

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1232**

In re the Estate of Meloy Lee Brandsrud, Deceased.

**Filed May 31, 2022
Affirmed; motions denied
Wheelock, Judge**

Hennepin County District Court
File No. 27-PA-PR-20-1665

Scott Brandsrud, Hesperia, California (pro se appellant)

James M. Kempainen, Bloomington, Minnesota (for respondent Dawn Hesperheide)

Considered and decided by Wheelock, Presiding Judge; Jesson, Judge; and Bryan,
Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

In this probate dispute, appellant Scott Brandsrud argues that the district court erred by determining that respondent Dawn Hesperheide has standing to petition for formal probate of the will and appointment of a personal representative. Because the decedent designated Hesperheide as the successor personal representative in his will, she has standing to bring her petition. Brandsrud also filed four motions with this court regarding the record on appeal. Our review of the record indicates that Brandsrud's motions regarding the record lack merit. We therefore deny Brandsrud's motions and affirm the district court.

FACTS

The decedent passed away in November 2020. In his will, the decedent nominated his brother-in-law Donald Hedlund to serve as personal representative and his niece-in-law Hesperheide to serve as the successor personal representative if Hedlund was “unable or unwilling to serve as the Personal Representative.”

In early December 2020, Hedlund renounced his nomination and nominated Hesperheide to serve as personal representative. The next day, the decedent’s nephew, Brandsrud, petitioned for formal probate of the will and appointment of a personal representative. In his petition, Brandsrud requested that the district court invalidate the will and appoint him as personal representative of the intestate estate. His petition included a schedule of heirs and interested persons, listing himself, another nephew, two great-nieces, Hedlund, and Hesperheide.

Hesperheide objected to Brandsrud’s petition and petitioned for formal probate of the will and appointment of a personal representative. Hesperheide sought to probate the will as written and to appoint herself as the personal representative, supporting her petition with Hedlund’s renunciation and nomination of her as his successor. Brandsrud objected, claiming that Hesperheide’s petition contained errors and that the will was fraudulent.

The parties filed several motions in this case, but the motions relevant to this appeal are Brandsrud’s motion to dismiss for lack of subject-matter jurisdiction and motion for summary judgment on Hesperheide’s entitlement to petition. The district court denied both motions, determining that it properly exercised subject-matter jurisdiction over the

matter and that Hesperheide had standing to petition as a nominated successor personal representative and interested person. Brandsrud appeals.

Also, on various dates after filing this appeal, Brandsrud filed six motions in this court requesting that we (1) correct the record on appeal by adding a document purportedly missing from the record on appeal; (2) direct the district court administrator to send him a copy of the index of the documents transmitted to this court as the record on appeal; (3) direct the district court administrator to correct the appellate case number shown on the index of the items in the record transmitted to this court; (4) add to the record on appeal an index of the record that was before the district court; (5) expedite the release of our opinion in this appeal; and (6) reverse a portion of the district court's May 4, 2022 order setting trial for this matter in early June 2022. The fifth and sixth motions are unrelated to the record on appeal.

DECISION

Brandsrud's motions regarding the appellate record lack merit.

We first address the motions Brandsrud filed during the pendency of this appeal. First, the document Brandsrud asserts is missing from the record on appeal was included in the record on appeal and was both presented to and considered by this court in deciding this appeal. Second, Brandsrud requested that we direct the district court administrator to send him a copy of the index of the documents transmitted to this court as the record on appeal. We observe, however, that the next motion Brandsrud filed included a copy of the index he was seeking. Therefore, he was provided with a copy of that index. Third, the error Brandsrud asserts is in the appellate file number on the index of the record transmitted

to this court affected neither our identification of the contents of the record for this appeal nor the outcome of this appeal. Fourth, the court already has the index Brandsrud wanted added to the record on appeal, as we received that index on December 2, 2021, for purposes of this appeal. Accordingly, we deny Brandsrud’s four record-related motions. Brandsrud’s fifth and sixth motions were denied by separate orders of this court filed on May 9, 2022, and May 16, 2022.

Hespenheide has standing to petition.

Brandsrud argues that Hespenheide lacks standing to petition for formal probate and appointment of a personal representative because the will is invalid.^{1 2}

“Whether a party has standing is a question of law that appellate courts review de novo.” *In re Horton Irrevocable Tr.*, 668 N.W.2d 208, 212 (Minn. App. 2003). “Standing

¹ Although Brandsrud characterizes his arguments as challenges to subject-matter jurisdiction and standing, his brief focuses solely on standing. To the extent that Brandsrud challenges the district court’s subject-matter jurisdiction, his challenge fails as a matter of law. Minnesota Statutes section 524.1-302(a) confers jurisdiction on the district court over all matters “relating to estates of decedents, including construction of wills and determination of heirs and successors of decedents.” Minn. Stat. § 524.1-302(a) (2020). This case fits within that statutory grant of jurisdiction.

² Some of the arguments Brandsrud makes to challenge the district court’s order may stem from a misunderstanding of the probate process. We clarify that under probate law, a will is generally treated as valid unless and until it is successfully challenged at a hearing later in the formal probate process. *See* 24 Mary Alice Fleming & John R. Bedosky, *Minnesota Practice* § 3:1 (2021 ed.) (listing six steps in the “Formal Probate Process”); *see also, e.g., In re Est. of Torgersen*, 711 N.W.2d 545, 550-51 (Minn. App. 2006) (explaining the burden of proof for contesting the validity of a will and listing factors a court should consider when determining whether a will was validly executed), *rev. denied* (Minn. June 20, 2006). Thus, even if a will is invalid, a district court *cannot* evaluate the will’s validity until a petition is filed, beginning the probate process. We further observe that nothing in the district court’s order or our opinion prevents Brandsrud from contesting the will’s validity at a later-held hearing.

is the requirement that a party has a sufficient stake in a justiciable controversy to seek relief from a court.” *State by Humphrey v. Philip Morris Inc.*, 551 N.W.2d 490, 493 (Minn. 1996). Parties acquire standing when they suffer an injury-in-fact or when the legislature confers standing by statute. *Id.*

Minnesota Statutes section 524.3-401 confers standing to petition for formal probate and appointment of personal representative on persons nominated as personal representative in the decedent’s will, those who have priority under intestacy laws, or any interested person. Minn. Stat. § 524.3-401 (2020). Because the will designated Hesperheide as the successor personal representative, she has standing under all three categories.

First, the decedent nominated Hesperheide as the successor personal representative if Hedlund was unable or unwilling to serve. Hedlund renounced his nomination and nominated Hesperheide, satisfying the will’s terms. Second, Hesperheide has priority under intestacy laws. Individuals who are not disqualified to serve as personal representative have foremost priority for appointment if they have priority under a will. Minn. Stat. § 524.3-203 (2020) (listing six next priorities). Again, Hesperheide has priority under the will since it named her the successor personal representative. Finally, Hesperheide is an interested person because she is a “person having priority for appointment as personal representative.” Minn. Stat. § 524.1-201(33) (2020). For the same reason as the previous two categories, Hesperheide has standing as an interested person since the decedent’s will designates her as the successor personal representative.

We conclude that Hespenheide has standing to petition for formal probate as the designated successor personal representative under Minnesota Statutes section 524.3-401.

Affirmed; motions denied.