IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

IN RE: ESTATE OF ELEANOR B. TYLER, DECEASED.	:	APPEAL NO. C-100814 TRIAL NO. 2007002125
	:	JUDGMENT ENTRY.
	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.[1]

Appellee Lucinda Tyler, executor of the estate of Eleanor B. Tyler, deceased, filed an application asking the probate court to approve payment of fees and costs to her attorneys for services rendered in connection with the administration of the estate. Appellant David B. Tyler, a beneficiary of the estate, objected to the application, contending that the attorneys had not adequately substantiated the charges. Following a hearing, the probate court overruled David's objections and awarded the attorneys $70,000 in fees and $1,910.82 in costs. This appeal followed.

In his sole assignment of error, David contends that the probate court erred in granting Lucinda's application for attorney fees. He argues that the fees were never properly substantiated and that the court failed to determine the reasonable value of the actual services rendered. This assignment of error is not well taken.

R.C. 2113.36 permits the payment of reasonable attorney fees for services rendered in the administration of an estate.[2] The determination of what services are reasonable and the value of those services lies within the trial court's discretion.[3]

Despite David's claims to the contrary, the exhibits presented at the hearing substantiated the hours expended by the attorneys and the hourly charges. David argues

---

[1] See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 11.1.1.
[2] *In re Estate of Rothert*, 1st Dist. No. C-101604, 2002-Ohio-2150, ¶3.
[3] Id.; *In re Estate of Fugate* (1993), 86 Ohio App.3d 293, 298, 620 N.E.2d 966.

that various improprieties occurred at the hearing. But, without a transcript of that hearing, we have no basis to make that determination. The appellant has a duty to provide a complete record for review because the appellant bears the burden to show error by reference to matters in the record. When portions of the record necessary for the resolution of assigned errors are omitted from the record, a reviewing court has no choice but to presume the validity of the trial court's proceedings.[4]

David also contends that since he was acting pro se, the probate court should have given him more latitude and granted his request for a continuance so that he could prepare a list of the charges he was contesting. This court has held that "pro se litigants are bound by the same rules and procedures as those litigants who retain counsel. They are not to be accorded greater rights and must accept the results of their own mistakes and errors."[5]

David has failed to meet his burden to show that the probate court's decision awarding attorney fees and determining the amount of those fees was so arbitrary, unreasonable or unconscionable to connote an abuse of discretion.[6] Consequently, we overrule his assignment of error and affirm the probate court's judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

DINKELACKER, P.J., HILDEBRANDT and **FISCHER, JJ.**

To the Clerk:

Enter upon the Journal of the Court on August 31, 2011

per order of the Court _____.

Presiding Judge

---

[4] *Knapp v. Edwards Laboratories* (1980), 61 Ohio St.2d 197, 199, 400 N.E.2d 384; *Firstar Bank, N.A. v. First Serv. Title Agency, Inc.*, 1st Dist. No. C-030641, 2004-Ohio-4509, ¶6; *Columbus v. Hodge* (1987), 37 Ohio App.3d 68, 68-69, 523 N.E.2d 515.

[5] *Arkwright Mut. Ins. Co. v. Toler*, 1st Dist. No. C-020589, 2003-Ohio-2202, ¶15, quoting *Meyers v. First Natl. Bank of Cincinnati* (1981), 3 Ohio App.3d 209, 210, 444 N.E.2d 412.

[6] See *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 218, 450 N.E.2d 1140; *In re Estate of Usiak*, 172 Ohio App.3d 262, 2007-Ohio-3038, 874 N.E.2d 838, ¶29.