

1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF C O O K)

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
4 COUNTY DEPARTMENT - PROBATE DIVISION

5 IN THE MATTER OF THE ESTATE)
6 OF)
7 MARY SYKES,) No. 09 P 4585

8
9 REPORT OF PROCEEDINGS

10 BE IT REMEMBERED, that the above-entitled
11 cause came on for a hearing, before the HONORABLE MAUREEN
12 CONNORS, Judge of said court, on the 18th day of March,
13 A.D., 2010.

14
15 PRESENT:

16 MR. ADAM STERN AND MS. CYNTHIA FARENGA,
17 Appeared as the Guardians Ad Litem;

18 MR. PETER SCHMIEDEL,
19 Appeared on behalf of Carolyn Toerpe;

20 MR. JOEL BRODSKY,
21 Appeared on behalf of Gloria Sykes.

22
23 Frances Chiovari, C.S.R.
24 Official Court Reporter
License No. 084-004619

1 THE COURT: Estate of Mary Sykes.

2 MR. BRODSKY: Joel Brodsky on behalf of Gloria
3 Sykes.

4 MR. STERN: Adam Stern, one of the Guardian ad
5 litem.

6 MR. SCHMIEDEL: Peter Schmiedel on behalf of Carolyn
7 Toerpe.

8 MS. TOERPE: Carolyn Toerpe, guardian of Mary Sykes.

9 MS. FARENGA: Cynthia Farenga, Guardian ad litem for
10 Mary Sykes.

11 MR. TOERPE: Fred Toerpe, husband of the guardian.

12 THE COURT: I just want to get an update on the
13 disabled person.

14 MR. BRODSKY: Your Honor, before we proceed --

15 THE COURT: No, no. Please, counsel, I just want to
16 get update on the disabled person.

17 MR. BRODSKY: Well, because of the filing of a
18 particular motion, you may not have jurisdiction. That's
19 what I wanted to bring to the Court's attention.

20 THE COURT: To find out how she is?

21 MR. BRODSKY: Well, if you don't have jurisdiction
22 over the case -- I mean, you can always inquire, but I'm
23 saying as the Court, you may not have, but as a person,
24 of course.

1 THE COURT: So you don't want me to inquire about
2 how she is. All right. Let's move on.

3 Counsel, what do we have today?

4 MR. BRODSKY: Your Honor, we filed on behalf of
5 Gloria Sykes, as you recall, a motion for substitution of
6 judge for cause. There is a full copy with the
7 transcript. This Court knows because --

8 THE COURT: And your notice?

9 MR. BRODSKY: What?

10 THE COURT: Excuse me.

11 MR. BRODSKY: I'm sorry, your Honor.

12 THE COURT: Your notice on the motion, sir, was
13 there notice?

14 MR. BRODSKY: Yes. I gave copies to everybody.

15 THE COURT: Do you have your notice with you today?

16 MR. BRODSKY: Yes. I gave everybody an electronic
17 transfer as it seems to be the custom in this particular
18 case.

19 THE COURT: Mr. Stern, have you received that?

20 MR. STERN: Yes, I have, your Honor.

21 THE COURT: Mr. Schmiedel?

22 MR. SCHMIEDEL: Yes.

23 THE COURT: Ms. Farenga?

24 MS. FARENGA: Yes.

1 MR. BRODSKY: As your Honor knows, because this
2 issue came up in a case before you and it went up on
3 appeal, and recently just came down as early as March of
4 '09 --

5 THE COURT: Are you arguing the motion right now?

6 MR. BRODSKY: No, your Honor. I'm not arguing the
7 motion at all. I just need to transfer it to another
8 Judge for hearing.

9 MR. SCHMIEDEL: Judge, I filed a motion to strike.
10 I don't believe that that's necessary under these
11 circumstances. The Court's aware of the law. There's a
12 conflict among various panels in the First District with
13 the respect to the Court. I would argue that you don't
14 necessarily need to get to that because of the standing
15 issue. It's my issue with respect to the issue that he
16 brought to the Court as the basis for the Court's bias is
17 that you denied due process in an area where there was no
18 due process rights to begin with.

19 THE COURT: I understand, but let's talk, first,
20 you're relying on the Wilson case?

21 MR. SCHMIEDEL: Wilson.

22 MR. BRODSKY: We're relying on the statute, Judge.

23 THE COURT: No, no. As far as interpretation of the
24 statute, what the case law says; correct?

1 MR. BRODSKY: Well, that was a case that I found
2 that was directly from this -- a reversal of the ruling
3 that this Court had made.

4 THE COURT: I understand, but aren't there other
5 cases that discuss other cases?

6 MR. BRODSKY: There's another one, yeah.

7 THE COURT: There are a number of them; are there
8 not?

9 MR. BRODSKY: There are two most recent cases.

10 THE COURT: Well, there's a series of cases. In
11 this case that you're citing here is different. The
12 ruling was different than the prior cases; was it not?

13 MR. BRODSKY: No. I think the ruling in Wilson was
14 consistent with prior cases.

15 THE COURT: With In Re: The estate of Poland
16 (phonetic)?

17 MR. BRODSKY: There was a lot of cases, your Honor,
18 that says --

19 THE COURT: I'm just saying that there are
20 differences of opinion in the Appellate Court about what
21 happens once an SOJ for cause is filed; correct?

22 MR. BRODSKY: As of late, yes.

23 THE COURT: Well, again, some say there needs to be
24 a threshold issue that you bring up that there should be

1 a basis, and some say there's no need for any kind
2 threshold or basis; correct?

3 MR. BRODSKY: Then you're transferred
4 immediately with jurisdiction --

5 THE COURT: So which one is the rule of law? What's
6 the law here?

7 MR. BRODSKY: Well, since the Wilson case came --
8 reversed a ruling made by you, your Honor.

9 THE COURT: What difference would that make? The
10 law is the law as to what Judge made the ruling.

11 MR. BRODSKY: When there's a conflict, Judge.

12 THE COURT: Pardon me?

13 MR. BRODSKY: This one would be most direct to you.

14 THE COURT: No, counsel. Wouldn't I be bound by the
15 most recent law?

16 MR. BRODSKY: There's a conflict, Judge.

17 THE COURT: Right. So why would this one be given
18 more weight than any other one?

19 MR. BRODSKY: Because it directly came from this
20 court.

21 THE COURT: Is there case law on that to suggest
22 something of that nature that I hold that case, give it
23 more significance than any other case that was decided by
24 the Appellate Court?

1 MR. BRODSKY: Since it was directed to you, yes.

2 THE COURT: Where's your case law to suggest that I
3 should give it more weight?

4 MR. BRODSKY: Well, if you want me to brief that,
5 I'd be more than happy to.

6 THE COURT: I never heard of such a thing in the
7 law.

8 MR. BRODSKY: Stare decisi, Judge.

9 THE COURT: Please, Mr. Brodsky. Anyway, so we
10 agree there's a dispute in the Appellate Court, that
11 could happen.

12 MR. BRODSKY: There are certainly two recent cases
13 that are diametrically opposed. Both are dissents.

14 THE COURT: But their rulings are diametrically
15 opposed.

16 MR. BRODSKY: Yes.

17 THE COURT: So I'm going to prohibited counsel from
18 filing a motion and a response?

19 MR. BRODSKY: No, your Honor. I suppose if we want
20 to fully brief this so that -- we probably should fully
21 brief this so the Appellate Court would have a full --
22 especially since there's a conflict, and this may be the
23 case that eventually goes up and decides it.

24 THE COURT: That case is already up in the Supreme

1 Court.

2 MR. BRODSKY: Which one?

3 THE COURT: The one that involves this Court.

4 MR. BRODSKY: The Wilson case.

5 THE COURT: Yes.

6 MR. BRODSKY: Then I guess we should probably wait
7 until they rule. When are they hearing argument?

8 MS. FARENGA: Actually, perhaps we should address
9 the issue of whether there is even standing.

10 THE COURT: No. I want to address the issue of
11 counsel is asking for leave to file a motion; is that
12 right?

13 MR. SCHMIEDEL: Leave to file a motion to strike and
14 dismiss.

15 THE COURT: Leave will be granted. Please respond
16 to that in writing.

17 MR. BRODSKY: I think I should.

18 THE COURT: How much time do you need?

19 MR. BRODSKY: Let me look at my calender. Next week
20 I have a short vacation. I would like at least 14 days
21 -- actually, yes. 14 days would be the quickest. I
22 prefer 21.

23 THE COURT: 21 is fine. Do you want 21, counsel, to
24 reply?

1 MR. SCHMIEDEL: Judge, I'll take 7 days to reply.

2 THE COURT: Let's get that scheduled. Come back
3 after the 21 and 7. See you then. Hearing on motion a
4 to strike.

5 MR. BRODSKY: Do you want to also brief -- I guess
6 motion to strike would also brief the issues that are
7 relevant to the motion for substitution of whether or not
8 I've made a prima facie case.

9 THE COURT: Again, counsel has filed his motion.
10 You can respond.

11 MR. BRODSKY: Okay.

12 THE COURT: Thank you, very much. Anything else?

13 MR. SCHMIEDEL: Well, there are other things
14 pending.

15 THE COURT: For example?

16 MR. SCHMIEDEL: There's an issue with respect to
17 visitation and I have a motion to strike the request for
18 visitation. There's a rule to show cause.

19 THE COURT: Counsel, I'm not going to rule on
20 anything else. The visitation is in the hands of the
21 guardian relative to the Struck case.

22 MR. BRODSKY: As we said, we need to resolve this.
23 This issue would have to be resolved.

24 THE COURT: That's your decision. I just said we're

1 not going to doing anything else.

2 MR. BRODSKY: All right. Thank you.

3 THE COURT: That's the guardian's decision.

4 MR. STERN: Thank you, your Honor.

5

6 (Which were all the
7 proceedings had in the
8 above-entitled cause.)

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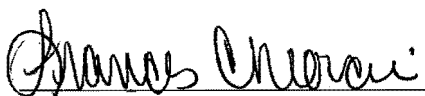
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1 STATE OF ILLINOIS)
2 COUNTY OF C O O K) SS

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5 I, Frances Chiovari, an Official Court Reporter
6 of Cook County, Illinois, do hereby certify that I
7 reported in shorthand the proceedings had on the hearing
8 in the above-entitled cause; that I, thereafter, caused
9 the foregoing to be transcribed into typewriting, which I
10 hereby certify to be a true and accurate transcript of
11 the proceedings.

12
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14 
15 Frances Chiovari
16 C.S.R. 0084-004619
17 Circuit Court of Cook County
18 County Department-Probate
19 Division.

20 Dated this 03 day of
21 March, 2010

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