

No. 1-26-0394

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

<i>In re</i> ESTATE OF DAVID L. SHELTON, Deceased	)	
	)	
(Christopher H. Shelton,	)	Appeal from the
	)	Circuit Court of
Petitioner-Appellant,	)	Cook County
	)	
v.	)	No. 2025 P 002371
	)	
Sharon E. Shelton, Independent Executor,	)	Honorable
	)	James P. Murphy,
Respondent-Appellee).	)	Judge, Presiding.

JUSTICE WILSON delivered the judgment of the court.
Justices Mikva and C.A. Walker concurred in the judgment.

ORDER

- ¶ 1 *Held:* The judgment of the circuit court is reversed. Petitioner was an “interested person” pursuant to the Probate Act (755 ILCS 5/1-2.11 (West 2024)) as a remainder beneficiary of the trust that was funded by the pour-over will.
- ¶ 2 This is a case about whether petitioner has standing as an “interested person” pursuant to the Probate Act (the Act) (755 ILCS 5/1-2.11 (West 2024)).
- ¶ 3 David L. Shelton died in 2020. He was survived by his wife Sharon E. Shelton, his son Christopher H. Shelton, and his daughter Stephanie V. Shelton. We will refer to the parties by their

first names for clarity.

¶ 4 David’s will directed the entire residuary of his estate into a trust. Sharon is the trustee and primary trust beneficiary. Christopher and Stephanie are remainder beneficiaries of the trust.

¶ 5 After the will was admitted to probate, Christopher filed petitions for citation to discover assets and to terminate independent administration, which the circuit court denied for lack of standing under the Act. The court held that although Christopher was an heir, he was no longer an “interested person” pursuant to the Act because the will-contest deadline had passed. The court additionally held that Christopher did not qualify as an “interested person” as a creditor.

¶ 6 The court did not address whether Christopher was an “interested person” based on his status as a remainder beneficiary of the trust funded by David’s pour-over will. Because Christopher has an interest in ensuring that all the residuary assets of the estate are poured over into the trust, we hold that he is an “interested person” pursuant to the Act and reverse the judgment of the circuit court denying the petitions for lack of standing and remand for further proceedings.

¶ 7 I. BACKGROUND

¶ 8 David and Sharon married in 2015. Christopher is David’s child from a previous marriage. David died in 2020.

¶ 9 David purportedly executed a will dated April 21, 2015 (the will). It is a pour-over will directing the entire residuary estate into the David L. Shelton Declaration of Trust. Sharon is the trustee and primary trust beneficiary. Christopher is a remainder beneficiary entitled, with Stephanie, to an equal share of trust assets after Sharon’s death.

¶ 10 In April 2025, Christopher initiated this proceeding by filing a petition to open the estate and contest the will. The will had previously been filed with the Clerk of the Circuit Court of Cook County as will number 2020W007680, but had not been admitted to probate.

¶ 11 Sharon filed a cross-petition for probate of will and letters of testamentary, and sought her own appointment as independent executor. The circuit court granted the cross-petition, admitting David's will to probate and appointing Sharon executor of the estate.

¶ 12 In September 2025, Christopher filed a separate action for intentional interference with expectancy of inheritance, case number 2025L011140 (the tort action). The tort action is against Sharon individually, not against the estate.

¶ 13 Christopher also filed a claim against the estate in this case, seeking damages and the imposition of a constructive trust over assets passing through or related to the estate. The claim's stated purpose was "solely to preserve [Christopher's] rights against the assets of this Estate pending the outcome of the Tort Action." The circuit court entered and continued Christopher's claim to December 2025. All parties were required to update the court on the progress of the tort action at that time.

¶ 14 In the interim, Christopher filed a "Petition to Terminate Independent Administration." The petition asserted that good cause existed under section 5/28-4 of the Act (755 ILCS 5/28-4 (West 2024)) due to material inconsistencies regarding marital status, chronology, and inventory reporting.

¶ 15 Christopher also filed a "Verified Petition for Citation to Discover Assets and Appointment of Special Administrator." Among other things, the petition alleged that Sharon had concealed or converted personal property, books of account, papers, or evidences of debt or title that belong to the estate.

¶ 16 Sharon responded to the petition to terminate independent administration, arguing there was no good cause to terminate, and that Christopher was not an "interested person" in this probate estate and therefore "lack[ed] standing to seek termination." Sharon argued that: (1) the only

legatee named in the will was the acting trustee under the 2015 trust; (2) because Christopher was not a legatee of the will, he had no financial interest in the estate; and (3) although Christopher was a contingent beneficiary of the trust, he was not a current beneficiary and had no current financial interest in the trust estate.

¶ 17 Christopher replied that he has standing as an “interested person” pursuant to section 1-2.11 (755 ILCS 5/1-2.11 (West 2024)) on the grounds that he is an heir, creditor, and remainder trust beneficiary.

¶ 18 On February 20, 2026, in an oral ruling, the circuit court denied the petition for citation to discover assets and the petition to terminate independent administration. Judge James P. Murphy held that Christopher was not an “interested person” despite being an heir, reasoning, “I appreciate that you’re an heir, but the time period to file the will contest has come and gone. *** So while you are an heir, you’re no longer interested in the estate.” The court also rejected Christopher’s argument that he has standing as a creditor, explaining,

“I wouldn’t consider you a creditor. The Estate doesn’t owe you any money. And you’re waiting to see whether or not you’re going to be able to establish the causes of action in your [tort] lawsuit. So if you’re not a judgment creditor with the estate, I don’t think you are an interested person at this point in time.”

¶ 19 The circuit court acknowledged the possibility that Christopher could become an “interested person” if he succeeds in the tort action and gets a money judgment against the estate, but Christopher was “not in that position yet.”

¶ 20 Additionally, the court was concerned that granting the petitions would risk depleting the assets of the estate by incurring significant legal fees and costs for “no reason” if Christopher is not successful in the tort action. The court stated that Christopher would be allowed to bring the

petitions again if he is successful in the tort action. The circuit court did not address the argument that Christopher has standing as a remainder trust beneficiary.

¶ 21 Christopher timely appealed. On appeal, Christopher asks us to reverse the denials of the petition for citation to discover assets and the petition to terminate independent administration, and remand for consideration of both petitions on the merits.

¶ 22 II. ANALYSIS

¶ 23 A. Jurisdiction

¶ 24 We have jurisdiction over this appeal under Illinois Supreme Court Rule 304(b)(1), which permits a party to appeal without a special finding when the party appeals “[a] judgment or order entered in the administration of an estate, guardianship, or similar proceeding which finally determines a right or status of a party.” Ill. S. Ct. R. 304(b)(1) (eff. March 8, 2016).

¶ 25 The circuit court’s February 20, 2026, order barred Christopher from further participating in the case based on its finding that he lacked “interested person” status despite being an heir and purported creditor. Therefore, it constituted a final determination of Christopher’s status and right to participate in the estate proceedings. See *In re Estate of Mueller*, 275 Ill. App. 3d 128, 139 (1995) (finding that the judgment of the trial court was a final and appealable order because it finally determined the decedent’s brother’s right to participate in the estate proceedings).

¶ 26 B. Standing

¶ 27 The sole issue before us is whether Christopher has standing to participate in the Probate proceedings. “The doctrine of standing ensures that issues are raised only by parties having a real interest in the outcome of the controversy.” *Powell v. Dean Foods Co.*, 2012 IL 111714, ¶ 35. It is the respondent’s burden to plead and prove lack of standing. *In re Estate of Schlenker*, 209 Ill. 2d 456, 461 (2004).

¶ 28 “Although standing is generally a ‘common law concept’ [citation], standing under the Probate Act is entirely a creature of statute.” *In re Estate of Schumann*, 2016 IL App (4th) 150844, ¶ 19. Whether the Act confers standing is a matter of statutory interpretation that we review *de novo*. *Metropolitan Life Insurance Co. v. Hamer*, 2013 IL 114234, ¶ 18.

¶ 29 When interpreting a statute, we must “give effect to the intention of the legislature,” which is best reflected in “the plain language of the statute.” *In re Marriage of Rogers*, 213 Ill. 2d 129, 136 (2004). “When the language of the statute is clear, it must be applied as written without resort to aids or tools of interpretation.” *In re Marriage of Turk*, 2014 IL 116730, ¶ 15.

¶ 30 Christopher asserts that he has standing as an “interested person” on the grounds that he is an: (1) heir, (2) creditor, and (3) remainder trust beneficiary.

¶ 31 Section 1-2.11 defines an “interested person” as follows:

“ ‘Interested person’ in relation to any particular action, power or proceeding under this Act means one who has or represents a financial interest, property right or fiduciary status at the time of reference which may be affected by the action, power or proceeding involved, including without limitation an heir, legatee, creditor, person entitled to a spouse’s or child’s award and the representative.”

755 ILCS 5/1-2.11 (West 2024).

¶ 32 1. Heir

¶ 33 Christopher argues that he qualifies as an “interested person” because he is an heir pursuant to section 1-2.11 of the Act (755 ILCS 5/1-2.11 (West 2024)). Heirs are designated by law to receive an intestate estate. *Gridley v. Gridley*, 399 Ill. 215, 222 (1948).

¶ 34 In *In re Estate of Schlenker*, our supreme court interpreted the definition of “interested person” in relation to an heir who filed a will-contest petition before the deadline had expired. 209

Ill. 2d 456, 462 (2004). In *Schlenker*, the petitioner contested the validity of her father's will under the Act, and the father's estate moved to dismiss for lack of standing. The circuit court found the estate's position to be meritorious and granted the motion to dismiss. The appellate court reversed and remanded for further proceedings, holding that because the petitioner was an heir, it was sufficient to confer standing. The supreme court affirmed the appellate court. *Id.* at 458.

¶ 35 The petitioner in *Schlenker* had been expressly excluded from the will that was admitted to probate, receiving nothing. Among other things, the petitioner alleged her father was subject to the undue influence of her brother. The brother argued that the petitioner lacked standing to contest the will because a ruling on the will's validity would not affect her financial position.

¶ 36 The supreme court noted that even if the petitioner's allegations proved true and the will in question was declared invalid, the father had three prior wills. *Id.* at 460. Under all three prior wills, the petitioner stood to receive nothing. The petition, however, did not challenge the three prior wills and was only about the most recent will. As a result, even if the petition was granted, the petitioner would not have an interest in her father's estate until the prior wills were successfully challenged. *Id.*

¶ 37 The supreme court explained that "the relevant measure of an heir's eligibility to contest a will is based on his status in the absence of a will" and therefore "it would be incongruous to condition an heir's right to file a petition under section 8-1 of the Act based on what, if anything, he stood to receive under a prior will's provisions." *Id.* at 465.

¶ 38 The court discussed whether an heir is required to have a "financial interest, property right or fiduciary status at the time of reference" pursuant to section 1-2.11 in order to have standing to contest a will under section 8-1. *Id.* at 462 (quoting 755 ILCS 5/1-2.11 (West 2002)). The court held that whether an heir has standing to file a will contest not contingent on the heir's financial

interest in a prior will.

“The statute itself includes no such requirement. Under the plain and unambiguous language of the Probate Act, one’s status as an heir is sufficient, in itself, to confer standing to contest a will’s validity. If you are an heir, you qualify as a matter of law as an ‘interested person’ (755 ILCS 5/1–2.11 (West 2002)) entitled to bring a petition under section 8-1 of the Act (755 ILCS 5/8–1 (West 2002)). What you stand to receive under the challenged will or any prior wills is irrelevant.” *Id.* at 464-65.

¶ 39 Justice Garman’s special concurrence criticized the majority’s analysis as “flawed.” *Id.* at 466 (Garman, J., specially concurring). She disagreed with the majority because their holding made the phrase “one who has or represents a financial interest, property right, or fiduciary status” superfluous when heirs, legatees, or creditors are involved. Justice Garman explained that one’s status as an heir alone should not be sufficient to confer standing. She stated,

“[s]urely, an ‘interested person’ should actually have an affected interest. If the legislature really intended to say that heirs are interested persons as a matter of law, it would have said an interested person is an heir, legatee, creditor or a person who has or represents a financial interest which may be affected. The legislature did not utilize that definition. A more rational reading of what the legislature said is that heirs, legatees and the others are examples of those who will typically have an interest affected by a probate proceeding.” *Id.* at 467 (Garman, J., specially concurring).

¶ 40 Here, it is undisputed that Christopher is an heir. We know from *Schlenker* that “one’s status as an heir is sufficient, in itself, to confer standing to contest a will’s validity.” *Id.* at 464.

Unlike the petitioner in *Schlenker*, however, here Christopher is not contesting the will's validity. Instead, Christopher has brought petitions under section 28-4 (755 ILCS 5/28-4 (West 2024)) (petition to terminate independent administration) and section 16-1 (755 ILCS 5/16-1 (West 2024)) (petition for citation to discover assets and appointment of special administrator).

¶ 41 Christopher is not challenging the will's validity, and in any case the statutory deadline to do so has expired. The expiration is a crucial distinction from *Schlenker*, where the court's holding applied only to heirs who were still eligible to file a will-contest petition.

¶ 42 Central to the court's analysis in *Schlenker* was that the petitioner could still recover under the laws of intestacy, descent, and distribution if her will challenge was successful. As the court explained, "it would be incongruous to condition an heir's right to file a petition under section 8-1 of the Act based on what, if anything, he stood to receive under a prior will's provisions." *Schlenker*, at 465.

¶ 43 Moreover, the statute pegs the determination of whether someone is an "interested person" to the "status at the time of reference" of the petitioner. 755 ILCS 5/1-2.11 (West 2024). At the time Christopher filed the two petitions at issue here, the order admitting the will to probate was final as to the validity of the will because the time for filing a will-contest had run. *Sternberg v. St. Louis Union Trust Co.*, 394 Ill. 452, 459 (1946). Although Christopher is an heir, the laws of intestacy are not relevant here as they were in *Schlenker*. Because Christopher is not seeking to contest the will and the period for doing so has expired, *Schlenker* does not establish his standing to pursue the petitions at issue here.

¶ 44 We note that Sharon urges us to adopt the reasoning in Justice Garman's special concurrence. Sharon's arguments are best made to our supreme court.

¶ 45

2. *Creditor*

¶ 46 Because we find that Christopher is not an “interested person” as an heir because the will contest period has terminated, we next consider whether he is an “interested person” as a creditor.

¶ 47 The Act does not define creditor. “The common and ordinary definition of ‘creditor’ is ‘one to whom money is due.’ ” *Lewis v. Lead Industries Association*, 2020 IL 124107, ¶ 37.

¶ 48 Additionally, Christopher is not even pursuing a cause of action against the estate in the tort action. His tort claim is based upon a lawsuit he has filed against Sharon, individually, in the Law Division of the Circuit Court of Cook County. This is simply insufficient to bestow “interested person” status upon Christopher as a creditor.

¶ 49 Thus, we agree with the circuit court’s analysis that Christopher is not a creditor because “[t]he Estate doesn’t owe [Christopher] any money.”.

¶ 50 *3. Remainder Trust Beneficiary*

¶ 51 We next consider whether Christopher is an “interested person” under the Act as a remainder beneficiary of the trust created by the pour-over will.

¶ 52 Here, *In re Estate of Vogt* is instructive. 249 Ill. App. 3d 282, 285 (1993). In *Vogt*, a father died and was survived by his five children. Under the terms of the father’s will and codicil, his tangible personal property was to be divided among his children and the assets of his residual estate were to be placed into a residuary trust. The residuary trust was then to be divided into five separate trusts, one for each of the children including the petitioner. *Id.* at 283-84.

¶ 53 Ultimately, the court determined it did not have jurisdiction. *Id.* at 286. In passing, however, *Vogt* discussed the petitioner’s status as an “interested person.” *Id.* at 285-86. The executor of the estate argued that the petitioner—as a beneficiary of a trust created under the residuary trust—was not an “interested person” as defined under the Act and therefore had no standing to object to the accounts made to the court. *Id.* at 284. The court disagreed, explaining

that a beneficiary who is not entitled to notice under the Act can still be an “interested party” based on their financial interest in the estate.

“[Petitioner] was, and still is, a person with a financial interest in the estate and, as such, he is an interested person within the meaning of section 1-2.11 of the Illinois Probate Act [citation], notwithstanding the fact that there is no requirement that he receive notice or an accounting in his capacity as a beneficiary of a trust which has an ‘interested person’ as a trustee.”

Id. at 285.

¶ 54 Although Christopher is no longer an interested person to directly challenge the will as an heir because the deadline has lapsed, as a remainder beneficiary of the trust he does have an interest in ensuring Sharon properly administers the assets of the estate that should be poured over into the trust. For example, if Sharon is hiding certain assets from the estate instead of transferring them to the trust, Christopher continues to have an interest “at the time of reference” (755 ILCS 5/1-2.11 (West 2024)) to challenge her actions before the probate court. Normally a trustee who is an “interested person” is adequate to represent the interests of trust beneficiaries. Here, however, the interests of Sharon as trustee and Christopher as trust beneficiary are at odds. As Christopher points out, Sharon’s personal interest as lifetime beneficiary runs directly against his remainder interest in preserving the residue.

¶ 55 We acknowledge that *Vogt* involved a direct beneficiary of a trust, and not a remainder trust beneficiary. In *Burrows v. Palmer*, 5 Ill. 2d 434, (1955), our supreme court explained that a contingent beneficiary of a trust still has a right to bring an action against a trustee. The supreme court stated:

“In the recent case of *Barnhart v. Barnhart*, 415 Ill. 303, 114 N.E.2d 378, we stated

that a contingent beneficiary should not be denied the right to bring an action against the trustees merely because his interest is remote and contingent, but that he should have the right to such relief as is necessary to protect his possible eventual interest, i.e., protect and preserve the trust res. A trustee owes the same fiduciary duty to a contingent beneficiary as to one with a vested interest in so far as necessary for the protection of the contingent beneficiary's rights in the trust property."

Burrows, 5 Ill. 2d at 440.

¶ 56 As a remainder beneficiary of the trust, Christopher has a financial interest in ensuring that assets properly belonging to the residuary estate are identified and transferred to the trust. That interest may be affected by the administration of the estate and by whether estate assets are properly accounted for and transferred to the trust.

¶ 57 Accordingly, due to his status as a remainder beneficiary of the trust, Christopher is an "interested person" with standing to pursue his petitions for citation to discover assets and terminate independent administration. We reverse the denial of the petitions for lack of "interested person" status pursuant to section 1-2.11 of the Act (755 ILCS 5/1-2.11 (West 2024)).

¶ 58 We are cognizant of the circuit court's concern about depleting the assets of the estate through significant legal fees and costs. The circuit court has authority to manage the proceedings to prevent unnecessary expense or abuse. We express no opinion on the merits of either petition.

¶ 59 III. CONCLUSION

¶ 60 For the foregoing reasons, the judgment of the circuit court denying the petitions for lack of standing is reversed. We remand for further proceedings and consideration of the petitions on the merits.

¶ 61 Reversed and remanded.