

### Appeals from Orphans' Courts.

An. Code, 1924, sec. 64. 1912, sec. 60. 1904, sec. 60. 1888, sec. 58. 1818, ch. 204, sec. 1.

**64.** From all decrees, orders, decisions and judgments, made by the orphans' court, the party, who may deem himself aggrieved by such decree, order, decision or judgment, may appeal to the court of appeals.

#### An appeal lies:

From an order revoking letters of administration. *Jones v. Jones*, 41 Md. 354.

From an order revoking the letters of a joint administrator upon the application of his co-administrator. *Forney v. Shriner*, 60 Md. 419.

From an order directing the mode of distribution of a decedent's estate among his creditors. *Nally v. Long*, 56 Md. 570.

From the refusal of the orphans' court to grant issues. *Barroll v. Reading*, 5 H. & J. 176.

From an order directing an entry of dismissal of issues filed by the plaintiff to be stricken out and the case brought up by regular continuances. *Price v. Taylor*, 21 Md. 366.

By a devisee from an order revoking the probate of a will. *Dorsey v. Warfield*, 7 Md. 75.

By a co-executor and a distributee from the ratification of a separate administration account. *Hesson v. Hesson*, 14 Md. 13.

From an order refusing to remove a guardian. *Macgill v. McEvoy*, 85 Md. 291. See also *Lefever v. Lefever*, 6 Md. 472.

This section embraces orders removing guardians, especially where the discretion vested in the orphans' court was arbitrarily exercised. *Slattery v. Smiley*, 25 Md. 394.

A trustee from whom an administrator will demand property, may appeal from an order refusing to revoke the administrator's letters. *Lee v. Allen*, 100 Md. 13.

No matter how small the amount involved. *Gephart v. Strong*, 20 Md. 525.

Notwithstanding art. 93, sec. 246, the action of the orphans' court under that section may be reviewed by the court of appeals. *Owen v. Pye*, 115 Md. 406.

An appeal lies from order dismissing petition of heirs asking court to grant letters on ground that decedent was resident of another county. *Pattison v. Firor*, 146 Md. 249.

Appeals only permitted from final orders and decisions of Orphans' Court. *Collins v. Cambridge Hospital*, 158 Md. 116.

This section referred to in construing art. 101, sec. 70. *Gold Dust Corp. v. Zabawa*. 159 Md. 667.

An appeal lies from an order granting the form of issues, sufficiency of pleadings, etc. *Holland v. Enright*, 167 Md. 608.

Cited in *Holland v. Enright*, 169 Md. 395.

#### Matters in the discretion of the orphans' court.

*No appeal lies in the following cases:*

From an order granting letters to two or more persons with the consent of the person first entitled. *Covey v. Charles*, 49 Md. 315.

From an order for the sale of personal estate by an administrator for special reasons looking to the advantage of the estate. *Crawford v. Blackburn*, 19 Md. 42.

From an order directing an executor to bring money into court, nor from an order revoking letters and appointing another administrator for a failure to comply with such order, unless the discretion vested in the orphans' court over such matters, is arbitrarily exercised. *Porter v. Timanus*, 12 Md. 292.

See also *Ex parte v. Shipley*, 4 Md. 496.

From an order of the orphans' court fixing commissions within the limits prescribed by law. *Wilson v. Wilson*, 3 G. & J. 23.

From an order appointing a guardian. *Compton v. Compton*, 2 Gill, 241. But see *Lefever v. Lefever*, 6 Md. 478.

From an order directing a guardian to bring his ward's money into court. *Falconer v. Regelier*, 6 Md. 552.

From the refusal of the orphans' court to accept a bond to prevent the bringing out of an infant. *Johnson v. Brannaman*, 10 Md. 495.

The award of costs in litigation in the orphans' court is not reviewable. *Bantz v. Bantz*, 52 Md. 696.

Where issues are sent from the orphans' court to a court of law, the orphans' court has exclusive and discretionary power in the matter of the award of costs. *Brown v. Johns*, 62 Md. 333.

#### No appeal lies:

From an order refusing to revoke letters testamentary. *Hebb v. Hebb*, 5 Gill, 509.

From the adjudication of the orphans' court that an answer to a petition in the nature of a caveat, is insufficient, same not being final. *Potts v. Potts*, 88 Md. 641.

From an order revoking an apprenticeship. *Lamott v. Maulsby*, 8 Md. 7.

An administrator *pendente lite* cannot appeal from an order directing the sale of certain personal property of the deceased. *Johns v. Caldwell*, 60 Md. 262.