

IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. OP 25-0248

IN RE THE MATTER OF THE ESTATE OF RICHARD BRUCE NEAL, SR., a/k/a
RICHARD B. NEAL, SR., RICHARD NEAL, SR., RICHARD B. NEAL, and/or
RICHARD NEAL,

Petitioner,

vs.

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY,
STANDING MASTER CHARLOTTE BEATTY,

Respondent.

**SUMMARY RESPONSE TO PETITION FOR WRIT OF SUPERVISORY
CONTROL**

An Original Proceeding Arising from Rulings in the Eighth Judicial District Court,
Cascade County, Cause No. CDP-23-281
Standing Master Charlotte Beatty

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I. SUMMARY

Petitioner seeks to set aside his father Richard Neal's testamentary disposition. The 2018 Will that Petitioner is trying to invalidate expressly revoked the 2015 Will that Petitioner is trying to probate. A reputable estate planning firm prepared the 2018 Will. Richard Neal executed it in front of the statutory witnesses. No one contemporaneously suggested he lacked testamentary capacity or that anyone was exercising undue influence over him. The 2018 Will nominated Richard Neal's live-in companion April Mancini to serve as Personal Representative. It left the majority of his estate to Ms. Mancini and several other persons. The residuary estate was bequeathed to Richard's remaining descendants, including Petitioner, *per stirpes*. Ms. Mancini died a few months after Richard Neal under strange circumstances. Though Petitioner claims throughout his writ application that Ms. Mancini exploited Richard, neither he nor anyone else has ever proved this in the court below or any other court.

The previous 2015 Will which Petitioner is trying to probate nominated Petitioner as Personal Representative and distributed the Estate to him. In short, Petitioner seeks to undo the 2018 Will. Whether he ultimately succeeds is not yet before the trial court or this Court. The orders Petitioner now asks this Court to reverse represent the Standing Master's attempt to achieve notice to Ms. Mancini's heirs.

II. THE STATUTORY NOTICE PROVISION

The writ application implicates the following statute:

(1) ... Notice must be given:

(a) by mailing a copy of the notice at least 14 days before the time set for the hearing by certified mail or ordinary first-class mail addressed to the person being notified at the post-office address given in the person's demand for notice, if any, or at the person's office or place of residence, if known;

(b) by delivering a copy of the notice to the person being notified personally at least 14 days before the time set for the hearing; or

(c) if the address or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing the notice in a weekly paper once a week for 3 consecutive weeks and, if in a newspaper published more often than once a week, by publishing on at least 3 different days of publication. There must be at least 10 days from the first to the last day of publication, both the first and last day being included.

(2) *The court for good cause shown may provide for a different method or time of giving notice for any hearing.*

(3) Proof of the giving of notice must be made on or before the hearing and filed in the proceeding.

§ 72-1-301, MCA (emphasis added).

III. PERTINENT FACTS

Initially, Petitioner sought an order adopting his father Richard Neal's 2015 Will (*Exhibit A*) and voiding a subsequent 2018 Will (*Exhibit B*) based on lack of capacity and undue influence by caregiver and girlfriend April Mancini. *Petition for*

Formal Probate, CDP-23-281, November 7, 2023 (*Exhibit C*). Petitioner had already sold Richard’s property before filing his petition – including the property bequeathed in the 2018 Will. *Exhibit D*, p. 20, lines 21-22.

Pursuant to § 72-3-310, MCA, Petitioner “has the burden of establishing lack of testamentary intent or capacity, undue influence, fraud, duress, mistake, or revocation.” *In re Estate of Harms*, 2006 MT 320, ¶ 15, 335 Mont. 66, ¶ 15, 149 P.3d 557, ¶ 15 (citing § 72-3-310, MCA). “Testamentary capacity is determined as of the date the will was executed.” *Id.*

The record reflects that, for approximately six years before his death, Richard was in a relationship with Ms. Mancini. *Transcript of Uncontested Proceedings*, p. 8, lines 18-20, January 31, 2023 (*Exhibit D*); *Supplemental Brief in Support of Formal Probate of Will, Determination of Testacy and Heirs, and Appointment of Personal Representative*, p. 2, paragraph 8, May 24, 2024, (*Exhibit H*). The couple lived in a ranch house in Bynum, MT where they ran a small cattle operation. *Id.*, p.18, lines 10-12.

Petitioner’s first appearance was originally set on the Court’s Uncontested calendar for January 31, 2023. At that hearing, Petitioner offered pleadings and other evidence relating to a 2021 elder abuse case filed against Mancini in Teton County.¹ The 2015 Will appoints Petitioner as Personal Representative and leaves everything to

¹ DC-21-01, January 5, 2021, (*Exhibit E*).

him. The 2018 Will expressly revokes the 2015 Will, appoints Ms. Mancini as Personal Representative and bequeaths to her some personal property and \$75,000. The 2018 Will also devises specific personal property to four other people, none of whom are the Petitioner. *Exhibit B*, Sections 2.01 to 2.05, pp. 2-3. Ms. Mancini died approximately three months after Richard. If the 2018 Will is valid, the devisees, including Mancini's heirs, would receive what Richard bequeathed to them.

The Court repeatedly asked Petitioner to exercise due diligence in finding and serving actual notice of his petition on the heirs of April Mancini. It appeared to the Court that the Petitioner believed that the Mancini heirs did not deserve actual notice based on Mancini's alleged undue influence over his father. *Exhibit D*, p. 9, line 25, p. 10, line 1. Testimony was presented that Mancini's daughter, son and nephew came to the Bynum house shortly after Richard died and "took a large envelope of cash and some property and headed back east in a very rapid fashion." *Id.*, p. 14, lines 14-16.

Regarding his lack of capacity claim, Petitioner relied on a letter from Richard's VA health care provider, opining that Richard's mental state had been declining for some time. *Letter to Judge Olson from Jason Gleason, MSN, NP*, August 27, 2020 (*Exhibit F*). The letter was requested in a guardianship and conservatorship case filed on June 8, 2020 in Teton County.² Petitioner did not mention this Teton County case

² DG-20-002, (*Exhibit G*).

in his pleadings, but did attach the letter as Exhibit B to his May 24, 2024 Supplemental Brief. (*Exhibit H*).

The foregoing guardianship and conservatorship case opened in May 2020, after Richard was found confused and wandering a few miles from the Bynum house. *Exhibit D*, p. 19, lines 6-8. APS was contacted but their subsequent report regarding April's alleged exploitation of Richard was "closed as inconclusive." *APS Report*, Danielle Knickerbocker, 03/23/2020, p. 11 (*Exhibit I*). As a result, Richard was placed in a nursing home in Great Falls in late summer 2020, where he resided until his death on August 24, 2022. The guardianship and conservatorship case was then closed. *Order*, September 14, 2022 (*Exhibit J*).

The State dismissed the 2021 elder abuse prosecution upon April Mancini's death on November 14, 2022. *Order*, November 15, 2022 (*Exhibit K*). Prior to that time, the trial date was vacated. *Motion*, August 29, 2022 (*Exhibit L*). After Richard died, the County Attorney again requested a trial date because, "The victim in this matter has recently passed away and there might be issues with the probate that could affect this matter." *Minute Entry*, September 6, 2022 (*Exhibit M*). Upon April's death and the dismissal of the criminal case, those issues became relevant to the probate presented to this Court.

Petitioner did not mention the 2020 Teton County guardianship-conservatorship case, nor the fact that Judge Olson had ordered Richard's estate attorney Heather

Starnes to testify regarding Richard's mental state when the 2018 Will was drafted.

According to Judge Olson, "Neal's mental capacity is directly at issue in this case, and Starnes's opinion as to Neal's mental capacity at the time he executed those documents is relevant. Because of the nature of the dispute, the Court does not find it proper to quash the subpoena sent to Starnes." *Order*, June 22, 2021 (*Exhibit N*).

Ms. Starnes was never able to testify due to several continuances in the case and then Richard's death on August 24, 2022. April Mancini's attorney, Daniel Jones, wrote in an email that Ms. Starnes "would testify that he had capacity." *Email to Paul Neal et al*, December 8, 2020 (*Exhibit O*). Jones also wrote, "It seems to me that because Mr. Neal's family disagrees with his choices, this proceeding is being ramrodded forward." *Id.* Much of this information appeared relevant to the current proceedings.

The Court was also concerned about the manner in which Ms. Mancini died and Petitioner's involvement with cleaning-up her home. According to Petitioner, in November 2022, April went missing for a couple of weeks. The Sheriff received a call and conducted a welfare check, only to find Ms. Mancini drowned in her bathtub. *Exhibit D*, p. 15, lines 9-11, p. 11, lines 2-6. Petitioner subsequently accompanied his brother, a former coroner and deputy sheriff, "to help police up the body and clean up..." *Id.*, p. 14, lines 3-5. Ms. Mancini's purse, phone and other personal effects may have been with her when she died. However, if so, Petitioner presented no

information from the sheriff regarding Ms. Mancini's family and next of kin.

Petitioner worked with the livestock inspector to sell six cows left in Bynum because of his stated concern that they would starve to death. After the cows were sold at auction, the "Sheriff tried to contact them (the Mancini heirs) to make sure they got their money. They haven't done that." *Exhibit D*, p. 12-18. It was unclear who "they" are and what contact information the sheriff may have. If they were Ms. Mancini's heirs, Petitioner did not demonstrate he tried to locate them to provide actual notice of this case.

Petitioner did not obtain the names or contact information of the Mancini family members he says came to the Bynum house with "one thing on their minds, who went straight to the corner where there was like a desk set up [and] retrieved [the large envelope of cash], grabbed a couple personal items and got out of Dodge." *Exhibit D*, p. 18, lines 2-8. He offered no evidence that he asked why they were taking "an envelope full of cash" and other property from his father's former home.

Under the facts and circumstances of this case, the Court had good cause to order that these potential heirs be identified and served for the purposes of actual notice of the petition. § 72-1-301(2), MCA. The Court's orders were to simply provide proof of actual notice which could be a certified mail return receipt or proof of personal service to the heirs. Proof of personal service to a neighbor, however, was not enough.

The Court requested that Petitioner obtain documents from the funeral home in an effort to notify Ms. Mancini's heirs. The Garden City Funeral Home cremation documents, (*Exhibit P*), reflect that Ms. Mancini's mother and father's names are listed as are the names and contact information for Ms. Mancini's daughter Faith and her son, Aaron Miller. Petitioner could have requested this information from Garden City upon the filing of his petition or requested a court order to do so. Rather, Petitioner focused on one potential heir – Faith Miller, who now cannot be found. Aaron Miller's phone number no longer works. Petitioner states that he hired a process server approximately 6-months ago "to locate and serve notice to the heirs of April Mancini," *Exhibit G*, p. 2, paragraph 1, but provided no updates to the Court.

Late in the procedural history of this case, Petitioner presented a proposed order to the Clerk of Court, represented that the matter was no longer contested and that "good cause exists to approve the proposed notice plan and schedule a hearing." *Proposed Order*, December 26, 2024 (*Exhibit Q*). The proposed order provided that only one heir, Faith Miller, "shall be personally served at least 14 days prior to the hearing at her last known address." *Id.* However, the record reflects that mail sent to Faith Miller at this address is now being returned as undeliverable. *Status Report on Due Diligence Efforts*, July 24, 2024 (*Exhibit R*). Petitioner's motion indicates he still failed to locate and provide notice to any other heir pursuant to the Court's orders. A Deputy Clerk signed and filed this order, setting the case on the uncontested calendar.

The undersigned vacated the setting of this case on the uncontested calendar upon returning from Christmas vacation. The subsequent *Order on Motion for Clarification* was issued on January 28, 2025. *Order (Exhibit S)*. The Petition for a Writ of Supervisory Control followed.

Through its Orders, the Court was attempting to fulfill its obligation under the Uniform Probate Code to “discover and make effective the intent of a decedent in distribution of the decedent’s property.” *In re Est. of Williams*, 2023 MT 72, ¶ 22, 412 Mont. 58, ¶ 22, 528 P.3d 1087, ¶ 22 (citing § 72-1-101(2)(b)(ii), MCA). To effectuate this obligation, it has ordered repeatedly a showing of a good faith effort and due diligence in locating and providing actual notice to April Mancini’s heirs and beneficiaries pursuant to § 72-1-301(2), MCA.

IV. THE STANDING MASTER CORRECTLY APPLIED § 72-1-301(2), MCA

“The administration of an estate is a special proceeding.” *Est. of Williams*, ¶ 1. The Standing Master acted appropriately to administer justice in this probate proceeding in accordance with § 72-1-202, MCA. From the time this case was referred, the Standing Master has, in accordance with Montana law, required Petitioner to provide proof of actual notice to the Mancini heirs. “The court for good cause shown may provide for a different method or time of giving notice for any hearing.” § 72-1-301 (2), MCA.

The first step is to locate the heirs. Petitioner has not shown due diligence in those efforts. From the outset, he failed to identify the brother and nephew who took cash and property from his father's home in Bynum. In this unusual factual circumstance, it would have been helpful for him to determine the identity of the person who retrieved April Mancini's ashes. It also would have been reasonable to ask the Sheriff, who may have found Ms. Mancini's purse, phone, address book or other personal items, for any relevant family information. Instead, Petitioner mailed documents to every "Faith E. Miller" residing in Colorado, California, Connecticut and elsewhere, and published in the *Great Falls Tribune*.

"The fundamental requisite of due process of law is the opportunity to be heard." *City of Bozeman v. Reeder*, 2003 ML 781, 7 (citing *Goldberg v. Kelly* (1970), 397 U.S. 254, 267, 90 S. Ct. 1011, 1020, 25 L. Ed. 2d 287 (citation omitted)).

"Further, due process requires timely and adequate notice." *Id.* (citation omitted).

Petitioner's only acknowledgment of the good cause provision is on page 13 of the writ application, where he complains that *no one asked* the undersigned to find good cause for additional notice efforts. Of course no one else asked – he is the only litigant in the case and he apparently intends to keep it that way. This Court should hesitate to adopt any rule that strips trial courts of the discretion to order additional notice efforts where, as here, the situation requires it.

Petitioner's complaints about the burden allegedly associated with notifying Ms. Mancini's heirs are exaggerated:

- “Searching multiple online databases” – Under the circumstances, this is not uncommon and is easily completed by most individuals.
- “Contacting the funeral home of a person who defrauded and exploited the decedent”³ – This is not burdensome or complex and should have been one of Petitioner's first steps after filing his petition.
- “Personally serve a potentially interested party more than once” – No interested party has been personally served. Serving documents to a neighbor in Faith Miller's former apartment complex is not actual notice to Faith Miller.
- “Conducting searches on social media” – Using social media to locate heirs has become common practice.
- Other examples of due diligence would include: following up with the sheriff on his Mancini contacts relating to the cattle auction proceeds; mailing the summons and petition to Faith Miller and the other heirs by certified mail - return receipt; hiring a process server in Connecticut to personally locate and serve Faith Miller and the other heirs; obtaining the correct last name for Aaron Miller and contacting him at the number listed in the cremation documents; not hiring a Montana private investigator

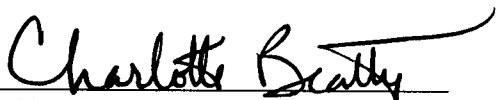
³Several similar remarks assuming Ms. Mancini's guilt appear throughout the writ application. No one has yet proved, in this or any other court, that Ms. Mancini defrauded or exercised undue influence over Mr. Neal. The prosecutors in Teton County only had to show probable cause to commence the elder abuse prosecution against her. Probable cause is the second lowest evidentiary burden in American law. She was presumed innocent of the charge and died under mysterious circumstances before any jury could consider whether the State had proven it.

to search the internet for the east coast heirs using engines available to the public; and filing his case in Teton County, where Richard lived most of his life and where most of his property can be found. Two closely related lawsuits were filed in Teton County in June 2020 and January 2021. Filing in Teton County would have saved Petitioner the costs of travel to hearings.

V. CONCLUSION

Here, Petitioner is seeking to validate an instrument that is not the last will of the decedent. A guardianship case in Teton County, presided over by Judge Olson, where the decedent's mental state was at issue, was never fully resolved in that no findings were issued as to the decedent's mental capacity at the time either will was drafted. A criminal case was commenced and later abandoned without issuing any judgment that this Court could consider. Some of the decedent's property was disposed of before the estate was settled. Under these circumstances, this Court reasonably concluded there was good cause to require additional notice efforts. This Court should deny the writ application.

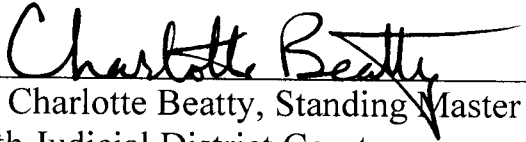
DATED this 12th day of May, 2025.



Hon. Charlotte Beatty, Standing Master
Eighth Judicial District
415 2nd Ave. N.
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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11(4)(e) of the Montana Rules of Appellate Procedure, I certify that this Summary Response brief is printed with a proportionately spaced Times New Roman text typeface of 14 points and is double-spaced, except for quoted and indented material. The word count calculated by Microsoft Word is 2,947 words, excluding table of contents, table of authorities, caption, certificate of compliance and certificate of service.

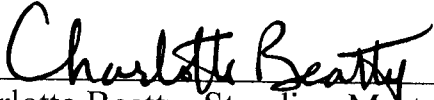


Hon. Charlotte Beatty, Standing Master
Eighth Judicial District Court

CERTIFICATE OF SERVICE

I, Charlotte Beatty, certify that, on May 12, 2025, I served Petitioner with a true and correct copy of the foregoing Summary Response to Petition for Writ of Supervisory Control and Appendix via US mail, first class, postage prepaid, to:

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Charlotte Beatty, Standing Master
Eighth Judicial District Court