause of Action six.² This appeal followed.

² Hadley's complaint names Brown in some of the other claims for relief raised in his complaint, including the claim that seeks to set aside the real estate transaction due to "fraudulent transfer." The trial court, however, granted Brown's motion for judgment on the pleadings only with respect to the sixth claim for relief.

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{¶17} Before we may consider the merits this appeal, we first must determine whether we have jurisdiction to do so.

{¶18} “Standing is a threshold question for the court to decide in order for it to adjudicate the action.” *State ex rel. Jones v. Suster*, 84 Ohio St.3d 70, 77 (1998); see *State ex rel. Novak, L.L.P. v. Ambrose*, 2019-Ohio-1329, ¶ 12 (“standing is necessary for justiciability”). Standing “refers to whether a party has a sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy.” *State ex rel. Ford v. Ruehlman*, 2016-Ohio-3529, ¶ 56, quoting *Davet v. Sheehan*, 2014-Ohio-5694, ¶ 22 (8th Dist.); accord *Black’s Law Dictionary* (11th ed. 2019) (“standing” refers to “[a] party’s right to make a legal claim or seek judicial

Moreover, although the trial court described its judgment as a “final order, which may be appealed,” the trial court did not recite the required language contained in Civ.R. 54(B). That rule requires “a court [to] make an express determination that there is no just reason for delay in order to make appealable an order adjudicating fewer than all the claims or the rights of fewer than all the parties.” *State ex rel. Scruggs v. Sadler*, 2002-Ohio-5315, ¶ 6; accord *Internatl. Bhd. of Electrical Workers, Local Union No. 8 v. Vaughn Industries, L.L.C.*, 2007-Ohio-6439, ¶ 8 (“A court may not bypass the requirement to include the express language of Civ.R. 54(B) simply by designating the order as final.”). Thus, in addition to dismissing this appeal based upon a lack of standing, we question whether we otherwise would be required to dismiss this appeal for a lack of a final, appealable order.

enforcement of a duty or right"). "[L]ack of standing vitiates the party's ability to invoke the jurisdiction of a court" to hear an action. *Bank of Am., N.A. v. Kuchta*, 2014-Ohio-4275, ¶ 22. Accordingly, to vest an appellate court with jurisdiction over a case, an appellant must have standing to appeal the trial court's judgment. *In re S.G.D.F.*, 2016-Ohio-7134, ¶ 11 (10th Dist.), citing *Ohio Contract Carriers Assn. v. Public Util. Comm. of Ohio*, 140 Ohio St. 160, 161 (1942) (a person "who attempts to appeal a judgment must meet standing requirements to invoke the jurisdiction of the appellate court"). An appellant's lack of standing is "a fundamental flaw" that requires "a court to dismiss the action." *Kuchta* at ¶ 23.

{¶19} As a general matter, only aggrieved parties have standing to appeal. *E.g.*, *Ohio Contract Carriers*, syllabus ("Appeal lies only on behalf of a party aggrieved by the final order appealed from."); accord *Midwest Fireworks Mfg. Co. v. Deerfield Twp. Bd. of Zoning Appeals*, 91 Ohio St.3d 174, 177 (2001). "Aggrieved means deprived of legal rights or claims." *Snodgrass v. Testa*, 2015-Ohio-5364, ¶ 27, quoting *Cononi v. Mikhail*, 1984 WL 5419, *6 (2d Dist. Jan. 10, 1984), citing *In re Annexation in Mad River Twp., Montgomery Cty.*, 25 Ohio Misc. 175, 176 (C.P. 1970); see also *Black's* (defining "aggrieved" to mean "having legal rights that are adversely affected; having

been harmed by an infringement of legal rights"); accord *Midwest Fireworks Mfg.* at 177.

{¶20} A "party," in turn, is "[o]ne by or against whom a lawsuit is brought; anyone who both is directly interested in a lawsuit and has a right to control the proceedings, make a defense, or appeal from an adverse judgment." *Black's*. Nonparties ordinarily have "no right of direct appeal." *State ex rel. City of Dayton v. Kerns*, 49 Ohio St.2d 295, 298 (1977). Instead, the right of direct appeal generally "is limited to any party to the proceeding." *Harrison v. Pub. Utilities Commission*, 134 Ohio St. 346, 347 (1938). Accordingly, unless an exception applies, "it is fundamental that no one can appeal from an order to which he is not a party." *Id.* at 347; see generally *Banks v. Toledo*, 2023-Ohio-1906, ¶ 24 (6th Dist.) ("a person must be a party to the case, or have attempted to intervene, in order to have standing to appeal from an adverse judgment").

{¶21} An "aggrieved party," therefore, is a party with an interest in the subject matter of the litigation that is "immediate and pecuniary, and not a remote consequence of the judgment.'" *Ohio Contract Carriers*, 140 Ohio St. at 161, quoting 2 American Jurisprudence 942, Appeal and Error, Section 50 (1936); see also *Black's* (defining an "aggrieved party" as

"[a] party entitled to a remedy; esp., a party whose personal, pecuniary, or property rights have been adversely affected by another person's actions or by a court's decree or judgment"). Thus, "the right to appeal can be exercised only by those parties who are able to demonstrate a present interest in the subject matter of the litigation which has been prejudiced by the judgment of the lower court." *Willoughby Hills v. C. C. Bar's Sahara, Inc.*, 64 Ohio St.3d 24, 26 (1992), citing *Ohio Contract Carriers* at 161; see generally *Black's* (defining "appellant" as "[a] party who appeals a lower court's decision").

{¶22} Furthermore, App.R. 3(A) states that "[a]n appeal as of right shall be taken by filing a notice of appeal with the clerk of the trial court within the time allowed by Rule 4." App.R. 4(A)(1) ordinarily requires "a party who wishes to appeal from an order that is final upon its entry" to "file the notice of appeal . . . within 30 days of that entry." (Emphasis added.)

{¶23} In the case sub judice, Saraquoia Bryant, Substitute Administrator of the Estate of David Hadley, Dec. (Bryant), filed a timely notice of appeal from the probate court's judgment that dismissed the complaint that Hadley filed in his individual capacity and in his capacity as the administrator of

the estate of David Hadley. The probate court did not, however, substitute Bryant as the plaintiff in the case below.

Therefore, Bryant was not a party to the proceedings below. As such, a party to the action below did not file a notice of appeal from the probate court's final judgment within 30 days of its entry.³ Bryant, therefore, lacks standing to appeal the probate court's judgment. See *Hokes v. Ford Motor Co.*, 2005-Ohio-5182, ¶¶ 6-7 (9th Dist.) (a person who was not a party to

³ We further note that the probate court lacks jurisdiction over Hadley's complaint to the extent that it does not involve estate assets or seek a return of estate assets. See generally R.C. 2101.24(A)(1); *Dumas v. Estate of Dumas*, 68 Ohio St.3d 405, 408 (1994) ("recovery of monetary damages for the alleged fraud" is an issue "solely within the jurisdiction of the general division of the court of common pleas"); *Prokos v. Hines*, 2014-Ohio-1415, ¶ 49 (4th Dist.) ("Appellants have cited nothing to convince us that Appellees' fraud claims in tort, requesting compensatory and punitive damages, along with rescission of the deeds to the fraudulently conveyed properties were somehow within the exclusive jurisdiction of the probate court and not properly within the subject matter jurisdiction of the Athens County Common Pleas Court, General Division."); *Rudloff v. Efsthadiadis*, 2003-Ohio-6686, ¶ 11 (11th Dist.) (action for "fraud, conversion, breach of fiduciary duty, or breach of contract" must "be pursued in the general division of the court of common pleas"); *Id.* at ¶ 20 (Christley, J., concurring) ("when a voided transfer would result in transferred property reverting to the estate," "a party may seek declaratory relief in the probate court to determine the validity of the transfer"); *Alexander v. Compton*, 57 Ohio App.2d 89 (1st Dist.1978) ("Probate Courts have no jurisdiction over claims for money damages resulting from fraud."); *In re Porter's Estate*, 17 Ohio Misc. 136, 141 (P.C.1969) (probate "court has no jurisdiction to determine the issues involved in a dispute between lawful distributees and their alleged contracting parties, regardless of the nature of that contract").

trial court proceedings could not appeal the trial court's decision). As a result, this court does not have jurisdiction over this appeal. See *id.* at ¶ 9 (dismissing appeal for lack of jurisdiction when nonparty lacked standing to appeal); see also App.R. 4(A)(1).

{¶24} Accordingly, based upon the foregoing reasons, we hereby dismiss this appeal.

APPEAL DISMISSED.

JUDGMENT ENTRY

It is ordered that the appeal be dismissed and that appellees recover of appellant costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Athens County Common Pleas Court to carry this judgment into execution.

A certified copy of this entry shall constitute that mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Hess, J. & Wilkin, J.: Concur in Judgment & Opinion

For the Court

BY: _____
Peter B. Abele, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.