

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

IN RE: ESTATE OF JESSIE NEIL CHERRY.	:	APPEAL NO. C-200193 TRIAL NO. 2018002869
	:	
	:	<i>JUDGMENT ENTRY.</i>

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Executor-appellant Walter Cherry appeals the judgment of the Hamilton County Probate Court affirming in part, reversing in part, and modifying in part the magistrate's order. We affirm.

This case arises out of a dispute between brothers Walter Cherry and appellee Robert Cherry in the administration of their mother's estate. Walter filed three motions before the magistrate—(1) a motion for \$6,587 in funeral expenses, (2) a motion for return to the estate of real property located at 3625 Alaska Avenue, and (3) a motion for return to the estate of personal property (a 2000 Jeep Cherokee) of the estate.

After a hearing, the magistrate issued an order granting all three motions. Robert filed a motion to set aside the order. The trial court conducted an independent review of the magistrate's order. It found that the Jeep Cherokee was an asset of the estate. It found that the real property was in an IRA of the Equity Trust Company at the time of death and the decedent's estate was not a beneficiary of

the IRA. Therefore, the property was not an estate asset. Finally, it concluded that Walter was only entitled to half of the account from which the funeral expenses were paid.

The trial court affirmed the magistrate's order as it related to the Jeep Cherokee, reversed the order as it related to the real property, and modified the order as it related to the funeral expenses, holding that Walter was entitled to be reimbursed \$3,293 for funeral expenses.

In his sole assignment of error, Walter argues that the trust agreement is fraudulent because the wet ink signature version of the trust agreement was never provided.

After reviewing the motions and the hearing in front of the magistrate, it is apparent that Walter did not raise the "wet ink signature" issue or otherwise challenge the validity of the trust agreement before the magistrate or the trial court. Therefore, he has waived appellate review of the issue. *State ex rel. Armstrong Steel Erectors, Inc. v. Indus. Comm.*, 144 Ohio St.3d 243, 2015-Ohio-4525, 41 N.E.3d 1233, ¶ 18; *Kenwood Lincoln-Mercury, Inc. v. Daimlerchrysler Corp.*, 1st Dist. Hamilton No. C-000784, 2002 WL 10073, *3 (Jan. 4, 2002).

Walter also claims that he should have been fully reimbursed for the funeral expenses. However, he did not raise this issue as an assignment of error and he presents virtually no argument in support of his position. He has waived appellate review of the trial court's decision regarding funeral expenses. *See State v. Harris*, 2017-Ohio-5594, 92 N.E.3d 1283, ¶ 43 (1st Dist.) ("to receive consideration on appeal, trial court errors must be raised by assignment of error and must be argued and supported by legal authority and citation to the record").

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The sole assignment of error is overruled, and the judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MYERS, P.J., BERGERON and CROUSE, JJ.

To the clerk:

Enter upon the journal of the court on May 14, 2021,
per order of the court _____.
Administrative Judge