

Third District Court of Appeal

State of Florida, January Term, A.D. 2012

Opinion filed April 25, 2012.
Not final until disposition of timely filed motion for rehearing.

No. 3D11-714
Lower Tribunal No. 06-2299

Mercedes Lezcano,
Appellant,

vs.

In Re: Estate of Exzun Lazaro Hidalgo,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Maria M. Korvick, Judge.

Grumer & Macaluso, and Keith T. Grumer and Maidenly Macaluso (Fort Lauderdale), for appellant.

Mendez & Mendez, and Sergio L. Mendez, for appellee.

Before WELLS, C.J., and SHEPHERD and ROTHENBERG, JJ.

SHEPHERD, J.

Mercedes Lezcano appeals an order of the probate court, removing her as personal representative of the estate and co-trustee of the trust of her deceased brother pursuant to a generalized order instructing her to show cause why she should not be held in contempt for a purported failure, in her capacity as personal representative, to comply with “[certain] orders [of the court]” and “failing to place all income and assets into [a] restricted depository” and related alleged misdeeds. “Because [the] removal[s were] ordered without notice or an evidentiary hearing, ‘the ruling did not meet even the most rudimentary requirements of due process.’” Zulon v. Peckins, No. 3D11-1511, 2012 WL 933013, at *1 (Fla. 3d DCA Mar. 21, 2012) (quoting LoCascio v. Estate of LoCasio, 78 So. 3d 573, 574 (Fla. 3d DCA 2011)). We reverse and remand with instructions to reinstate Lezcano as personal representative of the estate and co-trustee of the trust, and discharge Mr. Mendez as curator of the estate.

Reversed and remanded with directions.