

**IN THE COURT OF APPEALS OF IOWA**

No. 8-558 / 07-1579  
Filed August 13, 2008

**IN THE MATTER OF THE ESTATE OF  
RICHARD D. RAYMON, Deceased,**

**MIKE D. CAHALAN, Beneficiary and  
Objector of the Estate of RICHARD D. RAYMON,  
Appellant.**

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Appeal from the Iowa District Court for Linn County, Kristin L. Hibbs,  
Judge.

Michael D. Cahalan appeals from the denial of his objection to the final  
report of the executor of the Estate of Richard D. Raymon. **AFFIRMED.**

Michael Cahalan, Cedar Rapids, pro se.

Todd Forsythe and Walter Steggall of Holden & Steggall, and Webb  
Wassmer of Simmons Perrine, P.L.C., Cedar Rapids, for appellee.

Considered by Huitink, P.J., and Vogel and Eisenhauer, JJ.

**VOGEL, J.**

Michael D. Cahalan, a beneficiary under Richard D. Raymon's will, appeals from the rulings and orders of the district court on his objection to the final report of the executor, Lee Timm.

Raymon died on August 11, 2001, leaving a sizeable estate. Under his will, Cahalan received a specific bequest of \$10,000. Other than a few other specific bequests, the will provided the residue of Raymon's estate should pass to a trust and be distributed according to the terms of the trust. The trust contained this language:

"At the death of the Trustor, the residue of the trust assets, which shall be called the "RESIDUARY TRUST", shall be administered as follows: These assets shall be distributed by the Trustee to \_\_\_\_\_ as soon as practical after the completion of administration of the estate of the Trustor or the estate of the trustor's spouse for those assets passing through the Marital trust."<sup>1</sup>

The essence of Cahalan's action is a challenge to the executor's conclusion that the trust failed for want of a beneficiary. Because Cahalan did not know of the failure of the trust until after he received the final report and application to close the estate, he sought the discharge of the executor and a hearing to determine the beneficiary of the trust. The executor replied with a motion to dismiss, stating the trust had no designated beneficiary, and that Cahalan's objection was untimely. He also requested a determination by the court that he had given Cahalan his specific bequest as Cahalan had not signed the receipt and waiver form. After a hearing, the district court held that the

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<sup>1</sup> An earlier ruling concluded his long-time relationship with his girlfriend was not a solemnized marriage, as contemplated under a prenuptial agreement. Therefore the marital trust failed as Raymon left no spouse.

objection was untimely, and even if timely, Cahalan's claims were without merit. In particular the court found that the residuary trust failed for lack of a beneficiary and that Cahalan lacked standing to contest other actions of the executor. Cahalan appeals.

**Standard of Review.** A hearing on objections to a fiduciary's final report is an equitable proceeding, Iowa Code § 633.33 (2007), therefore our review is de novo. *Matter of Estate of Johnson*, 387 N.W.2d 329, 332 (Iowa 1986).

**Timeliness of Objection.** The Notice of Probate of Will was mailed to Cahalan on September 19, 2001, but he did not file an objection until May 8, 2007. The district court found that because the trust was referenced within the will, Cahalan's objection to the executor invalidating the trust were in essence a contest to Raymon's will, and thus was untimely. See Iowa Code § 633.309 (providing that an action to contest a will must be commenced within one month of the mailing of the notice). However, we agree with Cahalan that his objection is to the final report, and therefore was not untimely. Iowa Code §§ 633.477, .478, .479 (requiring personal representative to file final report with specific contents before discharge, on notice to all interested persons).

**The Procedure at Hearing.** Cahalan first claims in multiple fashion that he was "prejudiced" because the district court was ill prepared to hear the issues before it. Upon our de novo review of the transcript of the hearing, we conclude there is absolutely no merit to this assertion. We further find no abuse of discretion in the court's exclusion of various irrelevant evidence and speculative testimony. *In re Estate of Rutter*, 633 N.W.2d 740, 745, (Iowa 2001) (stating review of evidentiary matters in hearing on objections to final report is for abuse

of discretion). Moreover, the court was patient in enforcing the rules of procedure, while being respectful to Cahalan as a pro se litigant. *In re Estate of DeTar*, 572 N.W.2d 178, 180 (Iowa Ct. App. 1997) (noting non-lawyers are held to the same standards as lawyers).

***The Merits of the Objection.*** Timm, as executor, carried the burden of proof to sustain the final report. *In re Roehlke's Estate*, 231 N.W.2d 26, 29 (Iowa 1975). Working with his attorney, the executor decided the trust was not valid as it failed to name a beneficiary. Cahalan argued, "I would like the Court to try to figure out whose name was in that trust." Cahalan stated that he was opposed to the residuary estate being distributed according to the rules of intestacy, because he didn't think that was Raymon's desire. See Iowa Code §§ 633.219 (rules governing intestate succession), .272 (partial intestacy). Moreover, he saw himself as a potential beneficiary of the trust. Little, if any, evidence was offered to support his claim.<sup>2</sup> As the trust referenced in the will lacked a named beneficiary, the executor carried his burden and the court correctly ruled that the trust failed. See Iowa Code § 633A.2102(1)(c).

We also agree with the district court that Cahalan lacked standing to challenge the executor's decisions regarding any property other than the \$10,000 which he admittedly received as a specific bequest under Raymon's will. *Matter of Pearson's Estate*, 319 N.W.2d 248, 249-50 (Iowa 1982).

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<sup>2</sup> Attached to Cahalan's objections was a hand-written note from Raymon, stating, "I had financial plans for you that I hadn't shared." This is just one sentence from a letter to Cahalan, as an employee of Raymon's law firm. Nothing in the letter, or elsewhere, ties this comment to Raymon's estate plan or, more particularly, the trust instrument.

We therefore affirm the district court order granting the executor's motion to dismiss, and its subsequent denial of Cahalan's motion for amended ruling. We also affirm the district court's ruling that Cahalan has received the full amount of his specific bequest.

**AFFIRMED.**