

Illinois Official Reports

Appellate Court

In re Estate of O’Gara, 2022 IL App (1st) 210709

Appellate Court
Caption

In re ESTATE OF JAMES RUANE O’GARA, Deceased (Judith O’Gara, in Her Capacity as Administrator of the Estate of Thomas O’Gara, Deceased, Petitioner-Appellant, v. Lawrence O’Gara, in His Capacity as Supervised Executor of the Estate of James Ruane O’Gara, Deceased; and Johnson & Associates, PC, Respondents-Appellees).

District & No.

First District, Third Division
No. 1-21-0709

Filed

December 2, 2022

Decision Under
Review

Appeal from the Circuit Court of Cook County, No. 2014-P-005299; the Hon. Kent A. Delgado, Judge, presiding.

Judgment

Affirmed in part and dismissed in part.

Counsel on
Appeal

Daniel S. Ebner, of Prather Ebner LLP, of Chicago, for appellant.

Leslie J. Rosen, of Leslie J. Rosen Attorney at Law, PC, and Dorothy Johnson, of Johnson and Associates, PC, both of Chicago, for appellees.

Panel

JUSTICE GORDON delivered the judgment of the court, with opinion.

Justices Reyes and Burke concurred in the judgment and opinion.

OPINION

¶ 1 The instant appeal arises from a dispute between Judith O’Gara (Judith), in her capacity as administrator of the estate of Thomas O’Gara, deceased, and Lawrence O’Gara (Lawrence) and Johnson & Associates, PC, the law firm representing the estate of Father James Ruane O’Gara (Fr. O’Gara). Upon his death in August 2014, Fr. O’Gara left a will devising his estate evenly to his four brothers: Daniel, Thomas, Lawrence, and Martin. The will named Lawrence as the independent executor of Fr. O’Gara’s estate (the estate). Disagreements arose between Lawrence and Thomas about the handling of the estate. Thomas has since died and his wife, Judith O’Gara, was appointed independent administrator of his estate. Judith appeals a series of orders entered by the probate court, alleging various errors on the part of the probate court. Judith additionally alleges errors on the part of the probate court in failing to address certain issues in its decisions on motions in the case below.

¶ 2 For the following reasons, we find that we lack jurisdiction over some issues raised in this appeal and affirm the decision of the probate court with regard to other issues.

¶ 3 BACKGROUND

¶ 4 We have rendered a previous decision concerning this estate. See *O’Gara v. O’Gara*, 2022 IL App (1st) 210013. We refer to the facts described in that decision. The facts in the case at bar are detailed here only as they are relevant to the issues presented. To the degree the factual accounts provided by the parties differ, those differences will be noted.

¶ 5 Fr. O’Gara died in August 2014.¹ Fr. O’Gara left a will, as noted, devising his estate evenly to his four brothers, Daniel, Thomas, Lawrence, and Martin, to “share and share alike.” The will named Lawrence as the independent executor of the estate. The will was admitted to probate on September 30, 2014, and Lawrence was appointed as the independent executor.

¶ 6 Between March 15, 2016, and April 24, 2017, there were disputes about various details of the probate process that culminated in Thomas filing a third amended motion to convert the estate to a supervised administration on April 24, 2017. Thomas died January 3, 2018, and was replaced in the proceeding by his wife, Judith O’Gara. A hearing was held March 14, 2018, where both parties consented to convert the estate to a supervised administration. Judith had not yet been formally substituted for Thomas in the matter, so the probate court delayed the switch from independent administration to supervised administration until April 20, 2018, when the probate court granted Judith’s motion to replace Thomas.

¶ 7 Lawrence and Judith have a disagreement regarding the facts of an alleged unauthorized distribution made by Lawrence after the estate was under court supervision. Lawrence claims that on July 23, 2018, he made an interim distribution to the legatees: \$79,750 to Daniel,

¹Appellee’s brief states August 17, 2014, as the date of death, but Judith’s brief states August 7, 2014. The record on appeal supports August 7, 2014, as the correct date of death.

\$79,750 to Martin, \$77,400 to himself, and \$64,000 to Thomas. It is undisputed that this interim distribution was made without court approval and against Johnson's advice as Lawrence's attorney. Judith claims that Lawrence held the check for Thomas for five weeks. The check is dated July 23, 2018. The postmark on the envelope contained in the record that allegedly contained that check is postmarked August 31, 2018.

¶ 8 On July 30, 2018, Lawrence filed his "First Current Account and Report of Fr. O'Gara's Estate" (First Account), which does not include his distribution to the legatees. Judith objected to the First Account, and on December 12, 2018, a briefing schedule was established for Judith's objections. On December 14, 2018, Johnson filed a petition for legal fees. On December 19, 2018, Lawrence filed his petition for commissions and costs. Also on December 19, 2018, Lawrence filed his "Second Amended Inventory" (Second Inventory), which also did not reflect his distribution to the legatees.

¶ 9 On January 10, 2019, Judith filed her objections to the First Account and the Second Inventory. Some of those objections are raised again on appeal and are as follows: (1) that the recitations about tangible personal property in the First Account and the Second Inventory were favorable to Lawrence, Martin, and Daniel, while prejudicial to Thomas, because some of the items listed were actually gifted to Thomas prior to Fr. O'Gara's death and were not part of the estate; (2) that the First Account did not contain time records to justify the fees paid to Johnson while Lawrence was serving as independent executor; (3) that Lawrence had not identified, or else had undervalued, items of tangible personal property received from the estate by Lawrence, Martin, and Daniel; and (4) that the First Account and the Second Inventory contained "numerous errors, inconsistencies, and omissions related to the estate's financial assets," including (i) that "[t]he recapitulation in the accounting shows assets on hand at the end of the period that are \$150,000 greater than the financial statements for accounts titled in the estate show for that time," (ii) that "the inventory was missing assets as the accounting showed receipts from at least an Amalgamed Bank account and a Synchrony Bank account that did not appear in the estate's inventory," (iii) that "Lawrence also did not provide starting or ending values for the U.S. Treasury Direct and Fidelity accounts," and (iv) that "Lawrence also provided almost no backup documentation related to the [First Account] including financial statements, fiduciary income tax returns filed for the estate, and time records supporting payments to Lawrence and Ms. [Dorothy] Johnson."

¶ 10 At a hearing on February 26, 2019, the probate court addressed a large number of Judith's objections regarding valuation of personal property and accounting discrepancies at length, ordering the valuation of disputed items and the production of documents to fill gaps in the accounting up to that point. After some negotiations between the parties, all parties agreed to value all personal property at \$0. The parties also discussed equalizing the unauthorized interim distribution, but there was disagreement as to the method of equalization. Judith insisted that all who received distributions deposit them back into the estate and then a new, equal distribution be made, whereas Lawrence insisted upon equalizing the amounts by making additional distributions to all beneficiaries. The matter of distributions was not successfully resolved through negotiation between the parties.

¶ 11 On April 18, 2019, Judith filed a motion, titled "Judith O'Gara's Verified Motion for Disqualification of Johnson & Associates, P.C., Entry of Order from February 26, 2019 Hearing, Return of Unauthorized \$77,400 Self-Distribution by Executor, and Payment of Legal Fees Incurred by Thomas O'Gara's Estate." On April 23, 2019, Lawrence filed a Motion to

Enter Order Reflecting February 26, 2019, Proceedings. Both parties submitted proposed orders to the court along with these motions. At an April 30, 2019, hearing, the probate court denied Lawrence's motion, denied Judith's motion as to the February 26, 2019, order, and instructed the parties to prepare and submit an agreed order. The probate court additionally entered an order at the April 30, 2019, hearing that valued all personal property of the estate at \$0 and directed Lawrence to make the following distributions to equalize the prior unauthorized distribution: \$250 to Daniel's estate, \$16,000 to Thomas's estate, \$250 to Martin, and \$2600 to himself.

¶ 12 On May 7, 2019, the probate court entered an order directing Lawrence to provide various documents, setting the briefing schedule going forward, and noting that Judith's objections to attorney fees paid to Johnson & Associates, PC, and Judith's objections to executor commission paid to Lawrence prior to April 20, 2018, were reserved.

¶ 13 On May 30, 2019, Judith filed a motion seeking modification of the April 30, 2019, order (modification motion). In her motion, Judith sought to

"clarify three issues: 1) the timeframe in which Lawrence must make the equalizing distributions; 2) that Lawrence must maximize the estate's benefit from any personal property in the estate at the time of that order; and 3) that this Court explicitly denied both Judith and Lawrence's cross-motions presented at the April 30, 2019, hearing."

The modification motion was continued repeatedly while the case was transferred between judges, eventually being assigned to Judge Kent Delgado on November 12, 2019, after which it was further continued until January 13, 2021, when the court ordered, among other things, that Lawrence file a final accounting, "supported by documentation, including financial and bank statements from April 1, 2019, through December 31, 2020," to supersede all prior accountings. The January 13, 2021, order also ordered Lawrence to file an attorney fee petition and his supervised executor fee petition. Lawrence timely filed the ordered final accounting. Lawrence timely filed a petition for executor's commission in the amount of \$11,400, with an outstanding balance of \$3975 to be paid by the estate, and Johnson filed a petition for attorney fees in the amount of \$26,656.25, with an outstanding balance of \$19,372.75 to be paid by the estate.

¶ 14 On February 24, 2021, Judith filed her objections to the petition for attorney fees. In her objections, Judith argued (1) that the probate court had explicitly reserved Judith's objections to Johnson's previously submitted billing statements in an order on May 7, 2019, and that those objections must be resolved before the petition for attorney fees is granted in whole or in part, (2) that the petition for attorney fees should be denied because of an ongoing appeal regarding Thomas's estate against Lawrence, in which a "grant of dismissal and partial striking was based in part on proceedings in this Estate in which Johnson participated, and those proceedings are accordingly a subject of Judith's appeal," (3) that some specific entries were non-estate work and, therefore, should not be approved, (4) that some specific entries represented time during which Johnson represented Lawrence in his private capacity, rather than the estate and, therefore, should not be approved, (5) that the 2016 discovery citation and the 2017 recovery citations filed by Lawrence against Thomas were frivolous and, therefore, time billed in association with them should not be approved, and (6) that, for no specified reason, the specific entry related to the hearing at which the estate was converted to a supervised estate should not be approved. Judith's objections contained no citation to legal authority beyond several initial

citations regarding the general legal standard for determining legal fees and, in the seventh argument, a single case citation.

¶ 15

Also on February 24, 2021, Judith filed her objections to the petition for executor's commission. In her objections, Judith argued (1) that the petition for executor's commission should "be denied until all of Judith's pending objections and motions and other matters of recovery for this Estate and the Thomas Estate based upon Lawrence's misconduct are resolved," (2) that the petition should be denied "until the Thomas Estate recovery citation petition is fully adjudicated," (3) that specific entries in the petition should not be approved because they were "facially unreasonable, excessive, and/or implausible," (4) that the specific entry for a one-hour "Meeting at Northern Trust Bank" should not be approved, as it "appears to be related to his improper transfers and does not reflect a benefit or advantage to the Estate," (5) that time entries related to Thomas's discovery citation and recovery citation against Lawrence should not be approved because he was acting as an individual respondent rather than as the executor for the estate, (6) that time entries related to Lawrence's discovery citation and recovery citation against Thomas should not be approved because the time resulted in no benefit or advantage for the estate, (7) that the time entry related to the conversion of the estate to a supervised estate should not be approved, because the time did not benefit the estate, (8) that the time entries related to the removal of rugs should not be approved because the distribution of those rugs is still unresolved, despite the final accounting showing no undistributed personal property, (9) that certain time entries should not be approved because, during the times represented by those entries, Lawrence was also acting as a respondent and as an attorney in the Thomas estate matter, (10) that Judith's reserved objections to Lawrence's 2017 and 2018 billing statements must be resolved before the petition is granted, and (11) that "time entries with differing narratives compared with the billing statements cannot be approved without an explanation." As with Judith's objections to the petition for attorney's fees, the objections to the petition for executor's commission contained no legal citations, aside from initial citations regarding the standard for executor's fees and a single citation to support the tenth argument.

¶ 16

On February 25, 2021, Judith filed her objections to the final accounting. In her objections, she argued that (1) "the accrual of interest in the estate's checking account was greatly diminished in 2018, 2019, and 2020 as a result of Lawrence's refusal to properly act as supervised executor with respect to such distributions and payments, including a self-distribution *** as well as utility and real estate tax payments for the house owned by the Estate of Viateur F. O'Gara until it was sold in December 2018, and payments for a storage locker," (2) that three rugs removed from Viateur O'Gara's house prior to its sale were undistributed property of the estate and distribution thereof is an unresolved issue, so they should be included in the accounting, even if they are valued at \$0 along with the rest of the personal property, (3) that certain items and a distribution voucher for the payment of Fr. O'Gara's 2014 taxes and receipt of the tax refund therefrom into the estate's "reflect [the] conduct of Lawrence at issue in Judith's recovery citation against Lawrence in his individual capacity in the Thomas Estate,"² (4) that there are inaccuracies in the reporting of the estate's

²While Judith's third objection is captioned as such, the argument below that caption consists of arguments that "Lawrence has not fully complied with prior orders including the Order dated May 7, 2019 by providing copies of all backup documentation related to and substantiating the 2014 tax return" and that "these entries in the Accounting reflect alleged misconduct by Lawrence in his individual

interests in the estate of Viateur O’Gara, and (5) that Judith’s reserved objections to accounting entries related to attorney fees and executor’s fees must be resolved first.

¶ 17 May 18, 2021, Orders

¶ 18 On May 18, 2021, the probate court entered the series of four orders that are appealed in the case at bar.

¶ 19 In its first May 18, 2021, order, the probate court denied Judith’s motion for modification of the April 30, 2019, order “for the reasons stated on the record.” The record of the May 18, 2021, hearing reflects that the probate court quoted from the April 30, 2019, transcript at length to cite the reasons for the prior judge’s order before noting that the comments are clear and ruling that the motion for modification is denied.

¶ 20 In its second May 18, 2021, order, the probate court denied Lawrence’s motion to involuntarily dismiss Judith’s objections and opposition to Johnson’s petition for attorney fees “for the reasons stated on the record.” The order further approved the payment of attorney fees to Johnson & Associates, PC, in the amount of \$19,022.75 “for the reasons stated on the record.” The record of the May 18, 2021, hearing reflects that the probate court found Johnson’s rates reasonable, given her experience, and deducted a small portion of the fees before ruling that the remainder of the fees are fair and reasonable.

¶ 21 In its third May 18, 2021, order, the probate court denied Lawrence’s motion to involuntarily dismiss Judith’s objections to the petition for executor’s commission “for the reasons stated on the record.” The order further approved the payment of an executor’s commission to Lawrence in the adjusted amount of \$1487.50 “for the reasons stated on the record.” The record of the May 18, 2021, hearing reflects that the probate court reduced a number of entries for requesting too much time for tasks that would not take so long and removed the entry related to the sale of Viateur O’Gara’s residence. The probate court noted that the estate had an attorney and Lawrence was acting in the role of an executor. The probate court reduced Lawrence’s requested rate of \$150 per hour to \$25 per hour.

¶ 22 In its fourth May 18, 2021, order, the probate court denied Judith’s “verified motion as to the issues of disqualification, return of distribution, and attorneys fees” “for the reasons stated on the record” and found that “the remaining issues addressed in that Verified Motion have been previously resolved in the Order entered on February 26, 2019.” The record of the May 18, 2021, hearing reflects that the probate court denied the motion for disqualification without further comment. The probate court noted that the matter of the potential return of Lawrence’s improper distribution had already been addressed in a previous order. Judith’s attorney confirmed he believed it had been previously acknowledged that the distribution matter had been addressed.

¶ 23 The probate court entered a fifth order on May 18, 2021, denying Lawrence’s motion to involuntarily dismiss Judith’s objections to the final accounting, as well as granting Lawrence time to file a response to Judith’s objections to the accounting. This order and any further proceedings regarding the objections to the final accounting are not the subject of this appeal.

capacity and the amounts may need to be addressed in connection with the final adjudication of the Thomas Estate recovery citation petition.”

¶ 24 On June 16, 2021, Judith timely filed the instant appeal.

¶ 25 ANALYSIS

¶ 26 Judith makes seven arguments on appeal: (1) that the probate court abused its discretion when it summarily denied Judith's motion to order Lawrence to return the unauthorized \$77,400 self-distribution "without argument or opposition on the merits," (2) that the probate court abused its discretion when it summarily denied Judith's motion to disqualify Johnson "without argument or opposition on the merits," (3) that the probate court abused its discretion when it partially granted Lawrence's petition for executor's commission without addressing Judith's argument that "numerous of Lawrence's fees as administrator did not benefit Fr. O'Gara's Estate," (4) that the probate court abused its discretion "when it allowed [Johnson's] fees and did not specifically address Judith's objection that numerous fees incurred by Ms. Johnson were for Lawrence's personal benefit and did not benefit Fr. O'Gara's estate," (5) that the probate court's order "denying Judith's unopposed request for fees in the April 18, 2019 motions without explaining a basis or allowing argument was an abuse of discretion," (6) that the probate court abused its discretion when it denied Judith's motion to modify the probate court's April 30, 2019, order without addressing the "actual issues in the motion," and (7) that, in the alternative, the probate court abused its discretion by granting Johnson's petition for attorney fees and Lawrence's petition for executor's commission without first resolving "all matters of Lawrence's fiduciary misconduct, and related recovery for this estate and the Thomas Estate." Judith raises further arguments in her reply brief, but

"a century ago, our supreme court noted, 'Under the rules of this court and its long[-] settled practice, questions not raised by appellants in the original brief cannot be raised in the reply brief. A contrary practice would permit appellants to argue questions in their reply briefs as to which counsel for appellees would have no opportunity to reply. These questions therefore need not be considered.' " *People v. English*, 2011 IL App (3d) 100764, ¶ 22 (quoting *Holliday v. Shepherd*, 269 Ill. 429, 436 (1915)).

See also Ill. S. Ct. R. 341 (eff. Oct. 1, 2020).

¶ 27 Jurisdiction

¶ 28 The matter of jurisdiction is not raised in any of the briefs on appeal. However, it is this court's duty to independently consider its jurisdiction and dismiss an appeal if jurisdiction is wanting. See *Secura Insurance Co. v. Illinois Farmers Insurance Co.*, 232 Ill. 2d 209, 213 (2009). This appeal does not arise from a final judgment but, rather, appeals several orders on motions in the probate court. The notice of appeal lists four orders entered May 18, 2021, as those being appealed, and lists Illinois Supreme Court Rule 303 (eff. July 1, 2017) as the rule relevant to the appeal. Rule 303 provides the rule relevant to an appeal from the entry of final judgment and is therefore inapplicable to the orders being appealed herein, except insofar as it describes the general procedure for filing an appeal. Under Illinois Supreme Court Rule 303(b)(2) (eff. July 1, 2017), a notice of appeal "shall specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court." "A notice of appeal confers jurisdiction on a court of review to consider only the judgments or parts of judgments specified in the notice of appeal." *General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 176 (2011). Our supreme court has made clear, however, that a notice of appeal is to be construed liberally.

People v. Smith, 228 Ill. 2d 95, 104 (2008). Accordingly, we will consider the orders appealed if we have jurisdiction to do so through another rule.

¶ 29 The first order listed in Judith’s notice of appeal is the probate court’s May 18, 2021, order, partially denying Judith’s motion titled “Verified Motion for Disqualification of Johnson & Associates P.C., Entry of Order from February 26, 2019 Hearing, Return of Unauthorized \$77,400 Self-Distribution by Executor, and Payment of Legal Fees Incurred by Thomas O’Gara’s Estate.” The requested relief is that the motion be granted or, alternatively, ruled premature due to additional proceedings necessary before ruling. The relevant order of May 18, 2021, denies the motion to disqualify, the motion for return of the unauthorized self-distribution, and the requested legal fees and notes that “the remaining issues addressed in that Verified Motion have been previously resolved in the Order entered February 26, 2019.” As this motion is, in effect, several motions filed as one, we will consider our jurisdiction as to each separately.

¶ 30 The order’s denial of Judith’s motion for disqualification does not fall under any of the supreme court rules allowing appeals from nonfinal judgments. An order *granting* a motion to disqualify is listed among those interlocutory appeals allowed for by Rule 306, but an order denying a motion to disqualify is not. Ill. S. Ct. R. 306(a)(7) (eff. Oct. 1, 2020). However, even if one were to read the rule to include orders denying motions to disqualify in addition to orders granting motions to disqualify, such appeals are by permission only and no such permission was sought here. Ill. S. Ct. R. 306(a)(7) (eff. Oct. 1, 2020). Accordingly, we must find that we do not have jurisdiction to consider this issue on this appeal.

¶ 31 Judith’s motion for return of the unauthorized distribution also does not fall under any of the rules for interlocutory appeals. Rule 304(b)(1) allows for immediate appeal of a final judgment as to one or more but fewer than all claims for relief when that judgment is “[a] judgment or order entered in the administration of an estate, guardianship, or similar proceeding which finally determines a right or status of a party.” Ill. S. Ct. R. 304(b)(1) (eff. Mar. 8, 2016). However, our supreme court has found that “where an order disposes only of certain issues relating to the same basic claim, such a ruling is not subject to review under Rule 304(a).” *Blumenthal v. Brewer*, 2016 IL 118781, ¶ 27. As Rule 304(b)(1) is an extension of Rule 304(a) within the context of cases such as the case at bar, our supreme court’s ruling in *Blumenthal* applies. The court’s denial of Judith’s motion to order Lawrence to return the unauthorized self-distribution is ultimately only one issue within the larger issue of the distribution of Fr. O’Gara’s estate. Accordingly, this court does not have jurisdiction to hear the issue in this appeal.

¶ 32 Judith’s motion for legal fees incurred by Thomas O’Gara’s estate, as a motion for attorney fees, falls squarely under Rule 304(b)(1) pursuant to this court’s decision in *Lampe v. Pawlarczyk*, 314 Ill. App. 3d 455, 470 (2000), which found that a denial of a motion for attorney fees in a case related to a trust qualified for consideration under the rule. As the instant appeal concerns an estate and therefore falls even more squarely within the language of Rule 304(b)(1), our finding in *Lampe* certainly applies. Accordingly, we find that we have jurisdiction to review the probate court’s order on this issue.

¶ 33 The second order listed in Judith’s notice of appeal is the probate court’s May 18, 2021, order denying Judith’s “motion for modification and entry of amended order from April 30, 2019.” This motion, too, falls under none of the rules allowing for appeals prior to final judgment. The motion in question requested (1) clarification on the timeframe in which

Lawrence was to make equalizing distributions to comply with the April 30, 2019, court order, (2) clarification “that Lawrence must maximize the estate’s benefit from any personal property in the estate at the time of the order,” and (3) clarification “that this Court explicitly denied both Judith and Lawrence’s cross-motions presented at the April 30, 2019 hearing.” The requested modifications would not finally determine any right of any party and do not seek to modify any portion of any order from the probate court that finally determined any right of any party. Accordingly, the denial of the motion to modify certainly did not finally determine any right of any party. As such, we find that the motion does not fall within the ambit of Rule 304(a)(1), and we have no jurisdiction to review the denial of that motion in this appeal.

¶ 34 The third and fourth orders listed in Judith’s notice of appeal are the probate court’s May 18, 2021, orders granting Lawrence’s executor’s commission and Johnson’s attorney fees, respectively. As detailed above, decisions on such motions fall within the ambit of Rule 304(b)(1), pursuant to this court’s decision in *Lampe*. *Lampe*, 314 Ill. App. 3d at 470. Accordingly, we find that this court has jurisdiction to review those orders in this appeal.

¶ 35 Judith’s first, second, and sixth arguments address issues beyond our jurisdiction. As such, they are dismissed. Judith’s remaining four arguments are considered below.

¶ 36 Attorney Fees

¶ 37 Judith appeals the May 18, 2021, order granting payment of attorney fees to Johnson & Associates, PC, as well as the May 18, 2021, denial of Judith’s motion requesting attorney fees for those hours the Thomas estate’s attorney billed in connection with her objections and the extensive verified motion filed in April 2019.

¶ 38 “A trial court has broad discretionary powers in awarding attorney fees and its decision will not be reversed on appeal unless the court abused its discretion.” *In re Estate of Callahan*, 144 Ill. 2d 32, 43-44 (1991). An abuse of discretion occurs when no reasonable person could take the view that the trial court took. *Langenhorst v. Norfolk Southern Ry. Co.*, 219 Ill. 2d 430, 442 (2006).

¶ 39 With regard to the probate court’s order granting payment of attorney fees to Johnson & Associates, PC, the probate court noted, as it did in all its May 18, 2021, orders, that the decision was “for the reasons stated on the record.” The transcript of the May 18, 2021, hearing shows that the probate court considered Johnson’s rate to be appropriate based on her experience. The probate court deducted some time and found the remaining entries to be fair and reasonable. Judith argues that the probate court’s failure to specifically address her objections to specific time entries, based on her argument that those time entries did not benefit the estate, constitutes an abuse of its discretion. Judith makes no argument in her appeal that the decision on any particular time entry constitutes an abuse of discretion. The probate court’s determination that certain entries should be reduced, while the remainder were fair and reasonable, conveyed the probate court’s disagreement with Judith’s assessment of and objections to Johnson’s fees. We cannot find that no reasonable person could render such a decision without individually addressing each entry to which Judith objected. Accordingly, we find that the probate court did not abuse its discretion by granting Johnson’s attorney fees, after some reduction, without specifically addressing Judith’s objections and showing how it made its determination.

¶ 40 With regard to the probate court’s May 18, 2021, denial of Judith’s motion for attorney fees, the court similarly stated that the order denial was “for the reasons stated on the record.”

In the transcript of the May 18, 2021, hearing, the probate court mentions the motion for attorney fees among a series of motions to be addressed, but never specifically addresses the motion. However, Judith's only argument as to how the probate court abused its discretion in denying her motion for fees is that it did so "without any substantive explanation," a matter exacerbated, according to Judith, by the fact that the motion was "predicated by a mis-deed of the executor." Judith cites no authority to support her assertion that the court erred by not granting her motion for fees, but instead only asserts that the court *may* order an interested party's attorney fees to be paid. We agree that it was within the probate court's authority to grant Judith's attorney fees, but it was not an abuse of discretion by the probate court to decide not to do so under the facts of this case, in which legal fees were incurred by Thomas, an interested party, in the process of both pursuing disputes with Lawrence and defending himself in disputes with Lawrence over the handling of the estate.

¶ 41 Judith further cites, as she does in most of the arguments in her appellate brief, to *Higgins v. House*, 288 Ill. App. 3d 543, 545-46 (1997), and *People ex rel. Department of Transportation v. Greatbanc Trust Co.*, 2018 IL App (1st) 171315, ¶ 7. Judith argues that *Higgins* and *Greatbanc* establish the premise that when no response is filed to a motion and it is deemed unopposed, then all statements asserted by the movant should be admitted as true. *Higgins* concerns not just any motions, but a motion for summary judgment, and states that "plaintiffs' failure to file a response to the motion [for summary judgment] or identify an expert witness by the hearing date also justified the entry of summary judgment on the merits of defendant's motion." *Higgins*, 288 Ill. App. 3d at 545-46. The court's finding in *Higgins* is inapplicable in this case, as the case at bar does not concern summary judgment and justifying a result does not equate to demanding that result. Judith's citation to *Greatbanc* is similarly inapposite, as it also concerns an unanswered motion for summary judgment. *Greatbanc*, 2018 IL App (1st) 171315, ¶ 10. Although Judith relies on these cases repeatedly to argue that everything asserted in her motions must be accepted as fact in those instances where Lawrence did not file a response to the motion in question, the cases are entirely inapplicable to the case at bar.

¶ 42 As Judith identifies no legal standard to which the probate court should have adhered to and failed to adhere to in deciding whether to grant Judith's motion for fees, and since Judith makes no germane argument as to how the probate court abused its discretion in denying her motion, we cannot find that the probate court abused its discretion in denying Judith's motion for fees.

¶ 43

Executor's Commission

¶ 44 Judith argues that the probate court abused its discretion when it partially granted Lawrence's petition for executor's commission without addressing Judith's argument that "numerous of Lawrence's fees as administrator did not benefit Fr. O'Gara's Estate." Judith argues that the probate court abused its discretion by not specifically addressing a number of Judith's arguments in its ruling, specifically (1) whether Lawrence's entry described as "Meeting at Northern Trust Bank" benefitted the estate, (2) whether Lawrence's time spent "in relation to Thomas' discovery citation and attempted recovery against Lawrence in his individual capacity" benefitted the estate, (3) whether Lawrence's time spent "related to the discovery and recovery citations Lawrence filed against Thomas" benefitted the estate, and

(4) whether Lawrence should be paid for a number of entries that Judith alleges “appear to be false because they are inconsistent with his prior billing statements.”

¶ 45

While executor’s fees and attorney fees are often one and the same, where an attorney serves as executor, the estate’s attorney and executor are distinct in the case at bar. Our court has found that in order to alter a fee allowance granted by a probate court, including an executor’s fees, “a reviewing court is required to find that the determination of the probate court is manifestly or palpably erroneous. It requires ‘a plain case of wrongful exercise of judgment’ to permit a reviewing court to alter the allowance.” *In re Estate of Jaysas*, 33 Ill. App. 2d 287, 293 (1961) (quoting *In re Estate of McCalmont*, 16 Ill. App. 2d 246, 256 (1958)).

¶ 46

Judith argues that the probate court abused its discretion by failing to address Judith’s assertions that various entries did not benefit the estate of Fr. O’Gara and, therefore, should not be compensated. While the probate court did not explicitly address each of Judith’s concerns individually, the record shows that the probate court stated that it had reviewed all of the pleadings; that it was reducing a number of specified entries, such that the total of 76 hours requested was reduced to 59.5 hours; that it was reducing the requested rate of \$150 per hour to \$25 per hour; and that those 59.5 hours were approved. In doing so, the probate court made clear that each individual entry had been scrutinized. As such, it is implicit that the probate court deemed those approved hours to have benefited the estate; otherwise, they would not have been approved. The ambiguity created when the probate court made its decision without explicitly addressing each of Judith’s concerns is insufficient to constitute the “plain case of wrongful exercise of judgment” required to alter the probate court’s decision. (Internal quotation marks omitted.) *Estate of Jaysas*, 33 Ill. App. 2d at 293. Accordingly, we cannot find that the probate court abused its discretion by granting Lawrence an executor’s commission for those entries Judith argues did not benefit the estate of Fr. O’Gara.

¶ 47

Judith’s fourth argument regarding the executor’s fees—that the probate court abused its discretion by failing to address Judith’s argument that some entries appear to be false due to discrepancies between submitted billing statements—is similarly unconvincing. Judith makes no greater argument than alleging a discrepancy and makes no case as to which of the two statements is correct. We cannot find, with no greater evidence than that, that the probate court’s decision to grant fees for those particular entries was manifestly or palpably erroneous. Judith cites *In re Estate of Salt*, 346 Ill. App. 546, 549-50 (1952), for the proposition that the probate court’s failure to directly address the inconsistencies constitutes reversible error. *Salt* concerns a question of whether proof offered in probate court was properly rejected by the court, not the question Judith raises in this case, which is whether the probate court was obligated to directly address Judith’s allegation of falsity. As the cited authority is inapposite and Judith’s argument is unavailing, we cannot find that the probate court abused its discretion in its decision with respect to the entries that Judith alleges to be apparently false.

¶ 48

Failure to Resolve Other Issues

¶ 49

Lastly, Judith argues in the alternative that the probate court abused its discretion by granting the fee petitions of Lawrence and of Johnson & Associates, PC, without first resolving “Judith’s pending accounting objections, all matters of Lawrence’s fiduciary misconduct, and related recovery for this estate and the Thomas Estate.” Judith indicates that she objected to the grant of any fee petitions before all of the enumerated issues were resolved but offers no legal argument or citation to support her argument that the probate court abused its discretion.

“A point raised in a brief but not supported by citation to relevant authority *** is therefore forfeited.” *People v. Ward*, 215 Ill. 2d 317, 332 (2005); *In re Marriage of Bates*, 212 Ill. 2d 489, 517 (2004) (“A reviewing court is entitled to have issues clearly defined with relevant authority cited.”); *Rosier v. Cascade Mountain, Inc.*, 367 Ill. App. 3d 559, 568 (2006) (this court held that, by failing to offer any supporting legal authority or reasoning, plaintiffs waived consideration of their theory for asserting personal jurisdiction over defendants); *Ferguson v. Bill Berger Associates, Inc.*, 302 Ill. App. 3d 61, 78 (1998) (“it is not necessary to decide this question since the defendant has waived the issue” by failing to offer case citation or other support as Rule 341 requires); Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (argument in appellate brief must be supported by citation). Accordingly, Judith’s final argument is forfeited and will not be considered.

¶ 50

CONCLUSION

¶ 51

For the foregoing reasons, we dismiss those issues beyond this court’s jurisdiction and affirm the decision of the circuit court of Cook County as to those issues determined to be within our jurisdiction.

¶ 52

Affirmed in part and dismissed in part.