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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1640**

In re the Estate of:
Deanna Marie Heuer, Deceased.

**Filed April 27, 2020
Affirmed
Florey, Judge**

Beltrami County District Court
File No. 04-PR-15-817

Larry A. Kimball, Kimball Law Office, Walker, Minnesota (for appellant Jeffrey Dale Zea)

John J. Steffenhagen, Ryan M. Theis, Hellmuth & Johnson, Edina, Minnesota (for
respondent Janet Heuer)

Considered and decided by Worke, Presiding Judge; Florey, Judge; and John
Smith, Judge.*

UNPUBLISHED OPINION

FLOREY, Judge

Appellant seeks review of a district court's bench ruling denying his claim against the estate of his deceased partner and her sister as the administrator of that estate. The district court denied appellant's claims on the basis of res judicata. We affirm.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

FACTS

In February 2015, respondent Janet Heuer's sister, Deanna, passed away. Heuer acted as the personal representative for the estate and as the temporary conservator for Deanna's minor son, Z.H. Appellant Jeffrey Zea is Z.H.'s father. In May 2015, the district court granted Heuer's petition for formal adjudication of intestacy and appointed Heuer as the administrator of the estate. The probate file was opened in Beltrami County District Court. Between 2015 and 2019, Zea has brought, in one way or another, at least five different actions against Heuer.

In December 2015, Zea commenced his first action against Heuer in district court (the 2015 civil action), seeking return of some personal property he and Z.H. owned that had allegedly gone missing during Heuer's administration of the estate. The court issued the order dismissing the 2015 civil action on January 24, 2017, and entered judgment on January 27.

On January 20, 2017—four days before the order dismissing the 2015 civil action—Zea filed his first petition in the probate file (the 2017 probate action). Zea sought removal of Heuer as personal representative of the estate, but he voluntarily withdrew that petition via letter on May 22 after receiving from Heuer “substantial discovery addressing a number of [his] concerns.”

In March 2018, Zea commenced a second independent civil action against Heuer in district court (the 2018 civil action) alleging that Heuer stole personal property belonging to himself and Z.H. Heuer filed a motion to dismiss on grounds of, *inter alia*, *res judicata*. The district court held a hearing on Heuer's motion in June 2018, and it issued an order

granting that motion on September 18, 2018—dismissing the matter with prejudice. On September 20, judgment was entered on the district court’s order. On November 20, 2018, the district court issued a memorandum to accompany its September 18 order, and Zea filed an appeal of that order on the same day—November 20. After this court asked the parties to submit informal memoranda addressing the timeliness of the appeal, we dismissed it as untimely,¹ concluding that the September 20 entry of judgment was the final and appealable filing, and therefore the deadline for appeal was on November 19, 2018.

On June 22, 2018, shortly after the motion hearing was held in the 2018 civil action, Zea brought a second petition in the probate file seeking an award of damages against Heuer and return of all allegedly stolen property (the 2018 probate action). In January 2019 Heuer filed a motion for sanctions against Zea pursuant to Minn. R. Civ. P. 11 and Minn. Stat. § 549.211 (2018), which the district court heard on January 23, 2019. At the close of that hearing, the district court orally stated on the record that it was dismissing Zea’s claims and closing the probate file “based upon the rules, based upon the statute of limitations, based upon res judicata and the merits.” As for Heuer’s motion for sanctions, the district court took it under advisement.

On March 25, 2019, Zea filed an appeal from the oral order in the 2018 probate action. This court again instructed the parties to submit briefs on the issue of appealability—specifically, whether the oral bench ruling was “a final judgment” under Minn. R. Civ. App. P. 103.02(a). On April 8, Zea voluntarily withdrew his appeal. We

¹ A18-1898 order (December 18, 2018).

dismissed the appeal as premature, noting in our order that the dismissal did not preclude Zea from filing a timely appeal from an appropriate final judgment.

On April 16, 2019, the district court issued a written order regarding the 2019 hearing. That order, however, only addressed Heuer’s motion for sanctions—it did not mention Zea’s claim nor the district court’s prior bench ruling dismissing it. The district court did not thereafter issue a written order or mention anything about judgment being entered on the 2018 probate action. Zea appealed, and this court issued an order opinion concluding that, in the absence of anything further from the district court, the bench ruling dismissing Zea’s 2018 probate action was appealable. We turn now to the substance of that appeal.

DECISION

Res judicata is a legal doctrine which is intended to preclude duplicative litigation or claims that should have been brought in a previous action. *Hauschildt v. Beckingham*, 686 N.W.2d 829, 840 (Minn. 2004). It is “a finality doctrine that mandates that there be an end to litigation” by requiring that parties “assert all alternative theories of recovery in the initial action” and barring claims that have been or should have been previously alleged. *Id.* (quotation omitted). Res judicata “seeks to avoid wasteful litigation so that a party may not be twice vexed for the same cause.” *Breaker v. Bemidji State Univ.*, 899 N.W.2d 515, 519 (Minn. App. 2017) (quotation omitted).

A subsequent claim is barred by res judicata if: “(1) the earlier claim involved the same set of factual circumstances; (2) the earlier claim involved the same parties or their privities; (3) there was a final judgment on the merits; [and] (4) the estopped party had a

full and fair opportunity to litigate the matter.” *Brown-Wilbert, Inc. v. Copeland Buhl & Co.*, 732 N.W.2d 209, 220 (Minn. 2007). “All four prongs must be met for res judicata to apply.” *Hauschildt*, 686 N.W.2d at 840. The availability of the doctrine of res judicata in any particular case is a question of law which we review de novo.² *Id.* at 840. If the elements of res judicata are met, this court reviews the district court’s decision to apply the doctrine for an abuse of discretion. *Dixon v. Depositors Ins. Co.*, 619 N.W.2d 752, 755 (Minn. App. 2000) (noting that, in some situations, a district court may decline to apply res judicata despite the presence of all four elements).

It is undisputed that the prior actions involved the same parties and arose from the same factual circumstances as the 2018 probate claim. Therefore, the first two elements of res judicata are not at issue here, so we will address Zea’s challenges to the third and fourth.

Zea argues that none of the prior actions entail final judgments on the merits because no district court decided or reached “the issue of whether [Heuer], as personal representative, fraudulently disposed of estate assets,” nor was there any testimony or other evidence submitted “on the issue of [Heuer’s] fraudulent disposition of estate assets.” Zea provides no authority to support the necessary premise that “judgment on the merits” means that the court expressly reached, decided, and ruled on the issues alleged in the complaint.

² We note that but for the de novo standard of review, this case would require remand because the district court’s minimal bench ruling—unaccompanied by written memorandum or order—would be insufficient to permit effective appellate review under any more deferential a standard. In this case, however, the standard of review calls for us to look at the same record the district court had before it and come to our own conclusion. Further, we agree with the district court and Heuer that, after more than four years and five separate proceedings with no meaningful progress or developments, it is past time to bring this line of litigation to an end.

As Heuer correctly points out, “on the merits” does not, necessarily, mean “upon a full trial or evidentiary hearing.” In *Dixon v. Depositors Insurance Co.*, this court concluded that the prior actions had been resolved “on the merits” and affirmed the dismissal of the appellant’s claims pursuant to res judicata. 619 N.W.2d at 755-56. The *Dixon* plaintiff’s prior two actions were disposed of on summary judgment; the district court did not hold a trial or decide the legal or factual issues that the plaintiff insisted were central to his claims, concluding instead that other considerations not proposed by the plaintiff warranted summary judgment. *Id.* at 754-55.

Here, while several of the prior actions may be sufficiently “final and on the merits” to support res judicata, there need only be one for the district court’s decision to stand. The prior case most applicable for purposes of res judicata is the 2018 probate action. That action was dismissed after a motion hearing and the court’s review of the record. If summary judgment can be sufficiently “on the merits” to meet this element of res judicata in *Dixon*, then the dismissal of Zea’s claims in the 2018 probate action can as well.

Having determined that at least the judgment on the 2018 probate action was “on the merits,” we now ask whether that judgment was “final.” However, Zea does not argue that the prior judgments were not final—only that they were not sufficiently on the merits. For this reason, and because the time to appeal the ruling on the 2018 probate action lapsed—a well-established finality event—we need only say that the judgment on the 2018 probate action was final. *Id.* at 755 (“An order or judgment becomes final after the appellate process is terminated or the time for appeal has expired.” (quoting *State Farm*

Mut. Auto. Ins. v. Spartz, 588 N.W.2d 173, 175 (Minn. App. 1999))). The third element of res judicata is therefore present here.

As for the final element, Zea argues only that, because the prior actions were not dismissed on the merits, he did not have “a full and fair opportunity to litigate the matter.” *Brown-Wilbert, Inc.*, 732 N.W.2d at 220. We disagree, and not only because we have already rejected the premise that the 2018 probate action did not receive a final judgment on the merits. We agree with Heuer that Zea had more opportunities than is typical to bring his claims, arguments, and evidence; which afforded him the chance to adjust them if he thought he should. He also had the opportunity to adjust his figures and assertions. To the extent, if any, that Zea did not have a full opportunity to litigate his claims, it was not unfair because it was caused by his repeated, overlapping, premature, and untimely filings. All elements of res judicata are met here, at least with respect to one prior action; Zea does not argue in the alternative that, if res judicata is applicable, the district court abused its discretion in applying it. Because we can find no indication that the district court abused its discretion, we affirm its dismissal of Zea’s claims.

Affirmed.