

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

IN THE MATTER OF:)
JOHN THOMAS CAMERON)
(DECEDENT))

LINDA SEATON-CAMERON)

Plaintiff,)

vs.)

HELEN L. CAMERON)

Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2015-CP-10-2056

ORDER

RECEIVED

OCT 03 2016

SC Court of Appeals

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2016 JUL 20 PM 2:36

FILED

THIS MATTER came before the Court on July 18, 2016, by way of a Motion for Removal from the Charleston County Probate Court, filed by the Defendant, of the Plaintiff's Petition for Common Law Spouse/Omitted Spouse. A previous demand for jury trial requested in the Defendant's Answer was withdrawn with the consent of the Plaintiff, and the resulting bench trial was heard. The primary issues before the Court were whether the Plaintiff was the common-law spouse of Decedent, John Cameron, and if so, was the Plaintiff entitled to inherit the Decedent's estate pursuant to the Omitted Spouse Statute, S.C. Code Ann. 62-2-301 (1987).

Present at the hearing were John Kachmarsky, Attorney for Defendant Helen L. Cameron, and James D. Gandy, III, Attorney for Plaintiff Linda Seaton-Cameron.

Based on the motions and written submissions filed, the witnesses presented, the Court's record in these matters, the arguments and representations of counsel present at the trial and the applicable law, this Court makes the following findings of fact and law:

FINDINGS OF FACT

1. The Decedent, John Cameron and the Plaintiff cohabitated together in New York and South Carolina from approximately 2001 until the time of the Decedent's death on July 12, 2014.
2. The Decedent and the Plaintiff jointly owned a house together in South Carolina, and primarily as a result of statements made by the Plaintiff, some members of the community acknowledged that Plaintiff and Decedent maintained a reputation as being a married couple.
3. The Decedent held himself out as being single during the relationship, particularly to members of his family who resided in New York.
4. The Decedent claimed he was single on various federal, South Carolina, and New York income tax returns throughout the course of his relationship with the Plaintiff.
5. The Plaintiff was listed as a "friend" on an IRA beneficiary designation by the Decedent, and based on the testimony of the witnesses present, did not assent to a common law marriage with the Plaintiff.

CONCLUSIONS OF LAW

1. The parties hereto and the subject matter hereof are all within the jurisdiction of this Court.
2. Whether a common law marriage exists is a question of law. Campbell v. Christian, 235 S.C. 102, 104, S.E.2d. 1, 2 (1959). The proponent of the alleged marriage has the burden of proving the elements by a preponderance of the evidence. Ex parte Blizzard, 185 S.C. 131, 133, 193 S.E. 633, 634 (1937). A common law marriage is formed when two parties contract to be married. Johnson v. Johnson, 235 S.C. 542, 550, 112 S.E. 2d 647,651 (1960). Although no express contract is necessary and the agreement may be inferred from the

circumstances, there must be mutual assent, i.e., the intent of each party to be married to the other and a mutual understanding of each party's intent. Kirby v. Kirby, 270 S.C. 137, 140, 241 S.E. 2d 415, 416 (1978). When the proponent of the common law marriage proves that the parties participated in "apparently matrimonial" cohabitation, and that while cohabiting the parties had a reputation in the community as being married, a rebuttable presumption arises that a common law marriage was created. Jeanes v. Jeanes, 255 S.C. 161, 166-67, 177 S.E. 2d 537, 539-40 (1970). This presumption may be overcome by "strong, cogent" evidence that the parties in fact never agreed to marry. Jeanes, 255 S.C. at 167, 177 S.E. 2d at 540.

3. I find that the Decedent and the Plaintiff jointly owned a house in South Carolina, lived together, and had a reputation as being a married couple among some members of the community. However, Mr. Cameron did not assent to the common law marriage alleged by the Plaintiff.

4. I further find that the Decedent's individual income tax returns, among other evidence presented, provide strong, cogent evidence that he did not have the intent to be married to the Plaintiff.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Plaintiff's Petition for Common Law Spouse and Omitted Spouse is hereby **DENIED**.

IT IS SO ORDERED.



The Honorable Carmen Mullen
Judge of the 9th Judicial Circuit

7-20, 2016
Charleston, South Carolina

FINDINGS OF FACT

1. The Decedent, John Cameron and the Plaintiff cohabitated together in New York and South Carolina from approximately 2001 until the time of the Decedent's death on July 12, 2014.
2. The Decedent and the Plaintiff jointly owned a house together in South Carolina, and primarily as a result of statements made by the Plaintiff, some members of the community acknowledged that Plaintiff and Decedent maintained a reputation as being a married couple.
3. The Decedent held himself out as being single during the relationship, particularly to members of his family who resided in New York.
4. The Decedent claimed he was single on various federal, South Carolina, and New York income tax returns throughout the course of his relationship with the Plaintiff.
5. The Plaintiff was listed as a "friend" on an IRA beneficiary designation by the Decedent, and based on the testimony of the witnesses present, did not assent to a common law marriage with the Plaintiff.

CONCLUSIONS OF LAW

1. The parties hereto and the subject matter hereof are all within the jurisdiction of this Court.
2. Whether a common law marriage exists is a question of law. Campbell v. Christian, 235 S.C. 102, 104, S.E.2d. 1, 2 (1959). The proponent of the alleged marriage has the burden of proving the elements by a preponderance of the evidence. Ex parte Blizzard, 185 S.C. 131, 133, 193 S.E. 633, 634 (1937). A common law marriage is formed when two parties contract to be married. Johnson v. Johnson, 235 S.C. 542, 550, 112 S.E. 2d 647,651 (1960). Although no express contract is necessary and the agreement may be inferred from the

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4. I further find that the Decedent's individual income tax returns, among other evidence presented, provide strong, cogent evidence that he did not have the intent to be married to the Plaintiff.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Plaintiff's Petition for Common Law Spouse and Omitted Spouse is hereby **DENIED**.

IT IS SO ORDERED.



The Honorable Carmen Mullen
Judge of the 9th Judicial Circuit

7-20, 2016

Charleston, South Carolina