

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE DICICCO
FAMILY TRUST, A NON-
TESTAMENTARY TRUST.

No. 79678-COA

ALAN R. DICICCO,
Appellant,
vs.
VICTORIA RICH,
Respondent.

FILED

SEP 11 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. [Signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

Alan R. DiCicco appeals from orders awarding attorney fees and costs, approving an accounting, and approving a distribution entered in a trust matter. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.

Alan initiated this matter by filing a petition which challenged various amendments to a trust created by his parents, and the restatement of the trust, as well as actions taken by the successor trustee, respondent Victoria Rich. Victoria had been named as the successor trustee in one of the challenged amendments. Victoria later filed a petition to enforce the trust's no-contest clause and opposed Alan's petition. Ultimately, the parties entered into a settlement agreement and stipulated to dismiss the matter. As set forth in the stipulated dismissal order, the parties agreed that the trust, the amendments thereto, and the restated trust were enforceable documents.

Subsequently, Alan filed an emergency motion seeking various relief related to the trust, including the removal and replacement of Victoria as trustee. Victoria opposed Alan's motion and moved for attorney fees and

costs. She then filed a petition seeking to dismiss Alan's motion with prejudice, to approve a trust accounting, to surcharge beneficiary Mark DiCicco's share of the trust due to expenses Mark caused the trust to incur, and to authorize a proposed distribution of trust assets. After a hearing, the probate commissioner recommended that Alan's motion be dismissed with prejudice, that the accounting be approved, that a surcharge apply to Mark's share of the trust, that the requested distribution be authorized, and that Victoria be awarded attorney fees and costs. In so doing, the commissioner determined that Alan's motion sought to relitigate claims that had already been resolved through the settlement agreement and that the agreement provided for an award of the attorney fees and costs sought by Victoria. Alan failed to object to the recommendations and the district court therefore entered an order adopting them. This appeal followed.

On appeal, Alan asserts that the probate commissioner failed to hear any relevant testimony, but he fails to explain what testimony would have been provided or how any such testimony would have changed the outcome of the underlying proceeding. As a result, Alan has failed to provide cogent arguments on this point and we therefore need not consider this argument. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues that are not supported by cogent argument). He further argues that attorney fees were improperly awarded without allowing an objection to the request for fees, but Alan had the opportunity to, and did, file an opposition to the request for attorney fees in the proceeding before the probate commissioner and therefore this argument lacks merit.


Finally, Alan summarily asserts that he only reluctantly entered into the settlement agreement—which served as a basis for the

rulings challenged on appeal—against his judgment and under extreme duress. But he never moved to set aside the stipulated dismissal based on the settlement agreement in the district court and failed to appeal that dismissal order. Thus, to the extent this statement, or any of Alan’s other statements of alleged error, attempt to challenge the validity of the settlement agreement, we do not consider these assertions as they are not properly before us on appeal.

Based on the reasoning set forth above, and in light of Alan’s failure to file any objection to the probate commissioner’s recommendations, *see* EDCR 4.06(d) (providing that the “[f]ailure to file and serve . . . written objections within the 10-day period will result in the automatic affirmance of the probate commissioner’s recommendation by the probate judge”), we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹To the extent Alan raises issues that are not specifically addressed herein, we have reviewed the same and conclude they do not provide a basis for relief.

cc: Hon. Gloria Sturman, District Judge
Alan R. DiCicco
Rushforth Lee & Kiefer LLP
Eighth District Court Clerk