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STEVEN K. STANLEY *v.* ALISON M.
WOODARD ET AL.
(AC 44279)

Moll, Alexander and Pellegrino, Js.

Syllabus

The plaintiff appealed to the trial court from the decree of the Probate Court appointing the defendant H as the conservator of the estate of the plaintiff's mother. The trial court dismissed the appeal for lack of subject matter jurisdiction, as it was filed pursuant to the accidental failure of suit statute (§ 52-592 (a)), which does not apply to probate appeals. The plaintiff filed a motion to open and vacate the judgment of dismissal, which the trial court denied. On the plaintiff's appeal to this court, *held* that there was no basis on which to conclude that the trial court abused its discretion in denying the plaintiff's motion to open.

Argued February 10—officially released March 8, 2022

Procedural History

Appeal from the decree of the Probate Court for the district of Tolland appointing the defendant Harold J. Stanley as the conservator of the estate of the defendant Christine Stanley, brought to the Superior Court in the judicial district of Tolland, where the court, *Farley, J.*, rendered judgment dismissing the appeal; thereafter, the court denied the plaintiff's motion to open and vacate the judgment, and the plaintiff appealed to this court. *Affirmed.*

Steven K. Stanley, self-represented, the appellant (plaintiff).

Laura D. Thurston, assistant attorney general, with whom, on the brief, were *William Tong*, attorney general, and *Clare Kindall*, solicitor general, for the appellees (named defendant et al.).

Vianca T. Malick, for the appellee (defendant Rebecca Ellert).

PER CURIAM. The self-represented plaintiff, Steven K. Stanley, appeals from the trial court's denial of his motion to open and vacate the judgment of dismissal. For the reasons that follow, we affirm the trial court's judgment.

On February 14, 2020, the trial court rendered judgment dismissing for lack of subject matter jurisdiction the plaintiff's underlying probate appeal,¹ filed pursuant to General Statutes § 52-592 (a), the accidental failure of suit statute, on the ground that § 52-592 (a) does not apply to probate appeals. See *Metcalfe v. Sandford*, 271 Conn. 531, 535–40, 858 A.2d 757 (2004). On July 15, 2020, the plaintiff filed a motion to open and vacate the judgment of dismissal (motion to open). On July 27, 2020, in a one word order, the trial court denied the plaintiff's motion to open.² This appeal followed.

Notwithstanding the arguments made by the plaintiff in his appellate brief and during oral argument before this court directly attacking the trial court's judgment of dismissal, we first note that the plaintiff did not file an appeal—timely or otherwise—from the judgment of dismissal. Instead, the plaintiff appeals from the trial court's denial of his motion to open. Therefore, the standard of review governing the plaintiff's appeal is one of abuse of discretion rather than the plenary appellate standard of review.

“A motion to open and vacate a judgment . . . is addressed to the [trial] court's discretion, and the action of the trial court will not be disturbed on appeal unless it acted unreasonably and in clear abuse of its discretion. . . . In determining whether the trial court abused its discretion, this court must make every reasonable presumption in favor of its action. . . . The manner in which [this] discretion is exercised will not be disturbed so long as the court could reasonably conclude as it did.” (Citations omitted; internal quotation marks omitted.) *Walton v. New Hartford*, 223 Conn. 155, 169–70, 612 A.2d 1153 (1992).

On the basis of our review of the record and our consideration of the briefs and argument of the parties, we perceive no basis on which to conclude that the trial court abused its discretion in denying the plaintiff's motion to open.

The judgment is affirmed.

¹ Although the plaintiff's complaint was titled “Civil Tort Claims Act,” it sought, by its express terms, an order of the Superior Court vacating a decree by the defendant Judge Barbara Riordan Gardner of the Probate Court appointing the defendant Harold J. Stanley as the conservator of the estate of the plaintiff's mother, the defendant Christine Stanley. Alison M. Woodard, Lara Stauning, Linda Balfe, Rebecca Ellert, Kevin Stanley, Paul Stanley, and Sophia H. Shaikh were also defendants.

² None of the parties sought an articulation from the trial court pursuant to Practice Book § 66-5 following the filing of this appeal.