



held a joint banking account, never held property to title jointly and never filed a tax return as a married couple. I find that the parties separated from each other from 2007 until 2011 and during that time both engaged in relationships with other people. In addition, there were other periods of separation including a time when the Petitioner spent eighteen (18) months in jail during the late 1990s and a period of a year or two when she lived and worked in Charleston (Transcript pg. 40) In addition, the records support the Probate Judge's conclusions that the various witnesses, including the Decedent's sister, testified that they heard the Petitioner referred to the Decedent as her husband but no one could recollect the Decedent referring to the Petitioner as his wife. In fact, the Decedent's sister was very clear on this point in her testimony. Finally, the record supports that when the Decedent was terminally ill in the hospital, he gave his power of attorney to his daughter rather than to the Petitioner. As a result of all of the evidence presented in this matter, this Court would support the finding of the Probate Judge that the Petitioner failed to meet her burden of proving by clear and convincing evidence that a common law marriage existed between herself and the Decedent. Therefore, this Court would uphold and affirm the Order of the Probate Judge.

ADDITIONAL SUSTAINING GROUNDS

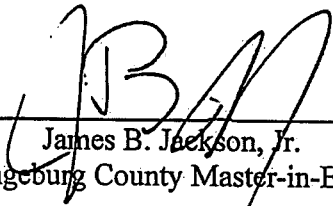
In addition to the matters referenced above, this Court would find that when the Petitioner and the Decedent separated from 2007 through 2011 and began living with other people that any common law marriage that they may have had prior to that time was clearly terminated by this separation and by their living with other partners. The cornerstone of a common law marriage is the parties living together and when they separate and begin living with other people, this Court would conclude that is clear that the common law marriage no longer existed. As a result, it is the opinion of this Court that the Petitioner would have had the burden of proving that the common law marriage she sought to show was reestablished when the parties began living together again after the year of 2011. Again, the evidence

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presented by the Petitioner, when reviewed in its totality, fails to meet the burden of proof showing their intent to be married by clear and convincing evidence.

In addition, on page 20 of the transcript of the hearing, the Petitioner set forth a very cogent and convincing reasons as to why the parties never got married. Both parties acknowledged that many times when people get married they get divorced and it seemed to be the clear intent of the Decedent, through the testimony provided by the Petitioner, that he never had any intention of being married under these circumstances. The Decedent indicated that he had left Petitioner his pension so there was no reason for them to get married. For these reasons, as well, I would find and support the conclusion of the Probate Judge that no common law marriage existed in this case.

**IT IS THEREFORE ORDERED**, that the Order of the Probate Judge in this matter is hereby affirmed.

  
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James B. Jackson, Jr.  
Orangeburg County Master-in-Equity

June 16, 2021  
Orangeburg, South Carolina