

Estate of ROBERT A. YOUNG, : ORPHANS COURT OF LYCOMING
deceased, : COUNTY, PA
:
:
:
NO. 41-04-0017

OPINION AND ORDER

Before the Court is Michelle Johnson's (Respondent) Motion for Post-Verdict Relief. In ruling on the present motion, the Court relies on its Opinion of November 30, 2004. However, the Court will briefly address the specific conclusions reached in Respondent's Motion. (Motion for Post-Verdict Relief 12/10/04 # 27).

- a. Respondent alleges that the Court erred in finding insufficient evidence of a common law marriage ceremony. The Court reasserts the insufficiency of credible evidence of a ceremony where verba in praesenti were exchanged "with a view and for the purpose of establishing the relationship of husband and wife." *Staudenmayer v. Staudenmayer*, 552 Pa. 253, 714 A.2d 1016 (1998).
- b. Respondent alleges that the Court erred in allowing a presumption of common law marriage to be rebutted by evidence that failed to meet the clear and convincing standard. The Court finds the evidence was insufficient to establish a rebuttable presumption of marriage. The evidence did not establish a reputation of marriage "which is not partial or divided but is broad and general." This reputation of marriage must be proven *to create* the rebuttable presumption. *Staudenmayer*, 552 Pa. at 263.
- c. Respondent alleges that the Court erred in finding that the Respondent and Decedent's intent in filing a "married filing jointly" tax return was not to show a marital relationship, but rather, to defraud the I.R.S. The Respondent presented the "married filing jointly" status as evidence of a reputation of marriage. Petitioners offered evidence that a

financial gain was recognized by said status. Petitioner also argued that other misinformation appeared on the return, which reduced Decedent's tax liability. The Court considered all the evidence as it was relevant to establishing a reputation of marriage in the community. In attempting to limit tax liability, whether Respondent and/or Decedent misinterpreted the Tax Code or were attempting to "defraud" the I.R.S. is not presently at issue.

- d. Respondent alleges that the Court erred in interpreting the current status of the law regarding common law marriage. The Court relies on the Opinion of November 30, 2004 to support its legal interpretations.
- e. Respondent alleges that the Court erred in failing to find the existence of a common law marriage despite overwhelming evidence. The Court relies on the record and its Opinion of November 30, 2004 to justify its conclusions.

ORDER

AND NOW, this _____ day of March, 2005, Respondent's Motion for Post-Verdict Relief is hereby DENIED.

By The Court

Nancy L. Butts, Judge

cc: Ronald C. Travis, Esq.
Douglas N. Engelman, Esq.
Marc F. Lovecchio, Esq.