

STATE OF MICHIGAN
COURT OF APPEALS

In re RYAN HELMI BAKER.

RYAN HELMI BAKER, formerly known as HELMI
GAD ELHADIDI,

Petitioner-Appellant,

v

DEPARTMENT OF HEALTH AND HUMAN
SERVICES,

Appellee.

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No. 372568
Wayne Probate Court
LC No. 2023-887427-ML

Before: GADOLA, C.J., and O’BRIEN and MARIANI, JJ.

PER CURIAM.

Appellant, Ryan Helmi Baker, received a delayed birth certificate from the state of Michigan in 2016 after learning that he was allegedly born in Michigan. After it issued Baker the delayed birth certificate, however, appellee, the Department of Health and Human Services (DHHS), found out that Egypt had issued Baker a birth certificate in 2009 showing that Baker was born in Egypt. This led the DHHS to rescind the delayed birth certificate it had issued to Baker. Baker then filed this action in the probate court, asking that the court order the DHHS to reissue his delayed birth certificate. Following an evidentiary hearing, the probate court ruled that Baker failed to prove that he was born in Michigan, so the court refused to order the DHHS to issue Baker a delayed birth certificate. Baker appeals that ruling as of right. We affirm.

I. BACKGROUND

The dispute in this case centers around where Baker was born. Baker indisputably grew up in Egypt, and he believed that he was born there for most of his life. In the early 1990s, Baker moved to the United States, and in the mid-1990s, he became a naturalized citizen.

In 2009, Egypt's Ministry of Interior issued Baker a birth certificate with a "Registration Number" of 1065. How or why this certificate was issued was a point of contention and confusion at the evidentiary hearing in this case. During his testimony, Baker denied going to Egypt in 2009, but he admitted that he did go to Egypt at some unspecified point and apply for a birth certificate. He claimed, however, that "they didn't give [him] one." Baker further claimed that he was not aware of any birth certificate issued for him by the Egyptian government.

But the DHHS produced evidence suggesting that Baker was aware of the 2009 birth certificate. The DHHS submitted a document that Baker filed in federal court in 2012 that sought "to amend the date of birth" on his "certificate of naturalization." That document, which Baker filed in pro per, stated in relevant part:

Recently, I went to Egypt to buy a vacation home for my wife and kids and since it was significantly cheaper to buy in Egypt for those who hold an Egyptian birth certificate, I applied for one. The new secure birth certificate I was issued showed the date of birth as [redacted].

This date of birth apparently differed from the date of birth that Baker had placed on other government documents in the United States. According to Baker's 2012 filing, "[a]s soon as [Baker] came back to the USA [he] applied to the embassy of Egypt in Washington, DC for, and was issued, an authenticated English language birth certificate," which he could then use to change his date of birth on his relevant government documents, including his "certificate of naturalization." Baker attached this translated birth certificate to his 2012 filing. This document reflects that Baker was born in Egypt, and that the "birth registration records" were recorded "[u]nder #1065."

Around 2016, Baker learned from his half-brother, Mohamed Elhadidi, that Baker was actually not born in Egypt but was supposedly born in Michigan. Elhadidi claimed that he had always known that Baker was born in Michigan, and he thought that Baker knew that too. The issue came up around 2016 because, while going through their father's belongings, Elhadidi found an Egyptian birth certificate, dated February 4, 1973, which stated that Baker was born in Michigan. After being given this birth certificate, Baker applied for a delayed certificate of birth from the state of Michigan, which the state issued.

Sometime in 2021, however, the DHHS was contacted by federal investigators, who alerted the DHHS of Baker's 2009 birth certificate showing that he was born in Egypt. Upon learning of this alternate birth certificate and the federal investigation confirming the document's legitimacy, the DHHS rescinded Baker's delayed birth certificate.

Thereafter, Baker filed a petition in the probate court to have his delayed birth certificate reinstated. The DHHS initially failed to appear, and the probate court entered an order requiring that Baker's delayed birth certificate be reissued. The DHHS then appeared in the action and asked the probate court to reconsider its prior ruling and order an evidentiary hearing instead. The court granted the motion because it believed that, on the basis of the parties' pleadings, an evidentiary hearing was necessary. But before this could take place, Baker agreed to dismiss the case without prejudice to investigate the 2009 birth certificate, which he claimed to have never seen before the DHHS produced it.

In 2023, Baker filed a second petition, giving rise to the instant case. Baker’s petition asked the court to find that Baker was born in Michigan and, in accordance with MCL 333.2828(3), to issue an order with the findings necessary to issue a certificate of birth. The DHHS in response asked that the petition be denied because there was insufficient evidence to substantiate Baker’s claim that he was born in Michigan. The DHHS alternatively asked for an evidentiary hearing for the court to hear the evidence and decide as a factual matter whether Baker was born in Michigan.

The probate court held a three-day evidentiary hearing over several months in 2024 to resolve the parties’ dispute. Neither side contested that the 1973 and the 2009 birth certificates were legitimate; everyone seemingly agreed that both documents were validly issued by the Egyptian government.¹ Witnesses from the DHHS, however, stressed that, while they may not have questioned the legitimacy of the 1973 birth certificate showing that Baker was born in Michigan, a foreign government did not get to decide whether an individual was born in Michigan. And they explained that the existence of the 2009 birth certificate—the validity of which was confirmed by a federal investigation and that showed that Baker was born in Egypt—led the DHHS to rescind Baker’s delayed birth certificate because Baker could not have been born in both Michigan and Egypt.

Elhadidi, Baker’s brother, testified that he was eight years old when Baker was born, and he recalled that they lived in Detroit at the time. According to Elhadidi, Baker was born at home, and Elhadidi remembered that two women came to the home to assist with the birth. Elhadidi testified that the family moved back to Egypt a few months after Baker was born. Elhadidi conceded that it was difficult for him to remember what happened when he was eight years old, but he recalled that his parents had also told Elhadidi about Baker’s birth in Michigan.

Following the evidentiary hearing, the probate court issued a written order denying Baker’s petition because, in the court’s opinion, the “evidence in this case [did] not support a finding that [Baker] was born in Michigan.” The court observed that the evidence largely came down to the competing birth certificates, Baker’s 2012 filing, and Elhadidi’s testimony. The probate court found Elhadidi’s testimony not credible and unpersuasive, and it held that, in light of the competing birth certificates, the evidence was simply not sufficient to affirmatively find that Baker was born in Michigan.

This appeal followed.

II. MICH ADMIN CODE, R 325.3220

Baker on appeal argues that because he satisfied the requirements for obtaining a delayed birth certificate as specified in the administrative rule governing when delayed birth certificates can be issued, he proved that he was born in Michigan. Baker further contends that the DHHS could only avoid this result under the administrative rule if it proved that the evidence that Baker

¹ Baker called an Egyptian lawyer as a witness, who testified that he was informed by a representative of the Egyptian government that the 2009 birth certificate had been rescinded. This was disputed, however, by a special agent from the federal government, who testified that the 2009 birth certificate was not rescinded but was in an administrative hold until this case was finalized.

submitted in support of his request for a delayed birth certificate was false or invalid, which the DHHS failed to do. These arguments misunderstand the issue that was presented to and decided by the probate court.

A. STANDARD OF REVIEW

The parties generally agree on the relevant standards of review for this issue, and given how this issue was framed below, we agree with those standards for purposes of this appeal. To the extent that Baker is raising issues concerning the proper interpretation of statutes and rules, and the application of those statutes and rules to the facts of this case, the issues present questions of law, reviewed de novo. See *Estes v Titus*, 481 Mich 573, 578-579; 751 NW2d 493 (2008). To the extent that Baker is challenging the probate court's findings of fact, those findings are reviewed for clear error. *In re Redd Guardianship*, 321 Mich App 398, 403; 909 NW2d 289 (2017). A finding is clearly erroneous when the reviewing court is left with a definite and firm conviction that a mistake has been made. *Id.*

B. ANALYSIS

When Baker applied for a delayed birth certificate, his application was governed by Mich Admin Code, R 325.3220. That rule provides the minimum facts that must be established for a delayed birth certificate to issue, and the type of support necessary to establish those facts, stating in relevant part:

(3) The minimum facts to be established for a delayed registration of birth are as follows:

- (a) The full name of the registrant at the time of birth.
- (b) The date of birth and place of birth of the registrant.
- (c) The full maiden name and birthplace of the registrant's mother.
- (d) The full name and birthplace of the registrant's father

* * *

(6) Each of the facts prescribed by subrule (3) of this rule shall be supported by any of the following:

- (a) Two documents prepared within 5 years of the date of the event.
- (b) One document prepared within 5 years of the date of the event and 1 document prepared not less than 5 years before the date of application.
- (c) One document prepared within 5 years of the date of the event and an affidavit of personal knowledge of the birth from an older relative.

(d) Two documents prepared not less than 5 years before the date of application and an affidavit of personal knowledge of the birth from an older relative.

(e) Three documents prepared not less than 5 years before the date of application. [Mich Admin Code, R 325.3220(3) and (6).]

Mich Admin Code, R 325.3220(10) provides the circumstances in which a delayed birth certificate may be rescinded after being issued, stating:

(10) If the state registrar becomes aware that a delayed registration of birth prepared by the department is invalid or that the evidence received in support of the delayed birth certificate is false or invalid, the delayed registration of birth shall be rescinded. The state registrar shall forward a notice of the rescission to the last known address of the applicant. The state registrar shall notify the local registrar of the rescission of the record and shall instruct the local registrar to remove the record from the files.

As stated earlier, these rules governed the handling of Baker's application for a delayed birth certificate, as well as the decision to rescind Baker's delayed birth certificate. The processing of Baker's delayed birth certificate is not at issue on appeal, however.

The probate court was instead asked to determine whether Baker was born in Michigan, which it was permitted to do by MCL 333.2828. That statute provides in relevant part:

(1) If an applicant does not submit the minimum documentation required by rules for delayed registration of a birth or if the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statement or the documentary evidence, the state registrar shall not register the delayed certificate of birth and shall advise the applicant of the reasons for this action and of the applicant's right of appeal to the probate court of the county of residence or birth.

* * *

(3) If, on the basis of the evidence presented, the court finds that the individual for whom a delayed certificate of birth is sought was born in this state, the court shall make findings as to the place and date of birth, parentage, and other findings required by the case and shall issue an order on a form prescribed and furnished by the state registrar to establish a certificate of birth. The order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action. [MCL 333.2828(1) and (3).]

This statute does not clearly apply to cases in which a delayed birth certificate is rescinded because MCL 333.2828(1) addresses instances in which a delayed birth certificate is not issued, and the applicant appeals that decision to the probate court. But the parties and the probate court all apparently proceeded with the understanding that, regardless of this, MCL 333.2828(3) provided the probate court with jurisdiction over this case as an original action in which the court was tasked with independently deciding whether, on the basis of the evidence presented, Baker was entitled

to a delayed birth certificate. See *In re Wirsing*, 456 Mich 467, 472; 573 NW2d 51 (1998) (“Probate courts are courts of limited jurisdiction. Const 1963, art 6, § 15. The jurisdiction of the probate court is defined entirely by statute.”). Nothing in the text of the statute suggests that this was improper, and because the procedure’s propriety is not disputed, we accept for purposes of this appeal that this procedure was appropriate in this context.

But because this case proceeded as an original action in the probate court, the rules governing the administrative decision to issue or rescind a delayed birth certificate did not control. The probate court was instead tasked with independently deciding whether a delayed birth certificate for Baker should issue. To make this determination, the probate court could have perhaps used Rule 325.3220 as a guide for deciding if the evidence presented supported issuing a birth certificate to Baker, but the court was not required to do so.

It follows that, contrary to Baker’s argument on appeal, his presentation to the probate court of evidence identified in Rule 325.3220(6) did not establish a *prima facie* case that he was entitled to a delayed birth certificate, nor did it shift the burden to the DHHS to prove that the documents on which Baker relied were false or invalid such that rescission of the delayed birth certificate was proper under Rule 325.3220(10). As an original action in the probate court under MCL 333.2828(3), the burden was on Baker, as the petitioner, to prove that he was entitled to a delayed birth certificate. The typical standard in civil cases such as this is preponderance of the evidence, *Lima Twp v Bateson*, 302 Mich App 483, 496; 838 NW2d 898 (2013), which requires the proponent to persuade the fact-finder “that it is more likely than not that the proposition is true,” M Civ JI 8.01. Therefore, the burden was on Baker to persuade the probate court that it was more likely than not that he was born in Michigan.

Baker’s argument that he satisfied this burden rests almost entirely on his position that Rule 325.3220 applied to the original action in the probate court—he contends that he “has, in fact, proven he was born in Michigan” and that the probate court “erred in finding to the contrary” because Baker “produced the required evidence to prove he was born in Michigan under Mich Admin. Code R. 325.3220.” For the reasons explained, this argument is misplaced.

The probate court found that Baker’s evidence was insufficient to persuade the court that it was more likely than not that Baker was born in Michigan because the court had concerns about “the veracity and credibility” of Elhadidi’s testimony and because there were competing birth certificates issued by the Egyptian government—one stating that Baker was born in Michigan, the other stating that Baker was born in Egypt.

This Court generally defers to a probate court’s credibility determination, *In re Conservatorship of Brody*, 321 Mich App 332, 336; 909 NW2d 849 (2017), and Baker identifies no valid reason why this Court should overturn the probate court’s determination about Elhadidi’s credibility. Baker emphasizes that Elhadidi’s testimony was unrebutted, but a factfinder generally need not credit the testimony of a witness, even if that testimony is unrebutted. See *Adkins v Home Glass Co*, 60 Mich App 106, 111; 230 NW2d 330 (1975) (“It is fundamental that the fact finder may accept in part and reject in part the testimony of any witness.”); *People v Jackson*, 390 Mich 621, 624-625; 212 NW2d 918 (1973) (“The trier of fact was not obliged to believe Lewis’s testimony simply because it was not contradicted by another witness.”). See also *Turunen v Dir of Dep’t of Natural Resources*, 336 Mich App 468, 488; 971 NW2d 20 (2021). Baker further

contends that the DHHS “failed to . . . present any evidence that Mr. Elhadidi was lying under oath,” but that is irrelevant—the probate court was tasked with assessing Elhadidi’s credibility on the basis of his demeanor and other factors, regardless of the evidence that the DHHS put forward. See *In re Conservatorship of Brody*, 321 Mich App at 336 (explaining that this Court defers to a probate court’s credibility determinations because, as a trial court, the probate court has a “unique vantage point regarding witnesses, their testimony, and other influencing factors not readily available to the reviewing court”) (quotation marks and citation omitted); *People v Lemmon*, 456 Mich 625, 646-647; 576 NW2d 129 (1998) (explaining that “[t]he credibility of a witness is determined by more than words and includes tonal quality, volume, speech patterns, and demeanor, all giving clues to the factfinder regarding whether a witness is telling the truth,” which is why the factfinder’s being “able to see, hear, and observe” the witness’s testimony is afforded such deference by appellate courts).

Baker also tangentially argues that the probate court should have given more weight to the 1973 birth certificate²; Baker contends that because the 1973 birth certificate was issued closer to Baker’s birth, it should have been considered more persuasive evidence of where Baker was born. While we can find no Michigan appellate court opinion that has considered this issue, federal district courts have stated that contemporaneously issued birth certificates are generally considered the most reliable form of evidence of where an individual was born. See, e.g., *Liacakos v Kennedy*, 195 F Supp 630, 631-632 (D DC, 1961); *De La Cruz Vargas v Blinken*, 569 F Supp 3d 556, 562 (SD Tex, 2021). But, besides being nonbinding, none of the federal cases cited by Baker state that courts *must* consider a birth certificate issued near the time of an individual’s birth to be the most reliable evidence of where that individual was born. The cases simply announce a general principle to potentially aid courts in their fact-finding mission. It was thus not error for the probate court to not consider the 1973 birth certificate to be determinative evidence of where Baker was born. The court was certainly required to consider all of the evidence presented, but the court was then tasked with independently determining whether, on the basis of that evidence, Baker had proven that it was more likely than not that he was born in Michigan.

As stated, the probate court found that, on the basis of the competing birth certificates, Baker’s 2012 filing, and the court’s concerns about Elhadidi’s credibility, Baker had not proven that it was more likely than not that he was born in Michigan. On this record and in light of the probate court’s credibility determination, we are not definitely and firmly convinced that this finding was a mistake.

² Baker technically argues that the federal agent who testified in this action should not have considered the 2009 birth certificate to be more credible than the 1973 birth certificate—stating that the agent’s “analysis” that the 2009 birth certificate was more credible was “flawed”—but any error in the federal agent’s “analysis” is not grounds for reversal, especially because the probate court never stated that it was relying on the agent’s testimony. We therefore construe this argument as Baker contending that the probate court itself should have given more weight to the 1973 birth certificate.

III. UNPRESERVED ISSUES

Baker raises several additional arguments on appeal—that Mich Admin Code, R 325.3220(10) is unconstitutional; that the revocation of Baker’s delayed birth certificate violated Baker’s due-process rights; and that the probate court erred by considering the DHHS’s untimely motion for reconsideration in the first action that Baker filed. Baker failed to raise these issues in the lower court, however, so they are waived on appeal. See *Baxter v Geurink*, 493 Mich 924, 924 (2013) (“Failure to timely raise an issue waives review of that issue on appeal.”).

Affirmed.

/s/ Michael F. Gadola
/s/ Colleen A. O’Brien
/s/ Philip P. Mariani