

ESTATE OF WILLIAM H. CUTLER JR.

Submitted on Briefs November 4, 2020

Decided December 3, 2020

Panel: MEAD, JABAR, HUMPHREY, and CONNORS, JJ.

MEMORANDUM OF DECISION

Two children of decedent William H. Cutler Jr. appeal from the judgment of the Penobscot County Probate Court (*Faircloth, J.*) denying their petition to reopen Cutler's estate pursuant to 18-A M.R.S. § 3-1008 (2018).¹ Contrary to Petitioners' contentions, we conclude that the Probate Court did not err in declining to apply to the petition the standard for motions to dismiss, *see Vincent v. Estate of Simard*, 2002 ME 109, ¶ 7, 801 A.2d 996, nor did it abuse its discretion in denying Petitioners' motion for reconsideration, *see U.S. Bank Nat'l Ass'n v. Manning*, 2020 ME 42, ¶ 32, 228 A.3d 726. We also conclude that the court did not err in finding that the life insurance policy, if it existed, was not a part of Cutler's estate and that 18-A M.R.S. § 3-1008 did not afford a remedy for allegations of fraud or impropriety. *See Vincent*, 2002 ME 109, ¶ 7, 801 A.2d 996. We do not address the separate issue of whether the discovery provisions of 18-C M.R.S. § 3-110 are available to the Petitioners under the factual circumstances presented here because Petitioners have failed to

¹ The Probate Court applied Title 18-A to the petition in the interest of justice, rather than Title 18-C, which had become effective on September 1, 2019, while the proceedings were ongoing. *See* 18-C M.R.S. § 8-301(2)(B) (2020); P.L. 2017, ch. 402, §§ A-1, A-2; P.L. 2019, ch. 417, § A-103 (establishing effective date of Sept. 1, 2019). However, as the court noted, the relevant sections are largely the same. *Compare* 18-A M.R.S. §§ 3-110, 3-1008 (2018) *with* 18-C M.R.S. §§ 3-110, 3-1008 (2020).

discretely present or develop that argument. M.R. App. P. 7A(a)(1)(E);² *Carey v. Bd. Of Overseers of Bar*, 2018 ME 119, ¶ 18, 192 A.3d 589 (“[I]ssues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived.” (alteration in original) (quoting and citing *Mehlhorn v. Derby*, 2006 ME 110, ¶ 11, 905 A.2d 290)).

The entry is:

Judgment affirmed.

Joseph M. Baldacci, Esq., Bangor, for appellants Estate of William H. Cutler, Jr., Timothy Cutler, and Kim Riitano

Asha A. Echeverria, Esq., J. Colby Wallace, Esq., and Patrick I. Marass, Esq., Bernstein Shur, Portland, for appellee Camden National Bank

Philip C. Hunt, Esq., Perkins Thompson, Portland, for appellee People’s United Bank

Kristy M. Hapworth, Esq., Rudman Winchell, Bangor, for appellee Shawn W. Cutler

Penobscot County Probate Court docket number 01-027
FOR CLERK REFERENCE ONLY

² Rule 7A(a)(1)(E) provides that the brief shall contain “[a]n argument. The argument shall contain the contentions of the appellant with respect to the issues presented and the reasons supporting each contention, with citations to the authorities and the particular documents or exhibits in the record relied on, with citation to page numbers of the appendix when they exist. The argument for each issue presented shall begin with a statement of the standard(s) of appellate review applicable to that issue.”