

[Court Seal]

FIFTH CIVIL CIRCUIT COURT FOR THE FIRST JUDICIAL CIRCUIT OF PANAMA.-
Panama, June ten (10) two thousand nine (2009).

ORDER No. 587

HAVING CONSIDERED:

Within the testamentary succession proceeding of Wilson Charles Lucom (R.I.F.), Mr. CHRISTOPHER WILLIAM RUDDY files a motion through legal counsel, the MIZRACHI, DAVARRO & URRIOLO law firm, to be recognized as a legatee and executor as set forth in the will granted by the decedent.

The factual statements used as the basis for the claim by the party against whom a judgment has been entered can be summarized as follows: As set forth in the will granted by WILSON CHARLES LUCOM (R.I.F.), CHRISTOPHER WILLIAM RUDDY has been designated as a legatee and executor; however, when the Fourth Civil Circuit Court for the First Judicial Circuit of Panama issued the order opening the succession proceeding, [the court] only appointed RICHARD LEHMAN as the executor, ignoring the will of the decedent to appoint three executors.

The moving party attached documentary evidence to his motion, visible at pages 7-18 of the file.

Pursuant to a decision dated September 18, 2006, notice of this motion was given, providing a three (3) day period [for response].

With respect to this motion, the INFANTE & PEREZ ALMILLANO law firm, on behalf of Hilda Antonia Piza Blondet, filed a brief in answer thereto challenging the motion, indicating that on the issue there is an ongoing appeal that has not been decided; therefore, all matters relating thereto

are the object of an appeal and the Court is barred from entering a decision (pp. 21-26).

By way of Order No. 1139 dated November 21, 2007, the evidence filed by the moving party is admitted which, by nature is documentary, in ratification and testimonial evidence.

A period of six (6) days was granted by way of the order dated November 21, 2007 (pg. 30) for processing the admitted evidence.

The moving party reported as evidence the file of the testamentary succession proceeding of Wilson Charles Lucom (R.I.P.), as well as the sworn statement of ISRAEL TEJADA CUERVO before the Ninth Notary Public for the Circuit of Panama on September 14, 2006, a photocopy of Public Deed No. 3880 from the Office of Second Notary Public for the Circuit of Panama whereby Mr. WILSON CHARLES LUCOM grants a special power of attorney to HILDA P. LUCOM, RICHARD LEHMAN and CHRISTOPHER RUDDY on April 21, 2006, and a photocopy of public deed No. 3881 from the Office of the Second Notary Public for the Circuit of Panama, whereby Mr. Wilson Charles Lucom (R.I.P.) appoints his healthcare surrogates on April 21, 2006 (pp. 8-18).

Once the procedural requirement was fulfilled in respect of this motion, the undersigned Judge proceeds to the considerations the case merits in accordance with provisions in our legal code inasmuch as there is no showing of cause for nullity whatsoever or procedural pretermission that prevents issuing a decision on the merits. That is, this jurisdictional court proceeds to decide on the merits of this motion.

The claim set forth in the motion is reduced to the following: for this Court to recognize that CHRISTOPHER WILLIAM RUDDY is a legatee in the succession of WILSON CHARLES LUCOM (R.I.P.) and, further, to declare that he is also an executor in that succession [proceeding].

The subjective right sought by the moving party is legally based on the substantive provision in Article 707 of the Civil Code, which is of the following tenor:

Article 707. All testamentary provisions must be understood within the literal meaning of its words, unless it clearly appears that the intention of the testator was different. In the event of doubt, what appears to be closest to the intention of the testator will be observed, in keeping with the tenor of the will itself.

The testator cannot forbid a challenge of the will in the event nullity has been established by law."

With respect to the request of the moving party to be recognized as a legatee, in the main file there is a decision issued by the Fourth Civil Circuit Court for the First Judicial District of Panama in Order No. 1025 dated July 5, 2006, thereby declaring the opening of the testamentary succession proceeding of WILSON CHARLES LUCOM (R.I.P.), and that legatees, without prejudice to third parties, are CHRISTOPHER RUDDY, among others, wherefor the Court finds this motion is not viable inasmuch as CHRISTOPHER RUDDY was already declared a legatee within the succession proceeding at issue, as stated by the deceased WILSON CHARLES LUCOM (R.I.P.) in a nuncupative will granted by the Office of the Second Notary Public for the Circuit of Panama in Public Deed 6646 dated June 20, 2005.

Therefore, the moving party must note that in testamentary succession proceedings, contrary to what happens in an intestate succession proceeding, motions for inclusion of heirs are not viable by virtue of the fact that the last will of the testator is executed in testamentary successions, and therein he states who he appoints as his successors or legatees.

As to a declaration as "executor", it is worth noting that this situation was decided by the Superior Court of Justice in the decision dated May 4, 2007, which modified the Order declaring the opening of the

instant testamentary succession proceeding issued by the Fourth Civil Circuit Court for the First Judicial Circuit of Panama, as to appointing Messrs. RICHARD SAM LEHMAN, CHRISTOPHER RUDDY and HILDA PIZA LUCOM as executors and trustees of the estate left by WILSON CHARLES LUCOM (R.I.P.), regarding which there was an announcement of an Appeal for Reversal (Cassation) before the Civil Division of the Supreme Court of Justice and which, to date, has not been decided.

For said reason, this Court finds that the motion filed by the moving party is not in accordance with law inasmuch as the appeal on the matter has not been decided, a situation that prevents the Court presiding over the matter from deciding on any motion relating to the said succession [proceeding].

In view of these concepts, the [Court] can only find that this motion was not proven for the reasons set forth above.

The Court finds there will be no judgment for court costs inasmuch as the moving party acted in good faith upon filing the motion.

Based on the foregoing reasons, the undersigned FIFTH CIVIL CIRCUIT JUDGE FOR THE FIRST JUDICIAL CIRCUIT OF PANAMA, with respect to the Testamentary Succession proceeding of Wilson Charles Lucom (R.I.P.) DENIES the motion for recognition as legatee and appointment as Executor filed by CHRISTOPHER WILLIAM RUDDY.

No judgment on court costs as set forth in the bases for the decision.

LEGAL BASIS: Articles 701 and 465 and 466 of the Judicial Code.

JUDGE,

/s/ Illegible
ATTY. JUAN BOSCO MOLINA R.

CLERK,

/s/ Illegible
ATTY. LUCENIA HAWKINS

EDICT No. 776 FILE 304-07

In the motion to be recognized as a legatee and to be declared an executor pursuant to the terms set forth in the will granted by WILSON CHARLES LUCOM (R.I.P.) filed by CHRISTOPHER WILLIAM RUDDY, a court order of the following tenor has been issued:

"FIFTH CIVIL CIRCUIT COURT FOR THE FIRST JUDICIAL CIRCUIT OF PANAMA, June ten (10) two thousand nine (2009).

ORDER No. 587

HAVING CONSIDERED
Based on the foregoing considerations, the undersigned FIFTH CIVIL CIRCUIT JUDGE FOR THE FIRST JUDICIAL CIRCUIT OF PANAMA with respect to the Testamentary Succession proceeding of Wilson Charles Lucom (R.I.P.) DENIES the motion for recognition as legatee and appointment as Executor filed by CHRISTOPHER WILLIAM RUDDY.

No judgment on court costs as set forth in the bases for the decision.

LEGAL BASIS: Articles 701 and 465 and 466 of the Judicial Code.

Provide notice.

(Signed) JUDGE, ATTY. JUAN BOSCO MOLINA R.

(Signed) CLERK, ATTY. LUCENIA HAWKINS

Therefore, to provide notice to the parties based on Article 1001 of the Judicial Code, this edict is posted at the Courthouse steps for a period of five (5) working days, today, Friday (12) of June 2009 at 8:00 in the morning.

/s/ Illegible
ATTY. LUCENIA HAWKINS
CLERK

Eng.1
/df

Upon lapse of the period for the foregoing Edict, at 8:00 in the morning, today 18 19 June in two thousand 2009, I remove it and add it to the file.

/s/ Illegible