

*This opinion is nonprecedential except as provided by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
A22-1140**

Randy Hook,
Appellant,

vs.

Brenda Hook, individually,
Brenda Hook as Representative of Estate of Roger Lee Hook,
Respondent,

Buffalo Ridge Pheasants Forever Chapter 0551, et al.,
Respondents.

**Filed March 13, 2023
Affirmed
Slieter, Judge**

Lyon County District Court
File No. 42-CV-22-353

Paul M. Malone, Malone & Mailander, Slayton, Minnesota (for appellant)

Matthew Gross, Quarnstrom & Doering, P.A., Marshall, Minnesota (for respondent Brenda Hook)

John A. Engels, Engels & Larsen, PLLC, Minneota, Minnesota (for respondents Buffalo Ridge Pheasants Forever Chapter 0551 and Pheasants Forever, Inc.)

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges the district court's dismissal of this action in which he alleged fraud and conversion of firearms by respondent. Respondent is the personal representative of appellant's father's estate. Because the district court acted within its discretion when it dismissed appellant's complaint after concluding that it had concurrent jurisdiction to address appellant's claims in the probate proceeding, we affirm.

FACTS

In December 2020, respondent Brenda Hook, the surviving wife of Roger Hook, initiated a probate proceeding in Lyon County District Court and was appointed as the personal representative of Roger's¹ estate.

In October 2021, in the probate proceeding, Brenda filed an inventory, which included firearms and ammunition valued at \$36,000, and mailed the inventory to appellant Randy Hook, who is Roger's son and Brenda's stepson. In December 2021, Randy's attorney notified the attorney assisting with Roger's estate that Randy claimed ownership of firearms in the inventory. Two days later, Brenda transferred 59 firearms to the Pheasants Forever respondents.

In March 2022, Randy commenced this separate civil action, also in Lyon County District Court, asserting that the transfer of the firearms constituted conversion and fraud by: (1) Pheasants Forever, (2) Brenda individually, and (3) Brenda as personal

¹ Because many of the parties share a last name, we use first names to prevent confusion.

representative of Roger’s estate. Brenda filed a motion to dismiss the complaint for lack of subject-matter jurisdiction, which Pheasants Forever supported.

In June 2022, the district court dismissed the complaint. The district court concluded that “the probate court and district court in Lyon County have concurrent jurisdiction over the firearms and ammunition at issue,” and “[b]ecause the probate court was the first to obtain jurisdiction, all claims or controversies involving the disputed property shall be decided in [the probate proceeding].” Randy appeals.

DECISION

Randy argues that the district court erred by dismissing his complaint based on judicial comity.

“Judicial comity is the respect a court of one state or jurisdiction shows to another state or jurisdiction in giving effect to the other’s laws and judicial decisions.” *Medtronic, Inc. v. Advanced Bionics Corp.*, 630 N.W.2d 438, 449 (Minn. App. 2001) (quotation omitted). “In general, when courts have concurrent jurisdiction, the first court to acquire jurisdiction has priority in considering the case.” *Minn. Mut. Life Ins. v. Anderson*, 410 N.W.2d 80, 82 (Minn. App. 1987). “Generally, . . . comity between courts will resolve instances where two actions between the same parties, on the same subject, and to test the same rights, are brought in different courts having concurrent jurisdiction” *Gavle v. Little Six, Inc.*, 555 N.W.2d 284, 290 (Minn. 1996) (quotation omitted). In determining whether to defer to another court or jurisdiction, “a court should seek to determine which of the two actions will serve best the needs of the parties by providing a comprehensive solution of the general conflict.” *Anderson*, 410 N.W.2d at 82 (quotation omitted).

“We review a district court’s application of the principle of comity for an abuse of discretion.” *In re Commitment of Hand*, 878 N.W.2d 503, 506 (Minn. App. 2016), *rev. denied* (Minn. June 21, 2016). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

This action and the probate proceeding involve the same parties, the same subject, and test the same rights. *See Gavle*, 555 N.W.2d at 290. The parties are Randy, Brenda, and Roger’s estate.² The subject of each proceeding is the ownership of the firearms and whether the estate’s personal representative improperly transferred the firearms from the estate. And the rights involved regard the proper disposition of the firearms. Therefore, the district court acted within its discretion in determining that the probate proceeding would “serve best the needs of the parties by providing a comprehensive solution of the general conflict.” *Anderson*, 410 N.W.2d at 82.

Contrary to Randy’s argument, the matter can be addressed in the probate proceeding because probate courts have “been consolidated into district courts of general jurisdiction.” *In re Est. of Janecek*, 610 N.W.2d 638, 641 (Minn. 2000). “There is no district court which is not also a probate court, and [there is] no distinction between the

² The parties agree that Pheasants Forever is not a party in the probate proceeding, but we note that it may be joined if relief is not possible without its participation in that proceeding. *See* Minn. R. Civ. P. 19.01; Minn. Stat. § 524.1-304(a) (applying civil-procedure rules not inconsistent with the probate code to probate proceedings); *see also Anderson*, 410 N.W.2d at 82 (noting that it was “possible to add all the parties” to the same action).

courts.”³ *In re Est. of Mathews*, 558 N.W.2d 263, 265 (Minn. App. 1997), *rev. denied* (Minn. Mar. 20, 1997); *see also* Minn. Stat. §§ 484.011 (“The district court shall also be a probate court.”), .86, subd. 1 (permitting district courts to create divisions, including probate divisions) (2022). The Minnesota Uniform Probate Code provides that, in a probate proceeding, “The court has concurrent jurisdiction of any other action or proceeding concerning a succession or *to which an estate, through a personal representative, may be a party.*” Minn. Stat. § 524.3-105 (2022) (emphasis added).

In his civil complaint, Randy alleged conversion and fraud against Brenda “as Personal Representative” of Roger’s estate. Thus, there is no question that Brenda, as personal representative, not only “may be a party,” but *is* a party because she is a named party in Randy’s complaint.

Additionally, and contrary to Randy’s argument that the district court lacks the power to grant effective relief in the probate proceeding, another probate statute provides that the district court in a probate proceeding “has full power to make orders, judgments and decrees and take all other action necessary and proper to administer justice in the matters which come before it.” Minn. Stat. § 524.1-302(b) (2022). And our caselaw reiterates that the district court in a probate proceeding has “power to hear and finally dispose of all matters relevant to determination of the extent of the decedent’s estate and

³ Because there is no longer a separate probate court, only the district court conducting a probate proceeding, and both proceedings were before the same district court, we question whether the district court needed to apply the principles of comity to its dismissal of Randy’s complaint, which seeks the same remedy as in the probate proceeding. But, because the parties argue and the district court applied comity, we analyze it as such.

of the claims against it.” *In re Est. of Sangren*, 504 N.W.2d 786, 789 (Minn. App. 1993) (quoting Unif. Prob. Code § 3-105 cmt. d (1991)), *rev. denied* (Minn. Oct. 28, 1993).

Therefore, the district court acted within its discretion in dismissing Randy’s complaint after concluding that it could fully adjudicate his claims in the probate proceeding.

Affirmed.