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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
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Mark Reynolds

IN RE TO THE TRUST ESTATE OF THE MARGARET CORI HAGGARD REVOCABLE TRUST,

VICTORIA DUCKWORTH and LEILA DODDS,

Petitioners-Appellants,

v. **No. A-1-CA-42490**

ELIZABETH CORI HAGGARD, a minor,

Respondent-Appellee.

APPEAL FROM THE DISTRICT COURT OF GRANT COUNTY
Thomas F. Stewart, District Court Judge

Lopez, Dietzel, & Perkins, P.C.
William Perkins
Silver City, NM

for Appellants

Silver C. Gillian Law LLC
Gillian Sherwood
Silver City, NM

Guardian Ad Litem

MEMORANDUM OPINION

WRAY, Judge.

{1} The Trustees of the Margaret Cori Haggard Revocable Trust (the Trust) filed a petition requesting the district court to determine that Son, one of the two

beneficiaries of the Trust, had died without issue. According to the petition, Son's widow gave birth to Child approximately three months after Son's death but the Trustees questioned Child's paternity. Ultimately, the district court determined that it did not have personal jurisdiction over Child, that Child was presumed to be Son's issue, and that the Trustees lacked standing to challenge Child's paternity. The Trustees appeal. We conclude that the Trustees do not have standing to challenge parentage and affirm.

BACKGROUND

{2} The Trust provides that ten years after the death of Margaret Haggard (Mother), the Trust assets are to be divided between two individuals, who are identified in the petition as Mother's offspring, Daughter and Son. The Trust further provides that if either Daughter or Son die before the Trust assets are distributed, the share of the deceased beneficiary is to be paid to that beneficiary's issue. If the deceased beneficiary had no issue, the sibling of the deceased beneficiary receives that share. According to the petition, Mother died in 2013, Son died in November 2021, and Son's widow gave birth to Child in March 2022. In 2023, when the time came for the Trustees to distribute the Trust assets, they attempted to determine whether Child was Son's issue, but Son's widow declined to cooperate. At that point, the Trustees filed the petition in the instant case and requested that the district court

"decree [that Son] died without issue and direct the portion of the Trust estate set aside for him be given to [Daughter]."

{3} After Son's widow did not respond to the petition, the Trustees moved for default judgment. After a hearing, the district court appointed a guardian ad litem (the GAL) to represent Child to ascertain Child's position and submit a report and recommendation to the court. In turn, the GAL reported that she also was unable to contact Son's widow and recommended that the district court declare that Child was not Son's issue, that Son died without issue, and that Daughter receive the Trust assets. The district court rejected the GAL's recommendation and denied the motion, because "legally, [Son] died WITH issue" based on the New Mexico Uniform Parentage Act (the Parentage Act), NMSA 1978, §§ 40-11A-101 to -903 (2009, as amended 2025), and the Trustees did not have standing to challenge paternity. The Trustees appeal, and the GAL, having reconsidered their position, filed an answer in support of the district court's order.

DISCUSSION

{4} The Trustees make three arguments. First, the Trustees maintain that the district court did not need personal jurisdiction over Son's widow or Child because the district court had jurisdiction over the property at issue—the Trust assets. Second, the Trustees argue that the statutory presumption of parentage articulated in the Parentage Act did not apply in the present case. Third, the Trustees contend that

the Trustees had standing to seek a determination of beneficiaries and that the Parentage Act did not establish an exclusive list of those with standing to contest parentage. To resolve this dispute, we consider de novo the New Mexico Uniform Trust Code (the Trust Code), NMSA 1978, §§ 46A-1-101 to -11-1105 (2003, as amended 2018); the New Mexico Uniform Probate Code (the Probate Code), NMSA 1978, §§ 45-1-101 to -7-612 (1975, as amended 2024); and the Parentage Act. *See Cable v. Wells Fargo Bank, N.M.*, 2010-NMSC-017, ¶ 10, 148 N.M. 127, 231 P.3d 108 (stating that statutory interpretation "require[s] de novo review"). We need not address the district court's determination that it lacked personal jurisdiction over Child because we affirm the district court's alternative determination that the Trustees did not have standing to seek the relief requested in the petition.

{5} Standing is a doctrine that "allow[s] plaintiffs to enforce a right in the courts." *Gandydancer, LLC v. Rock House CGM, LLC*, 2019-NMSC-021, ¶ 8, 453 P.3d 434 (internal quotation marks and citation omitted). In the district court, the Trustees sought to enforce the right to a declaration that Child, who was domiciled in Florida, was not Son's issue and therefore not a beneficiary. The district court determined that under New Mexico law, and "apparently" under Florida law, (1) Son was presumed to be Child's parent because Son was married to widow and Child was born fewer than 300 days after Son's death, *see* § 40-11A-204(A)(2); and (2) the Trustees were not parties with standing to rebut the presumption of parentage, *see*

§ 40-11A-602. The Trustees challenge only the district court's determination under New Mexico law, and we therefore do not address whether Florida law was applicable or its substantive application. Specifically, the Trustees contend that the Parentage Act does not apply, because the Trust does not invoke the Parentage Act and because Mother intended for Son's share to pass to biological issue. We disagree.

{6} Under the Trust Code, "[t]he rules of construction that apply in this state to the interpretation of and disposition of property by will also apply as appropriate to the interpretation of the terms of a trust and the disposition of the trust property." Section 46A-1-112. The rules of statutory construction require that we read statutes that reference the same general subject matter together "in a way that facilitates their operation and the achievement of their goals." *Oldham v. Oldham*, 2011-NMSC-007, ¶ 11, 149 N.M. 215, 247 P.3d 736 (internal quotation marks and citation omitted); *see id.* (construing the Trust Code and the Probate Code together). We therefore consider the Trust Code and the Probate Code, as well as the Parentage Act, together to determine Mother's intent for the Trust. *See generally* § 45-1-102(B)(2) (explaining that a purpose of the Probate Code is "to discover and make effective the intent of a decedent in distribution of the decedent's property").

{7} The Probate Code defines "issue" as an "individual's descendants," § 45-1-201(A)(27), and "descendant" as "all of the individual's descendants of all

generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in the . . . Probate Code," § 45-1-201(A)(9). The definition of "child" refers to those who are "entitled to take as a child pursuant to the . . . Probate Code by intestate succession from the parent whose relationship is involved." Section 45-1-201(A)(6). The rules of intestate succession for the "parent-child relationship" define "genetic father" with reference to the presumptions established by the Parentage Act. Section 45-2-115(E) (citing § 40-11A-201(B)(1)-(3)).

{8} The Trustees acknowledge the relevance of the Probate Code to our interpretation of the Trust and cite many of these provisions, but they argue that Section 45-2-115(E) and the Parentage Act do not apply, because Child does not live in New Mexico and the district court has no jurisdiction to adjudicate parentage under the Parentage Act. But the district court in the present case did not exercise jurisdiction under the Parentage Act to adjudicate parentage. The district court determined only that the presumption of parentage applied to establish Child's status[1] and that the Trustees did not have standing to challenge the presumption in order to receive a determination that Child was not a beneficiary under the Trust.

[1]We observe that "the relation of parent and child is a status, rightfully, like marriage, regulated by any state in which the parties are domiciled." *Mylius v. Cargill*, 1914-NMSC-057, ¶ 4, 19 N.M. 278, 142 P. 918 (internal quotation marks and citation omitted).

{9} The Trustees protest that they had standing to request that the district court identify Trust beneficiaries. In this instance, we disagree with the Trustees' characterization of their request for relief. To obtain the relief requested in the petition, an adjudication of parentage was required. While the petition did not seek an adjudication of parentage directly, the Trustees sought a declaration that Son died without issue. Because parentage had not previously been adjudicated and the presumption of parentage was established by undisputed facts, to obtain the requested relief, parentage would have to be adjudicated in order to rebut the established presumption. *See* § 40-11A-204(B) (permitting an established presumption to be rebutted "only by adjudication" under the Parentage Act). Section 40-11A-602 gives standing to adjudicate parentage to the child, the mother, a parent whose parenthood is to be adjudicated, certain agencies, and "a representative authorized by law to act for a person who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor."[2] The Trustees are

[2]The Trustees also assert that the GAL had standing to consent to a judgment that Child was not Son's issue. The district court gave the GAL the authority to investigate and provide a recommendation to the district court. The GAL did so, and the district court exercised its discretion to reject the GAL's recommendation. The Trustees neither explain how the GAL's authority in this proceeding extended further nor suggest that the district court was required to accept the GAL's recommendation. *Cf. Thomas v. Thomas*, 1999-NMCA-135, ¶ 25, 128 N.M. 177, 991 P.2d 7 (determining that the district court's adoption of a guardian ad litem's report did not indicate that the district court abdicated its responsibility to consider the best interests of the children).

successor trustees to Mother, and a grandmother would not have been entitled to maintain a proceeding to adjudicate parentage under Section 40-11A-602. Absent the ability to adjudicate parentage in this proceeding based on either New Mexico or Florida law, the Trustees did not have standing to seek the relief requested in the petition.

CONCLUSION

{10} We affirm.

{11} **IT IS SO ORDERED.**

Katherine A. Wray

KATHERINE A. WRAY, Judge

WE CONCUR:

JENNIFER L. ATTREP, Judge

SHAMMARA H. HENDERSON, Judge