

## 91 Ohio Jur. 3d Trusts § 172

Ohio Jurisprudence, Third Edition | October 2022 Update

### Trusts

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### V. Trustee

### B. Persons Who May Serve as Trustee

# § 172. Persons not sui juris; infants

[Topic Summary](#) | [Correlation Table](#) | [References](#) | [Divisional References](#)

#### West's Key Number Digest

- West's Key Number Digest, [Trusts](#) 155, 159

It has been said that it is not impossible to appoint as trustee a natural person who is not sui juris and that even outlaws may as trustees enforce the right of the cestui que trust when they cannot maintain a suit as individuals.<sup>1</sup> The Restatement of Trusts provides that a natural person, including a settlor or beneficiary, has capacity: to take and hold property in trust to the extent the person has capacity to take and hold property as beneficial owner; and to administer trust property and act as trustee to the same extent the person would have capacity to deal with the property as beneficial owner.<sup>2</sup>

It is generally held that a minor may be a trustee.<sup>3</sup> If, in accordance with the terms of the trust, the infant trustee conveys the property to the cestui que trust, the infant trustee cannot, on attaining majority, have the deed set aside as voidable.<sup>4</sup> Where a parent conveys land to a minor child under such conditions that the minor will be regarded as holding the land in trust for creditors and lienholders, and the child before majority reconveys to the parent for the purpose of paying the debts charged on the land, the child will not be permitted, after attaining majority, to disaffirm the conveyance back, as against a purchaser for value.<sup>5</sup>

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### Footnotes

<sup>1</sup> Ward v. Ward, 12 Ohio C.D. 59, 1901 WL 720 (Ohio Cir. Ct. 1901).

2 § 169.

3 Am. Jur. 2d, Trusts § 207.

4 Sheldon's Lessee v. Newton, 3 Ohio St. 494, 1854 WL 42 (1854).

5 Starr v. Wright, 20 Ohio St. 97, 1870 WL 10 (1870).

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