

GRAND TRAVERSE BAND TRIBAL COURT	OPINION AFTER ORAL ARGUMENT	CASE NO. 2025-42-AP TRIAL COURT CASE NO. 2019-3093-CV-SE	
Court Address 2605 N. West Bay Shore Dr., Peshawbestown, MI 49682	Email tribalcourt@gtb-nsn.gov	Telephone No. (231) 534-7050	Fax No. (231) 534-7051

IN THE MATTER OF:
Mary Ann Roberts D/O/B: 08/17/1940

Fletcher, C.J.

Order

We AFFIRM the trial court order dated March 18, 2025 closing this case.

Introduction

This case presents a difficult challenge to our judiciary. On one hand, a tribal citizen feels aggrieved by the trial court’s decision in a complex family matter involving family property. On the other hand, the trial court’s decision is rooted in the preference of the deceased, a beloved tribal citizen who lived many years in the community as a respected Anishinaabekwe and for several years served as an appellate judge and elder in the community.¹ We write today with deep *manaadjtowaawain* (respect) and *dibaadendizowin* (humility) towards the family members of Mary Roberts(ba). We conclude the trial court’s decision is reasonable and balanced, designed to meet the expectations of the parties in good faith, even where the parties might disagree on the details.

Standard of Review

A core principle of American justice systems is that the authority of courts of appeal is largely limited to review of the legal conclusions of the trial courts. The function of trial level judges is to assess the credibility of fact witnesses, apply the law, resolve procedural differences between the parties, and craft an appropriate

¹ The author of this opinion once served as in-house counsel for the tribal government and recalls the impressive work ethic of the deceased elder who frequented the Strongheart Center, known in the community as the “Turtle,” walking, jogging, and then running most days to maintain her health. Years later, the author worked more directly with the deceased on this appellate court. The court acknowledges with respect and honor the dedicated and ethical work of our deceased elder.

remedy. Appellate judges usually will not disturb the trial court's decisions unless there is a significant mistake.

Anishinaabe courts have adopted similar principles. The Grand Traverse Band court rules divide the roles of tribal judges based on their expertise. Appellate judges must defer to trial level judges on most matters, most notably witness credibility and procedural decisions made in the heat of the moment.

These principles are consistent with Anishinaabe leadership principles rooted in divisions of power and authority. An Anishinaabe leader appointed to manage a difficult period in international relations, such as those like Aishquagonabe, appointed by Kchi-Wiikwedong villages to negotiate a treaty with the United States in 1836, stays within their lane. Once an *ogema* completes their task, their authority dissipates. Others step up. Similarly, others stand back while leaders complete their tasks rooted in their expertise. This division of authority, or separation of powers, is similarly consistent with the divided roles of the *doodemaag* in traditional and ancient governance philosophies. None of us are experts in everything, nor have we sat before the parties as they testified. In this instance, we as the appellate court defer to the expertise and experience of the trial judge with the parties.

Our court rules provide in relevant part:

The following standards apply to the Tribal Appellate Court when deciding an appeal.

(A) Judge Finding of Fact. A finding of fact by a [judge] shall be sustained unless clearly erroneous.²

* * *

(C) Factual Inference. A factual inference drawn by a judge or jury shall be reviewed as a find of fact if more than one reasonable inference can be drawn from the fact(s).

² There is a typographical error in the court rules that is corrected here. The court concludes that this provision relates to judicial findings of fact. The next subsection, (B), refers to jury findings. The rule is the same for both types of findings of fact.

(D) Witness Credibility. Any finding whether explicit or implicit, of witness credibility shall be reviewed as a finding of fact.

(E) Conclusions of Law. A conclusion of law shall be reviewed by the Tribal Appellate Court de novo.

* * *

(G) Mixture of Fact and Law. A matter, which is a mixture of law and fact, is reviewed by the standard applicable to each element.

(H) Discretion of the Court. A matter which is determined within the Tribal Court discretion shall be sustained if it is apparent from the record that the Tribal Court exercised its discretionary authority and applied the appropriate legal standard to the facts.

* * *

(J) Substituted Judgment. A matter committed to the discretion of the Tribal court shall not be subject to the substituted judgment of the Tribal Appellate Court.

GTB Court Rules § 9.401.

We have concluded in other cases that an appellant's failure to present evidence to the trial court supporting their position precludes this court from disturbing the trial court's orders. For example, in *Campos v. People*, 2024 Grand Traverse Band App. LEXIS 3 (GTB App. Ct. Jan. 18, 2024), we affirmed a criminal conviction where the appellant claimed he received ineffective assistance of counsel. The appellant never raised the issue of ineffective assistance prior to the appeal, so there was no evidence on the record to support the claim.

In order for a finding of fact by a trial judge to be considered "clearly erroneous," there must be an overwhelming amount of contrary evidence disregarded by the trial judge. It is the trial court's role to assess the evidence and to make findings of fact from that evidence, not the appellate court's role. For better or worse, the Grand Traverse Band does not allow appellate judges to conduct a new fact-finding proceeding simply because the losing party below disagrees with the trial judge.

Procedural History and Relevant Facts

This appeal arises from a decision of the trial court to conclude the estate of the deceased. In February 2021, upon the agreement of the parties, the trial court recognized the rights of Jerry Roberts, the spouse of the deceased, to the family home in the form of a life estate. The court allowed the children of the deceased, Joseph Ferrere (the appellant) and Lenelle Vos, the right to inspect the residence once a year with a two-week notice. The court further required Mr. Roberts to provide to the children quarterly accounting updates on the status of the mortgage on the residence and updates on the insurance coverage on the residence.

The order is reproduced here:

STIPULATED ORDER FOLLOWING HEARING

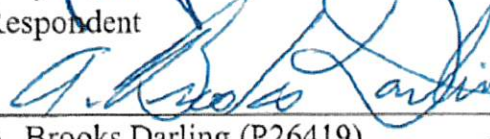
At a Session of Court held on January 16, 2020
At the Tribal Court
Grand Traverse Band of Ottawa and Chippewa Indians
Hon. Michael J. Long presiding:

The Court being fully advised of the premises. It is Ordered that:


1. Mr. Joseph Ferrere (Petitioner and Decedent's Son) and Ms. Lenelle Vos (Decedent's Daughter), along with a tribal police escort, are permitted a yearly walk through inspection of the Decedent's home, with a required at least two-week notice.
2. Mr. Jerry Roberts is to provide quarterly accounting updates on the status of the mortgage, and appropriate insurance coverage on the home to Ms. Lenelle Vos.
3. For all other purposes, Estate is closed.

 10/14/2020

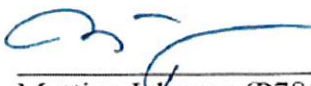
Jerry Joe Roberts
Respondent

 10/14/20

A. Brooks Darling (P26419)
Attorney for Respondent

 12-15-20

Joseph Ferrere
Petitioner

 1/02/21

Mattias Johnson (P78199)
Attorney for Petitioner

As is clear from the order, Mr. Ferrere agreed to the order. Judge Long also signed the order, effectively concluding the case.

It appears that after the 2021 agreement was reached, no action was taken in the case by the parties for several years.³ From the record, it does not appear that any party filed an appeal of the 2021 order. That makes sense given the fact that the parties reached agreement. In short, the case was over.

In February 2025, the trial court on its own motion notified the parties of its intent to dismiss the case under GTB Court Rule 4.502(A), which allows the court to conclude cases in which no action has occurred for the preceding 91 days. After the court noticed the parties of the intent to close the case, the Appellant chose to challenge the motion to close the case, alleging that Mr. Roberts and other family members had violated the 2021 order.

After a hearing in March 2025 in which Mr. Ferrere was allowed to present his claims and to present evidence supporting those claims. Mr. Ferrere asserted that Mr. Roberts is not complying with the order of the trial court to provide relevant information to the children. Mr. Ferrere has made these arguments to the trial court, which has rejected them as a matter of fact and law. The trial court concluded that there are no facts before the trial court that would justify disturbing the 2021 order.

On appeal, Mr. Ferrere appears to challenge the 2021 decision of the trial judge to acknowledge Mr. Roberts as the beneficiary of the estate. Mr. Ferrere also appeals the conclusion of the trial court in March 2025 that Mr. Roberts is not in violation of the 2021 court order.

The Merits of the Appeal

As for issues in this appeal, that Mr. Roberts is not a beneficiary of the estate and must be replaced by Mr. Ferrere, we conclude that Mr. Ferrere has not shown sufficient evidence to justify this conclusion. Way back in 2021, Mr. Ferrere, conceded then that Mr. Roberts indeed does possess a life estate in the residence and is the estate's personal representative by signing the 2021 order.

Normally, a settlement agreement executed by the parties is an enforceable agreement to which parties may not object to later on, except in extraordinary

³ Mr. Ferrere was not exactly idle during this period. Apparently, Mr. Ferrere filed a grievance against the estate's attorney with the State of Michigan's Attorney Grievance Commission in early 2024. The commission dismissed the grievance later that same year.

circumstances, such as fraud, coercion, mutual mistake, unconscionability, or similar circumstances. Moreover, the party claiming that one of these circumstances exists holds a high burden of proof. The record shows that Article II of the will of Mary Roberts(ba) granted a life estate in Jerry Joe Roberts in the residence. The record further shows that Article III of the will appoints Mr. Roberts as the personal representative of the estate. Mr. Ferrere will serve if Mr. Roberts is unable to serve. The 2021 stipulated order is consistent with the will.

Mr. Ferrere now claims that Mr. Roberts is in violation of the 2021 order, apparently supporting his position that Mr. Roberts is no longer validly serving as the estate's representative.⁴ The record does not show that Mr. Roberts has violated the order, nor does the record show any evidence supporting the proposition that Mr. Ferrere should now be appointed as the representative. Judge Long below found insufficient evidence in support of the claim. Under GTB law, "[a] finding of fact by a [judge] shall be sustained unless clearly erroneous." GTB Court Rules § 9.401(A). Because we must defer to the factual findings of the trial judge, the claim must be rejected. Mr. Roberts continues to serve as the estate's personal representative and holder of a life estate.

Conclusion

In the 2025 order, Judge Long concluded that the 2021 order remains in effect. The parties are very well aware of the content of that order. Moreover, Judge Long pointed out that procedure to challenge compliance with that order is to file a separate civil action.

The court reminds Mr. Ferrere that Mr. Roberts is the personal representative of the estate until and if Mr. Roberts is unable or unwilling to continue. The court also reminds Mr. Ferrere that Mr. Roberts remains the beneficiary of the life estate in the residence. The will is absolutely clear on these points. Mr. Ferrere may not challenge them again.

As a potential beneficiary of the estate after the conclusion of the life estate, Mr. Ferrere does possess legal standing to bring an action to challenge the administration of the estate. Because GTB has not adopted a probate code, the tribal judiciary generally follows Michigan law. Relevant Michigan law places the

⁴ Mr. Ferrere claimed at oral argument that he never gave up a "right" to be the personal representative of the estate. The will and the 2021 order show, respectively, that Mr. Ferrere does not possess a "right" to serve as the representative and Mr. Ferrere agreed to that situation.

obligation of Mr. Roberts as personal representative to act as “a prudent person in dealing with the property of another.” Mich. Comp. L. § 700.7803. In short, Mr. Roberts is a trustee of Mr. Ferrere’s future interest in the residence.

Under Anishinaabe law, a personal representative to an estate is a trustee who holds special duties to the trust beneficiaries. “We must act in a way that recognizes our responsibilities. These responsibilities include our responsibilities to the self, to act pursuant to the principle of *mino-bimaadiziwin*.” Kekek Jason Stark, Nakomidizo: *An Anishinaabe Law Response to Two-Hundred Years of Johnson v. M’Intosh and the Doctrines of Discovery and Implicit Divesture*, 23 Tribal L.J. 12, 36 (2024). Anishinaabe law also describes the duties of a trustee as a “protector” of the estate:

An Anishinaabe term that embraces the notion of protection is *ganawenjigaazo*.⁵ This concept is derived from the term *ganawend-*, which is a stem of the term *ganawendan* which means to take care of, protect, or keep it, and the term *-gaazo* which means that s/he (or it) undergoes an action by someone.⁶ As a result, the term *ganawenjigaazo* defines protection as an action by which s/he is taken care of, protected, or kept by someone. In this manner, the term defines the importance of providing protection, guardianship, and care through the implementation of our responsibilities and obligations. * * *

* * *

An Anishinaabe term that embraces these principles and embodies the notion of the trust duty is *nakomidizo*.⁷ This concept is derived from the term *nakom-*, which means to answer someone, reply to someone, and agree with someone and the term *-idizo* which is a reflexive term. As a result, the term *nakomidizo* defines trust as an action by which a person reflects upon answering the call in fulfilling their duties, obligations, and responsibilities.

⁵ *Ganawenjigaazo*, The Ojibwe People’s Dictionary, <https://ojibwe.lib.umn.edu/main-entry/ganawenjigaazo-vai>.

⁶ *Ganawendan*, The Ojibwe People’s Dictionary, <https://ojibwe.lib.umn.edu/main-entry/ganawendan-vti>.

⁷ *Nakom*, The Ojibwe People’s Dictionary, <https://ojibwe.lib.umn.edu/main-entry/nakom-vta>; *-idizo/*, The Ojibwe People’s Dictionary, <https://ojibwe.lib.umn.edu/word-part/idizo-final>.

Stark, *supra*, at 36-38 (footnotes and other citations omitted).

Because we hope to act in accordance with mino-bimaadiziwin, we recognize the mutuality and reciprocity of these obligations. We further invoke inaawendewin, known as a principle of relational accountability. *See* Nicholas J. Reo, *Inawendiwin and Relational Accountability in Anishnaabeg Studies: The Crux of the Biscuit*, 39:1 J. of Ethnobiology 65, 68 (2019). The parties are in a symbiotic relationship created by the will of their deceased relative.

We are saddened by what we have observed in these proceedings. We realize the parties came before us in an adversarial environment, which can create unintentional harm. We hope the parties are able to coexist in harmony going forward and we hope this proceeding sheds light on how the parties must proceed if they continue to fundamentally disagree on these issues.

2/2/2020

Date



Honorable Matthew L.M. Fletcher

2/9/2020

Date



Honorable JoAnne Cook

2/9/2020

Date



Honorable Matthew Massey

GRAND TRAVERSE BAND TRIBAL COURT	PROOF OF SERVICE	CASE NO. 2025-42-AP TRIAL COURT CASE NO. 2019-3093-CV-SE
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IN THE MATTER OF:
Mary Ann Roberts D/O/B: 08/17/1940

PROOF OF MAILING

I, Lauren Parzych, being duly sworn, deposes and states that on the date below I sent by:

- first class mail
 inter-office mail
 email
 fax
 personal service/hand delivered
 log book
 other:

the documents listed below to the individuals identified below by placing a copy of the same with the United States Postal Service in Suttons Bay Michigan and/or as indicated below (see Method of Service).

Documents enclosed: Opinion After Oral Argument and Proof of Mailing.

Served To:

Court File
Joseph Ferrere
Michelle Stewart
Jerry Roberts
Lanelle Vos
Judge JoAnne Cook
Judge Matthew Fletcher
Judge Matthew Massey

Method of Service:

Original
2431 Colima Ct. Imperial, CA 92251
11243 E McKeese Road Peshawbestown, MI 49682-9104
3297 N. West Bay Shore Drive Peshawbestown, MI 49682
3297 N. West Bay Shore Drive Peshawbestown, MI 49682
Address on File.
Address on File.
Address on File.

I declare the statements above are true to the best of my information, knowledge, and belief.

03/02/2026

Date

Lauren Parzych

Lauren Parzych, Clerk of the Court