

STATE OF MICHIGAN
COURT OF APPEALS

In re Estate of CONNIE MAE VICKERSON.

ROBERT ESSICK,

Petitioner-Appellee,

V

CONNIE VICKERSON COUNCIL and DEBRA
LINEAR,

Respondents-Appellants.

UNPUBLISHED

September 11, 2008

No. 278963

Wayne Probate Court

LC No. 2005-694545-DE

Before: Cavanagh, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

Respondents Connie Vickerson Council and Debra Linear, personal representatives of the Estate of Connie Mae Vickerson, appeal as of right from a probate court order awarding petitioner Robert Essick attorney fees and costs of \$10,769.70 as compensation for his legal services on behalf of the estate. We affirm.

Respondents argue that the probate court failed to make adequate findings regarding the factors listed in MRPC 1.5(a) and MCR 5.313 to assess the reasonableness of the attorney fees charged by petitioner. We disagree. This Court reviews a trial court's grant of attorney fees for an abuse of discretion, reviews the findings of fact on which the trial court bases an award of attorney fees for clear error, and reviews de novo questions of law. *Stallworth v Stallworth*, 275 Mich App 282, 288; 738 NW2d 264 (2007) (citation omitted).

MCR 5.313(A) states in relevant part:

An attorney is entitled to receive reasonable compensation for legal services rendered on behalf of a personal representative, and to reimbursement for costs incurred in rendering those services. In determining the reasonableness of fees, the court must consider the factors listed in MRPC 1.5(a). . . .

MRPC 1.5(a) provides:

A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee. A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

When ruling on a request for attorney fees, it is well settled that a trial court “need not detail its findings as to each specific factor considered.” *Wood v DAIIE*, 413 Mich 573, 588; 321 NW2d 653 (1993); *Michigan Nat’l Bank v Metro Institutional Food Service, Inc.*, 198 Mich App 236, 241; 497 NW2d 225 (1993). Here, while the trial court did not address each of these factors in its ruling, it did discuss the reasonableness of the rate, considered the accuracy of the time billed, and reduced the charges to “make an accommodation on behalf of the parties” We find no abuse of discretion in the trial court’s award of attorney’s fees to petitioner.

Moreover, although respondents urge this Court to reverse because the trial court did not address the various factors, the factors were not a basis for their arguments below. An appellant cannot contribute to error by plan or design and then argue error on appeal. *Bloemsma v Auto Club Ins Ass’n (After Remand)*, 190 Mich App 686, 691; 476 NW2d 487 (1991).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly