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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

Estate of RICHARD BENJAMIN
STAIGER, Deceased.

H040931
(Santa Cruz County
Super. Ct. No. PR045880)

BOB LEE, as Public Administrator, etc.,

Petitioner and Respondent,

v.

MARK STAIGER,

Objector and Appellant.

Respondent Public Administrator was appointed to administer the estate of Richard Benjamin Staiger. Appellant Mark Staiger, who is incarcerated in state prison, is decedent's son and sole beneficiary of decedent's estate. After paying claims from the Department of Health Care Services (DHCS) and the Victim Compensation and Government Claims Board (Victim Compensation Board), the estate funds were distributed to appellant in care of California's Department of Corrections and Rehabilitation (CDCR). Appellant, in propria persona, contends that the probate court erred when it denied: (1) his petition for removal of the estate administrator; (2) his petition for distribution; and (3) his request for court-ordered telephone appearances. He

also contends that the probate court erred when it granted respondent's petition for special instructions. We affirm.

I. Procedural and Factual Background

In November 2012, respondent filed an ex parte petition for appointment as personal representative of decedent's estate. At the time of decedent's death in September 2012, he was conserved by the Santa Cruz County Public Guardian and receiving treatment at the Veterans Administration Hospital in Menlo Park. Appellant was an inmate in the custody of the CDCR and was housed at Pelican Bay State Prison. Decedent died intestate. The estate contained approximately \$76,681.18 in cash, which had been deposited in respondent's trust account. On November 27, 2012, the probate court granted the petition pursuant to Probate Code section 7660, subdivision (a)(1).¹

Shortly thereafter, appellant filed a petition for termination of conservatorship and order permitting liquidation of decedent's estate. Appellant opposed the appointment of respondent as the personal representative of the estate, asserted that he was entitled to receive all assets of the estate "immediately," and directed that the funds be transferred to his brokerage account. He also sought the appointment of counsel.

In mid-December 2012, appellant filed opposition to respondent's petition and again requested the appointment of counsel.

On December 19, 2012, a status hearing was held. The probate court denied appellant's request for the appointment of counsel. It also found that the continuation of the administration by respondent was in the best interest of the estate and continued the matter for six months.

On December 28, 2012, appellant filed a petition for revocation of the letters of administration. He alleged that respondent had failed to comply with various statutory

¹ All further statutory references are to the Probate Code unless stated otherwise.

provisions, including the procedures to be followed in filing a petition for letters of administration and transferring funds of the estate. He also alleged that respondent had failed to follow his directive regarding the labeling of correspondence to him as “legal mail.” Appellant further alleged that there was a “major ‘conflict of interest’ for the District Attorney’s Office to be appointed as administrator of an estate where a career criminal which their office has prosecuted in the past (1994-1995) is the sole heir.” Appellant requested that the probate court revoke the letters of administration and issue an order giving him full control of all funds in the estate. Alternatively, appellant requested that the probate court suspend the proceedings until he was able to obtain counsel.

On April 29, 2013, appellant filed a supplement to his petition for revocation of letters of administration. He noted that respondent had not served him with any response to his December 28, 2012 petition, he was not notified of the April 9, 2013 hearing, and there was no cause for the continuance to May 10, 2013. Appellant again demanded the release of all estate funds to him and the appointment of counsel.

On May 10, 2013, appellant filed a declaration in which he claimed that respondent failed to serve him with any documentation regarding his testimony for the May 10, 2013 hearing and to respond to his demand for payment, and that these failures constituted a default. Thus, appellant requested that the probate court grant his December 2012 petition, revoke the letters of administration, and order the release of all funds in the estate to him immediately. He also demanded that no fees be awarded to respondent and that the estate funds not be transferred to the CDCR.

On May 10, 2013, the probate court held a hearing. Following argument, the probate court denied the petition for revocation of letters and continued the matter until June 19, 2013.

On June 3, 2013, respondent filed a status report that summarized the actions that had been taken. Respondent had notified various state agencies regarding the estate. The

DHCS submitted a claim of \$7,298.49 and the Victim's Compensation Board submitted a claim of \$1,473.11. Respondent also noted that the Veterans' Administration had improperly paid \$2,242.85 to decedent's brother and he was attempting to recover these funds. Respondent requested that the probate court schedule a further status report hearing in December 2013, unless he filed a statement of property and disposition as well as distribution receipts before that date, in which event no hearing would be required.

On June 5, 2013, an order denying the petition for revocation of letters of administration was filed. Appellant did not approve the proposed order.

On June 10, 2013, appellant filed an objection to further continuance of the administration of the estate. He argued that the claims that had been made against the estate were untimely. He also claimed that statutes under which respondent sought to administer the estate were inapplicable and that there was no legal authority for the probate court's actions. Appellant once again requested that the probate court order respondent to release the funds with no fees deducted.

On June 13, 2013, appellant filed another objection to the claims filed against the estate and requested the appointment of counsel. He argued that his due process rights had been violated because he was never given the opportunity to object to the claims.

On June 19, 2013, a hearing was held. The probate court found that appellant had no standing to object to the creditors' claims and denied his request for the appointment of counsel.

On July 9, 2013, appellant filed a notice of appeal in case No. H039855.² The presiding justice of this court dismissed the appeal on August 26, 2013, because appellant had failed to procure the record on appeal in a timely manner and had not requested relief from default. (Cal. Rules of Court, rule 8.140(b).)

² This court has taken judicial notice of its records regarding appellant's prior appeal in case No. H039855. (Evid. Code, § 452.)

On February 28, 2014, appellant filed a petition for removal of the estate administrator on the following grounds: there was a conflict of interest because respondent was part of the district attorney's office; respondent failed to perform statutory duties, including those governing the procurement of the letters of administration and protection of the estate against improper claims; and respondent was incompetent for failing to follow his directive to indicate that all correspondence was "legal mail." Appellant requested that the probate court release all estate funds to him.

On February 28, 2014, appellant filed a petition for distribution and a request for a court order regarding the terms of distribution.³ Appellant argued that respondent had improperly approved the DHCS and Victim Compensation Board claims because neither was filed with the court. He also objected to the DHCS claim on two other grounds: (1) there was no evidence that decedent had received notice that the estate could be subject to recovery of medical benefits that had been paid; and (2) the claim did not state the physicians' names, dates of service, and amounts. He also pointed out that respondent never notified him that he had a right to apply for a hardship waiver of the claim. Appellant asserted that he was unable to open a bank account because he was confined in "a maximum security disciplinary housing unit." Appellant sought a court order: (1) declaring the DHCS and Victim Compensation Board claims invalid; (2) directing respondent to "set up/open an account at a financial institution of [his] choosing for funds to be transferred to"; (3) directing respondent to also "arrange for several small amount checks . . . to be sent to various 3rd parties as directed by [him]"; and (4) finding that respondent was entitled to minimal fees.

On March 10, 2014, respondent filed a petition for special instructions. Respondent alleged that appellant had been contacted regarding where to distribute the estate funds to which he was entitled and appellant failed to supply adequate information.

³ This document was not part of the record on appeal. However, this court has taken judicial notice on its own motion of this petition. (Evid. Code, § 452.)

Respondent contacted the Litigation Unit of Corcoran State Prison and was informed that the funds could be distributed to appellant in care of the CDCR. Respondent requested an order authorizing distribution of estate funds to appellant in care of the Litigation Unit at Corcoran State Prison.

On March 27, 2014, appellant filed a “directive” to respondent regarding the distribution of estate funds. Appellant stated that “under no circumstances [were] any funds to be sent or ‘released’ to anyone other than [him]” and that respondent was forbidden “to send any of [his] funds to, in care of, or in any other way to . . . any other party in any way associated with the [CDCR].” Appellant also refused to accept any distribution of estate funds until “all avenues of litigation available to [him] regarding any and all ‘claims’ against the estate [were] completely exhausted.”

On the same day, appellant filed a petition for court-ordered telephone appearances. He noted that his “next-door-neighbor” regularly made telephone appearances in his court case.

On April 8, 2014, respondent filed opposition to appellant’s request for court orders regarding the terms of distribution and the petition for removal of the estate administrator. Relying on section 9154, respondent asserted that any defects in a creditor’s claim could be waived. Respondent also pointed out that appellant had been informed of the claims in June 2013. Thus, respondent argued that appellant’s request that the probate court disallow the creditors’ claims should be denied. Respondent also argued that appellant’s claim that respondent had engaged in fraud for failure to comply with the notice requirements of section 8110 had no merit. Respondent disputed appellant’s conflict of interest claim. Respondent pointed out that it represented the estate and not appellant, and that there was no evidence that any member of the district attorney’s office involved in prosecuting appellant had participated in respondent’s actions. Respondent also noted that his attorney works in the county counsel’s office and not in the district attorney’s office. As for labeling correspondence to appellant as legal

mail, respondent did not want to hold himself out to appellant or prison authorities as appellant's legal representative

On April 11, 2014, appellant requested that the April 18, 2014 hearing be continued.

On April 18, 2014, the hearing was held. The probated court denied the petition for removal of the estate administrator, the petition for distribution and request for orders regarding the distribution terms, and the petition for court-ordered telephone appearances. Respondent's petition for special instructions was granted. Appellant's objection to combining of motions and/or petitions was also denied.⁴

On April 18, 2014, appellant filed a notice of appeal from the orders denying his petition for removal of the estate administrator, his petition for distribution, and his request for a court order for telephone appearances. He also appealed from the order granting respondent's petition for special instructions.

II. Discussion

A. Petition for the Removal of the Estate Administrator

Appellant contends that the probate court erred when it denied his petition for removal of the estate administrator.

In December 2012, appellant filed a petition for revocation of the letters of administration. He alleged that respondent had failed to comply with various statutory requirements and to follow his directives. He also alleged that respondent had a conflict of interest. The probate court denied the petition in May 2013. This order was appealable. (§ 1300, subd. (c).) Though appellant filed a notice of appeal, he failed to file the record on appeal in a timely manner or request relief from default. Accordingly, the appeal was dismissed. (Cal. Rules of Court, rule 8.140(b).) In February 2014,

⁴ Detailed rulings were stated for the record, but there is no reporter's transcript in the record on appeal.

appellant filed a petition seeking respondent's removal as the administrator on substantially the same grounds as alleged in the petition for revocation of the letters of administration: conflict of interest, failure to comply with various statutory requirements, and failure to follow his directives. After the probate court denied the petition, appellant filed the present appeal.

“The doctrine of res judicata bars a later action upon the same cause of action in cases involving a final judgment on the merits between the same parties. [Citations.] Even if the judgment was erroneous, it bars the later action. [Citation.] The prior judgment determines not only every issue raised in that action, but every issue that *might* have been raised. [Citations.]” (*People v. Silva* (1981) 114 Cal.App.3d 538, 550.)

Here, appellant's prior appeal involved the same parties. An order denying a petition to revoke letters of administration is essentially the same as an order denying a petition to remove an administrator. (*Bauer v. Willis* (1925) 195 Cal. 375, 376-377.) “[I]nvoluntary dismissal of an appeal operates as an affirmance of the judgment below [Citations.]” (*County of Fresno v. Shelton* (1998) 66 Cal.App.4th 996, 1005.) Thus, the order denying appellant's petition for revocation of the letters of administration was final. Accordingly, we conclude that the doctrine of res judicata bars appellant from making another challenge to the appointment of respondent as the personal representative of the estate.

B. Petition for Distribution

Appellant argues that the claims submitted by the DHCS and the Victim Compensation Board were untimely.

A public administrator, who has been appointed to administer an estate, may summarily dispose of the estate without formal probate proceedings when the total value of the estate does not exceed \$150,000. (§§ 7660, subd. (a)(1), 13100.)

The rules for the treatment of claims by “public entities” in the administration of a decedent’s estate are set forth in former sections 9200 through 9205. As used in this chapter, a public entity is defined in Government Code section 811.2. (§ 9200, subd. (b).) A “[p]ublic entity includes the state, the Regents of the University of California, the Trustees of the California State University and the California State University, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State.” (Gov. Code, § 811.2.) Thus, both the DHCS and the Victim’s Compensation Board are public entities.

Former section 9202, subdivision (a) requires that within 90 days after letters are issued, the public administrator must notify the director of the DHCS of the decedent’s death if he knows or has reason to believe that the decedent received certain health benefits. (Former § 9202, subd. (a).) The director has four months after notice is provided to file a claim. (*Ibid.*) Former section 9202, subdivision (b) requires that within the same time frame, the public administrator must notify the director of the Victim’s Compensation Board of the decedent’s death if he knows or has reason to believe that an heir is confined in a prison or facility under the jurisdiction of the CDCR. (Former § 9202, subd. (b).) The director has four months after notice is provided to file a claim. (Former § 9202, subd. (b).)

On November 19, 2012, respondent sent letters to the DHCS and the Victim Compensation Board. The letter to the DHCS provided information regarding decedent and the value of his estate. The letter to the Victim Compensation Board provided information about appellant. On January 24, 2013, respondent received a claim from the DHCS against the estate for \$7,298.49. On February 20, 2013, respondent received a claim from the Victim Compensation Board for \$1,473.11. Thus, the claims were timely.

Appellant argues that neither claim complied with section 9150, subdivision (d), which states: “If the creditor does not file the claim with the court and serve the claim on the personal representative as provided in this section, the claim shall be invalid.” Thus,

he argues that the claims are barred under section 9002.⁵ There is no merit to these arguments. These provisions governing creditors' claims are superseded by the specific notice and limitations statutes that apply to public entity claimants, such as the DHCS and the Victim Compensation Board. (*Shewry v. Wooten* (2009) 172 Cal.App.4th 741, 747.)

Appellant also argues that since the letters to these state agencies were sent on November 19, 2012, which was before respondent was appointed personal representative of the estate on November 27, 2012, respondent committed misconduct. However, since respondent was merely providing notice to potential claimants and did not pay any debts from the estate before the court issued the letters of administration, we find no misconduct.

Appellant next objects to the February 14, 2013 letter from the Victim Compensation Board. He argues that it is a "request" for payment, not a "claim." This argument is without merit. The letter clearly indicates that the Victim Compensation Board is seeking payment from decedent's estate for the cost of charges paid by the Medi-Cal Program.

Without any citation to authority, appellant argues that since the Victim Compensation Board claim refers to a debt by appellant, not decedent, "the standard of proof required to successfully assert a supposed 'claim' of that nature is much higher than what is required for a debt of the decedent." When an appellant fails to support a point with reasoned argument and citation to authority, the point is waived. (*People v. Stanley* (1995) 10 Cal.4th 764, 793 (*Stanley*)). Since appellant has failed to support his argument, we do not consider this issue.

⁵ Section 9002 states: "Except as otherwise provided by statute: [¶] (a) All claims shall be filed in the manner and within the time provided in this part. [¶] (b) A claim that is not filed as provided in this part is barred."

Appellant also contends that there is no evidence that the Victim Compensation Board provided the minute order or abstract of judgment to support its claim. However, appellant has forfeited this issue by failing to raise it before the probate court. (*Martinez v. Scott Specialty Gases, Inc.* (2000) 83 Cal.App.4th 1236, 1249) Moreover, appellant has failed to support his contention with reasoned argument and citation to authority. (*Stanley, supra*, 10 Cal.4th at p. 793.)

Appellant next challenges the DHCS claim. He first focuses on the final sentence of the second paragraph of the DHS claim, which states: “If a personal pledge agreement, family agreement, or similar legal document was signed, any assets included may be subject to recovery.” Appellant then argues that there is no evidence that decedent signed any such document. It is irrelevant whether decedent signed a personal pledge agreement, family agreement, or similar legal agreement. If decedent had not assigned to the state all rights to payments when he applied for medical services, his application for these services would have been denied. (Cal. Code Regs., tit. 22, §§ 50175(a)(7)(A), 50185(a)(1).) Moreover, there is nothing in either the statutes or the regulations that requires the DHCS to produce a decedent’s application when it seeks reimbursement from decedent’s estate.

Appellant further contends that respondent failed to notify him of his right to request a hardship waiver.

Welfare and Institutions Code section 14009.5 states: “(c)(1) The department shall waive its claim, in whole or in part, if it determines that enforcement of the claim would result in substantial hardship to other dependents, heirs, or survivors of the individual against whose estate the claim exists.” Here, the DHCS claim stated that it was respondent’s responsibility to notify all heirs of his or her right to seek a hardship waiver. There is nothing in the record on appeal indicating whether appellant was notified of this right and respondent has failed to indicate whether he provided such notice. Thus, we will assume that appellant did not receive this notice.

However, we conclude that appellant has failed to show prejudice. California Code of Regulations, title 22, section 50963 defines the criteria for a finding of substantial hardship. It provides in relevant part: “In determining the existence of substantial hardship, the Department shall waive an applicant’s proportionate share of the claim if one or more of the following factors apply: [¶] (1) When allowing the applicant to receive the inheritance from the estate would enable the applicant to discontinue eligibility for public assistance payments and/or medical assistance programs; or, [¶] (2) When the estate property is part of an income-producing business, . . . and recovery of medical assistance expenditures would result in the applicant losing his or her primary source of income; or, [¶] (3) When an aged, blind, or disabled applicant has continuously lived in the decedent’s home for at least one year prior to the decedent’s death and continues to reside there, . . . ; or, [¶] (4) When the applicant provided care to the decedent for two or more years that prevented or delayed the decedent’s admission to a medical or long-term care institution. The applicant must have resided in the decedent’s home during the period care was provided and continue to reside in the decedent’s home. . . . ; or, [¶] (5) When the applicant transferred the property to the decedent for no consideration; or, [¶] (6) When equity in the real property is needed by the applicant to make the property habitable, or to acquire the necessities of life, such as food, clothing, shelter or medical care.” (Cal. Code Regs., tit. 22, § 50963, subd. (a).)

Here, appellant has not shown that he was able to satisfy any of the criteria for a substantial hardship finding. Appellant was incarcerated in state prison during the relevant time period. Thus, his receipt of the \$7,298.49 would not have enabled him to discontinue eligibility for public assistance; he was not aged, blind, or disabled and living in decedent’s home one year prior to decedent’s death; he did not provide care to decedent for two or more years that delayed decedent’s admission to the Veterans Administration Hospital; and he did not continue to reside in decedent’s home. Since the inheritance did not consist of real property, the second, fifth, and sixth factors also were

not applicable. Given that appellant would have been unable to establish a hardship waiver, the error was not prejudicial.

C. Petition for Special Instructions

Appellant contends that the probate court erred when it granted the petition for special instructions.

On March 10, 2014, respondent filed a petition for special instructions and sought an order authorizing the distribution of the estate funds to appellant in care of the CDCR, Litigation Unit at Corcoran State Prison. The hearing was set for April 18, 2014. On April 11, 2014, appellant filed a request to continue the hearing to June 18, 2014. He asserted that he was unable to research, prepare, and serve his objection to the petition “due to his inability to obtain access to the prison law library for at least another 2-4 weeks.” The probate court denied appellant’s request for a continuance and granted the petition for special instructions.

A probate court’s decision to issue special instructions is discretionary under section 9611. (*Estate of Denton* (1971) 17 Cal.App.3d 1070, 1074 (*Denton*) [analyzing former section 588 which is the predecessor to section 9611].) Thus, this court reviews the order under the abuse of discretion standard. (*Denton*, at p. 1075.)

Here, respondent determined that appellant’s distribution could be held in trust for him during his incarceration by the CDCR. Penal Code section 5008 directs the CDCR to deposit inmate funds into interest-bearing bank accounts or invest the funds as provided by statute. Since appellant was incarcerated and he was unable to open or maintain bank or other financial accounts, the probate court did not abuse its discretion in granting the petition for special instructions.

Appellant argues that releasing the funds to a third party constituted an illegal seizure of his property. However, the probate court did not release the funds to a third

party. The funds were released to appellant in care of the CDCR, Litigation Unit at Corcoran State Prison.⁶

Appellant next asserts that the Public Administrator's claim that appellant had not provided any direction for the distribution of the funds was "an outright lie." He relies on his "directive," filed on March 27, 2014, in which he notified the Public Administrator not to release the funds to anyone but him, and especially not the CDCR. However, this document does not indicate how the funds were to be released to him.

Appellant next refers to a two-page letter, dated January 16, 2014, regarding the distribution of the funds. This letter is not included in the record on appeal. Appellant claims that the letter contained the instructions that "his funds be deposited in at least 2 different investment accounts set up by administrator. If administrator was unable to do that, then funds may be able to be transferred to brokerage accounts already held by appellant, but that these accounts were 'dormant' at this point due to many years of inactivity, and the accounts would need to be 're-activated' via a phone call from administrator as appellant no longer had mailing addresses for the brokerage firms. If neither of those two options were viable, then as a 'temporary measure' administrator simply changing the account where the funds currently are to appellant's name only would be acceptable – with the stipulation that the bank would in the very near future transfer the funds as instructed by appellant." Appellant argues that respondent is "required to assist him in any and every way possible to set his funds in high-interest accounts with solid, reputable firms, and to work with appellant, at his direction, to achieve those ends."

Appellant is mistaken regarding respondent's duties. Respondent was the administrator of the estate. Thus, respondent had a fiduciary duty to the estate and to any

⁶ Appellant contends that the order authorizing the distribution of estate funds in care of the Litigation Unit of the CDCR is "totally illegal." He acknowledges that there is no legal authority to support his position.

heirs, but this duty did not include the duty to act as an heir's financial agent. (*Brenham v. Story* (1870) 39 Cal. 179, 186 ["The duty of an administrator is to take charge of the estate for the purpose of settling the claims, and when they have been satisfied, it is his duty to pass it over to the heir, whose absolute property it then becomes. To allow the administrator to sell, to promote the interests of those entitled to the estate, would be to pass beyond the proper functions of an administrator, and constitute him the forced agent of the living for the management of their estates."].)

Appellant also argues that the probate court abused its discretion in denying his request for a continuance.⁷

"The court may continue or postpone any hearing, from time to time, in the interest of justice." (§ 1045.) Here, appellant requested a continuance a month after respondent filed the petition for special instructions and a week before the hearing was scheduled. He requested a continuance of 60 days, because he was unable to access the prison library for another two to four weeks. However, appellant had been aware of the need to provide information about the distribution of estate funds for several months. Thus, the probate court did not abuse its discretion in denying the request.

D. Request for Telephone Appearances

Appellant contends that the probate court erred when it denied his request for telephone appearances.⁸

⁷ Respondent contends that appellant cannot appeal from an interlocutory order. However, the denial of his request for a continuance may be considered in conjunction with his appeal from the order granting the petition for special instructions, which was final.

⁸ Respondent contends that appellant cannot appeal from an interlocutory order. However, since appellant's request was made prior to the hearing on his petition for distribution and respondent's petition for special instructions, this issue may be considered in conjunction with the final orders on those petitions.

“An indigent prisoner who is a defendant in a bona fide civil action threatening his or her personal or property interests has a federal and state constitutional right, as a matter of due process and equal protection, of meaningful access to the courts in order to present a defense. [Citations.]” (*Wantuch v. Davis* (1995) 32 Cal.App.4th 786, 792 (*Wantuch*)). One of the ways to secure access is the use of the telephone for hearings. (*Id.* at p. 793.) “The trial court determines the appropriate remedy to secure access in the exercise of its sound discretion.” (*Id.* at p. 794.)

The probate court denied appellant’s request for court-ordered telephone appearances. The probate court found that appellant “was advised via letter date April 4, 2014 from the Santa Cruz County Superior Court clerk’s office that it [was] his responsibility to arrange a telephone appearance. The clerk’s office also provided the telephone number for CourtCall and provided him with a copy of his Order on Court Fee Waiver so he could use it to request CourtCall to waive its fees. He was advised that he could contact the clerk’s office with any questions.”

Appellant does not assert that he never received this letter. Appellant argues that he had “no duty to contact the prison litigation coordinator – same person that has participated in the conspiracy to seize all of appellant’s funds from the estate – and that she will arrange telephone appearances.” He also claims that “CSP/COR-CDCR policy is that an order for inmates to ‘appear’ on any court matter, a court order is required! Criminal-civil-whatever: No inmate is taken out of his cell for any ‘appearances’ without a court order.” Since he has submitted no legal authority or citations to the record to support this argument, we do not consider it. (*Stanley, supra*, 10 Cal.4th at p. 793.)

“In determining the appropriate remedy to secure access, the trial court should consider the nature of the action, the potential effect on the prisoner’s property, the necessity for the prisoner’s presence, the prisoner’s role in the action, the prisoner’s literacy, intelligence and competence to represent himself or herself, the stage of the proceedings, the access of the prisoner to a law library and legal materials, the length of

the sentence, the feasibility of transferring the prisoner to court and the cost and inconvenience to the prison and judicial systems. [Citations.]” (*Wantuch, supra*, 32 Cal.App.4th at p. 793.) Here, respondent was appointed to administer the estate because appellant was incarcerated. The administration of the estate was not complicated. However, appellant opposed the payment of valid claims to the DHCS and the Victim’s Compensation Board and the distribution of the remaining estate funds to him in care of the CDCR. Appellant displayed an ability to utilize the law library competently, though he chose not to arrange a telephone appearance as instructed by the clerk’s office. Under these circumstances, the probate court did not abuse its discretion in denying the request for a court order for telephone appearances.

E. Attorney’s Fees

Appellant requests that this court award him costs and fees of \$10,275, or in the alternative, \$25,000 in punitive damages. Even if appellant was a licensed attorney, his status as a pro per litigant precludes him from recovering attorney’s fees. (*Musaelian v. Adams* (2009) 45 Cal.4th 512, 520.)

Relying on *Estate of Bartsch* (2011) 193 Cal.App.4th 885, respondent requests that this court remand the matter to the probate court for a determination whether attorney’s fees should be awarded and, if so, in what amount. However, none of the issues considered in this court involved an award of attorney’s fees to respondent.⁹ Accordingly, the request is denied.

⁹ On July 24, 2014, this court granted permission to file a supplement to appellant’s opening brief in which he asserts: the estate funds have been distributed to him in care of the CDCR; the DHCS and Victim Compensation Board claims have been paid; and the CDCR has deducted a 10 percent administrative fee when funds were withdrawn. He argues that the funds are not under his control and he seeks the appointment of counsel “to conduct further complex litigation,” since he has been unable to obtain counsel on his own. His request is denied.

III. Disposition

The orders are affirmed. Costs are awarded to respondent.

Mihara, J.

WE CONCUR:

Bamattre-Manoukian, Acting P. J.

Márquez, J.