

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

STATE FARM INSURANCE COMPANY

Appellee

v.

ERNEST R. WHOLAVER, JR.

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1753 MDA 2013

Appeal from the Order August 20, 2013  
In the Court of Common Pleas of Dauphin County  
Civil Division at No(s): 2011-CV-01840-CV

BEFORE: PANELLA, OLSON and MUSMANNO, JJ.

MEMORANDUM BY PANELLA, J.:

**FILED APRIL 11, 2014**

Appellant, Ernest R. Wholaver, Jr., appeals *pro se* from the order entered on August 20, 2013, in the Court of Common Pleas of Dauphin County. After careful review, we quash.

The appeal in this case involves the life insurance proceeds under Jean A. Wholaver's (deceased) \$25,000.00 term life insurance policy underwritten by Appellee, State Farm Insurance Company. Ernest R. Wholaver, Jr., her husband, was named as the primary beneficiary under the policy with their two daughters, Victoria and Elizabeth Wholaver, as equal successor beneficiaries.<sup>1</sup> A tragic incident led to this occurrence: on December 24,

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<sup>1</sup> Jean A. Wholaver also designated Scott Wholaver, Ernest Wholaver's brother as the final beneficiary who would receive the proceeds in the event of the death of the primary beneficiary and successor beneficiaries or other  
(Footnote Continued Next Page)

2002, Wholaver shot and killed his wife and two daughters. Wholaver was subsequently convicted on August 30, 2004, of three counts of first-degree murder and sentenced to death.

On February 24, 2011, State Farm filed a Complaint in Interpleader. State Farm subsequently filed an Amended Complaint in Interpleader on October 25, 2012. Wholaver filed preliminary objections on January 29, 2013, after which State Farm filed its answer thereto. On July 2, 2013, State Farm filed a Motion Seeking Leave for Payment of Life Insurance Proceeds into Court Under Action in Interpleader. On August 20, 2013, the trial court entered an order granting State Farm's motion. The order further directed that State Farm "pay the proceeds of Policy No. LF-1631-5099 with accrued interest to the Prothonotary of Dauphin County pending further order of court or application by any party...." Order, 8/20/13, at ¶ 2. Wholaver subsequently filed this *pro se* appeal from the order entered on August 20, 2013.

We have summarized Wholaver's *pro se* issues as follows: (1) was State Farm's complaint time barred by the statute of limitations, and (2) did the trial court abuse its discretion in granting State Farm's motion seeking leave for payment of life insurance proceeds into court under an action in interpleader. **See** Appellant's Brief, at 4-8.

(Footnote Continued) \_\_\_\_\_

disqualification from receiving the proceeds. Scott Wholaver was convicted of third-degree murder.

Preliminarily, we are required to determine whether this Court has jurisdiction to review the merits of Wholaver's appeal. The law in Pennsylvania is well established:

"The appealability of an order directly implicates the jurisdiction of the court asked to review the order." ***Estate of Considine v. Wachovia Bank***, 966 A.2d 1148, 1151 (Pa. Super. 2009). "[T]his Court has the power to inquire at any time, *sua sponte*, whether an order is appealable." ***Id.*** Pennsylvania law makes clear:

[A]n appeal may be taken from: (1) a final order or an order certified as a final order (Pa.R.A.P. 341); (2) an interlocutory order as of right (Pa.R.A.P. 311); (3) an interlocutory order by permission (Pa.R.A.P. 312, 1311, 42 Pa.C.S.A. § 702(b)); or (4) a collateral order (Pa.R.A.P. 313).

***Stahl v. Redcay***, 897 A.2d 478, 485 (Pa. Super. 2006), ***appeal denied***, 591 Pa. 704, 918 A.2d 747 (2007). Pennsylvania Rule of Appellate Procedure 341 defines "final orders" and states:

**Rule 341. Final Orders; Generally**

**(a) General rule.** Except as prescribed in subdivisions (d), and (e) of this rule, an appeal may be taken as of right from any final order of an administrative agency or lower court.

**(b) Definition of final order.** A final order is any order that:

- (1) disposes of all claims and of all parties; or
- (2) is expressly defined as a final order by statute; or
- (3) is entered as a final order pursuant to subdivision (c) of this rule.

**(c) Determination of finality.** When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim...the trial court...may enter a final order as to one or more but fewer than all of the claims...only upon an express

determination that an immediate appeal would facilitate resolution of the entire case. Such an order becomes appealable when entered. In the absence of such a determination and entry of a final order, any order...that adjudicates fewer than all the claims...shall not constitute a final order....

Pa.R.A.P. 341(a)-(c). Under Rule 341, a final order can be one that disposes of all the parties and all the claims, is expressly defined as a final order by statute, or is entered as a final order pursuant to the trial court's determination under Rule 341(c). Pa.R.A.P. 341(b)(1)-(3).

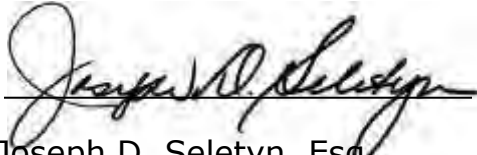
***In re Estate of Cella***, 12 A.3d 374, 377-378 (Pa. Super. 2010) (some internal citations omitted).

Instantly, Rule 341(b)(1) provides that we currently have no jurisdiction, given that the claims are still pending. State Farm's Amended Complaint in Interpleader sets forth the facts to establish the right to interplead the life insurance policy proceeds, and joins as defendants all persons with an interest in the policy proceeds, including Wholaver. At this stage, the trial court has only granted the interpleader, and the life insurance policy proceeds have now been paid into court by State Farm for distribution by the trial court pursuant to future proceedings. The trial court has not yet ruled upon the rights of the named defendants to the policy proceeds and, more importantly, the proceeds have not been ordered to be distributed to any party.

Accordingly, until Wholaver obtains the trial court's determination of finality or acquires this Court's permission to appeal under Chapter 13 of the appellate rules, we have no jurisdiction to entertain the appeal as filed.

Appeal quashed. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 4/11/2014