

SUCCESSIONS OF MILTON COTAYA &  
EDNA COTAYA

NO. 24-CA-226

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 837-862, DIVISION "J"  
HONORABLE STEPHEN C. GREFER, JUDGE PRESIDING

December 20, 2024

**STEPHEN J. WINDHORST**  
**JUDGE**

Panel composed of Judges Marc E. Johnson,  
Stephen J. Windhorst, and Timothy S. Marcel

**APPEAL DISMISSED**

**SJW**

**MEJ**

**TSM**

FIFTH CIRCUIT COURT OF APPEAL  
A TRUE COPY OF DOCUMENTS AS  
SAME APPEARS IN OUR RECORDS



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Deputy, Clerk of Court

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COTAYA

J. Douglas Sunseri

## **WINDHORST, J.**

Appellant, the succession representative, Vicki Tosh, appeals the trial court's April 11, 2023 judgment<sup>1</sup> dismissing her Petition to Open Succession, Probate Will and Confirm Administrator in docket number 837-862. For the following reason, appellant's appeal is dismissed.

### **DISCUSSION**

#### *Jurisdiction*

In this contentious litigation, Ms. Tosh filed the instant appeal concerning the trial court's April 11, 2023 judgment which dismissed her Petition to Open Succession, Probate Will and Confirm Administrator ("petition") in Successions of Milton Cotaya and Edna Cotaya, docket number 837-862 in the 24<sup>th</sup> Judicial District Court. Ms. Tosh asserts that the trial court erred in considering Lee Cotaya's "Motion and Incorporated Memorandum to Remove Vicki Tosh as Executrix and Dismiss These Proceedings," ("motion to dismiss"), granting the motion to dismiss, and dismissing her petition in docket number 837-862.

Upon review, we find this appeal concerns the same judgment and issues previously appealed in this court in docket number 24-CA-39.<sup>2</sup> For the reasons stated in that appeal, this court affirmed the trial court's judgment dismissing Ms. Tosh's petition. Successions of Milton Cotaya and Edna Cotaya, 24-39 (La. App. 5 Cir. 12/05/24), — So.3d —, 2024 WL 4985656. Because this court has already reviewed and affirmed the judgment dismissing Ms. Tosh's petition in docket number 837-862, there is nothing further for this court to review under our appellate jurisdiction in the instant appeal.

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<sup>1</sup> Upon review of the trial record, in docket number 24-CA-39, this court found that docket number 837-862 did not contain a separate judgment for this court to review. The trial court was informed that the rulings for docket number 837-862 were improperly included in the April 11, 2023 judgment for docket number 838-243 consolidated with docket number 838-251. Once again, this court pointed out to the parties that docket number 837-862 is not consolidated with 838-243, which is consolidated with 838-251. The trial court subsequently rendered a separate judgment for this case, docket number 837-862, on August 2, 2024.

<sup>2</sup> Appellant's brief states that she is appealing the April 11, 2023 judgment concerning the trial court's rulings on April 3, 2023, as indicated by appellant's motion for appeal filed June 5, 2023.

Accordingly, this appeal is dismissed.

**DECREE**

For the reason stated herein, this appeal is dismissed.

**APPEAL DISMISSED**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
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**NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **DECEMBER 20, 2024** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

**CURTIS B. PURSELL**  
CLERK OF COURT

**24-CA-226**

**E-NOTIFIED**

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE STEPHEN C. GREFER (DISTRICT JUDGE)

GEORGE M. MCGREGOR (APPELLANT)

JAMES A. HARRY (APPELLANT)

ROBERT J. DAIGRE (APPELLANT)

J. DOUGLAS SUNSERI (APPELLEE)

**MAILED**

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