

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE  
AND TRUST OF JOHN C. BECKER.

No. 44661

ALLAN D. JENSEN,  
Appellant,  
vs.  
JANE KIMBERLY BECKER,  
Respondent.

**FILED**

**FEB 16 2006**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition for trustee and attorney fees in a probate action. Second Judicial District Court, Washoe County; James W. Hardesty, Judge.

Appellant Allan D. Jensen was appointed executor and trustee of Dr. John Becker's estate in 1993. Jensen hired himself as attorney for the estate. The beneficiaries of Dr. Becker's estate were his two daughters Bridget Jensen (Bridget) and respondent Kimberly Becker (Kimberly) and Bridget's two children. Jensen is Bridget's husband.

Despite the relative simplicity of the estate distribution, Jensen failed to make the appropriate distributions for over seven years. After the distributions were finally made, Jensen petitioned the court for trustee and attorney fees. The district court held three evidentiary hearings on the petition before denying Jensen the requested fees, concluding he failed to perform his duties and suffered from a conflict of interest. Jensen appeals. We conclude the district court did not abuse its discretion and thus affirm the district court's order.

A district court has wide discretion in awarding attorney and trustee fees in estate matters.<sup>1</sup> The court's latitude is limited only to the degree that the award be reasonable.<sup>2</sup> We review a district court's award under an abuse of discretion standard.<sup>3</sup>

The district court did not abuse its discretion by denying Jensen's request for attorney fees. Jensen asserts that he spent nine years as attorney and executor of the estate. However, evidence was presented that his representation was severely limited by Jensen's loyalty to his wife, who was a beneficiary under the trust. Both Kimberly and her former counsel testified that the delay in administering the trust was due to Jensen's belief that his wife's share of the inheritance was unfair. Additionally, Jensen's accounting contained numerous inaccuracies that were brought to the district court's attention.

Similarly, the court did not abuse its discretion by denying Jensen his requested trustee fees. The evidence was sufficient for the district court to conclude that Jensen delayed administration of the trust because he sought a more beneficial distribution for his wife. Had Jensen initially complied with the trust terms, the amount of work necessary to complete distribution would have been minimal.

Notably, although the district court denied Jensen's fee request, Jensen was still awarded statutory executor fees and costs. The

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<sup>1</sup>Matter of Estate of Bowlds, 120 Nev. \_\_\_\_, \_\_\_\_, 102 P.3d 593, 596 (2004).


<sup>2</sup>Id. at \_\_\_\_, 102 P.3d at 596-97; see NRS 150.060(1); see also NRS 153.070.

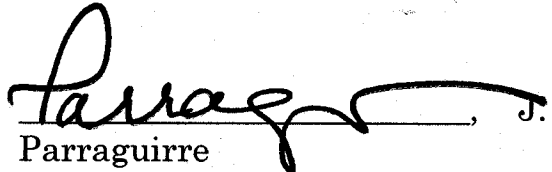
<sup>3</sup>Id. at \_\_\_\_, 102 P.3d at 597; Mau v. Woodburn, 80 Nev. 184, 188, 390 P.2d 721, 723 (1964).

court's order also indicated it was willing to consider an award for extraordinary executor fees and invited Jensen to supplement his petition with a detailed review of the extraordinary compensation sought. Jensen did not file such a supplement. As a result, he voluntarily relinquished his right to seek this additional compensation.

The district court's award was reasonable; therefore, the court did not abuse its discretion in denying Jensen's petition.<sup>4</sup> Accordingly, we ORDER the judgment of the district court AFFIRMED.

 \_\_\_\_\_, J.  
Douglas

 \_\_\_\_\_, J.  
Becker

 \_\_\_\_\_, J.  
Parraguirre

cc: Second Judicial District Court Dept. 9, District Judge  
Porter Simon, PC  
Jones Vargas/Reno  
McDonald Carano Wilson LLP/Reno  
Washoe District Court Clerk

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<sup>4</sup>We have considered Jensen's other claims and conclude they lack merit.