

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

IN RE: :
THE ESTATE OF: :
KATHRYN JANE PFLEEGOR, : **No. 41-07-0445**
Deceased : **ORPHANS COURT DIVISION**

OPINION AND ORDER

Before this Honorable Court, is Jack A. Thompson's ("Petitioner") Petition to Appoint an Auditor filed on March 7, 2008. A conference on Petitioner's Motion was held on April 22, 2008. Following the conference, the Court ordered Counsel for both the Petitioner and the Attorney General to file briefs.

Background

Kathryn Jane Pfleegor ("Decedent") executed her Last Will and Testament ("Will") on May 27, 2003. On August 12, 2003 she executed a Codicil to the Will, which modified Paragraph Second and Paragraph Fourth subsection 45 and ratified the remaining portions of the Will. The Decedent made additional handwritten changes and deletions to the Will and Codicil, which she initialed and dated September 24, 2004. Specifically, the Decedent added qualifying language to Paragraph Second A, which involves the bequest of an automobile and reduced a bequest to Jack A. Thompson from ten thousand dollars (\$10,000) to five thousand dollars (\$5,000). She also deleted the bequest from Paragraph Fourth subsection 45 and modified numerous other bequests. The Decedent then initialed and dated the Will, September 24, 2004 at the bottom of page seven, of the eight page document.

In her Will, the Decedent made several bequests to charitable organizations for the care of animals. Heather J. Vance-Rittman, Deputy Attorney General ("Attorney General") with the

Office of Attorney General, Charitable Trust and Organizations Section represents the Attorney General's Office on behalf of the Charitable Organizations. At the conference and in her brief, the Attorney General argues that the Decedent's reexecuting of the Will at the bottom of page seven makes the revocation clause effective thus revoking all prior wills and codicils.

Additionally, she argues that the Decedent's Estate should be administered in accordance with the terms of the Will and Codicil as modified on September 24, 2004. In opposition, Petitioner argues that the original Will and Codicil should be read together. Further, Petitioner argues that the Will should be read deleting the language that was deleted or cancelled in the Will.

Discussion

According to Pennsylvania Law, in order to validly execute a will, the will

shall be in writing and shall be signed by the testator at the end thereof, subject to the following rules and exceptions: (1) WORDS FOLLOWING SIGNATURE. The presence of any writing after the signature to a will, whether written before or after its execution, shall not invalidate that which precedes the signature.

20 Pa. C.S.A. § 2502. See also Clegg Estate, 24 Pa. D. & C. 4th 187, 191 (Bucks, 1993)

(admitting the page which preceded the decedent's signature into probate). "There is [also] a presumption that additions and alterations which are made in the handwriting of the testatrix above her signature were made prior to the execution of the will[.]" Molden Will, 128 A.2d 568 (Pa. 1957) (and cases cited therein). Further, Pennsylvania Courts have determined that initials constitute a valid signature and execution of a will. See In re Estate of Dotterer, 579 A.2d 952 (Pa. 1990).

According to the Pennsylvania Supreme Court, a modified will is valid if it has been reexecuted. See In Re Estate of Wright, 110 A.2d 198 (Pa. 1955). "No will or codicil in writing, or any part thereof, can be revoked or altered otherwise than: . . . [b]y some other writing

declaring the same, executed and provided in the manner required of wills. 20 Pa. C.S.A. § 2505.

The Decedent had validly executed her Will on May 27, 2003 and Codicil on August 12, 2003. The Court finds that the Decedent then reexecuted her Will and validly modified the Codicil, by placing the date September 24, 2004 and her initials, at the bottom of page seven of the document. The Decedent made changes to pages one through seven of her Will and then initialed the document on the bottom of page seven. Although page seven is not the last page of the Will, all of the modifications made by the Decedent preceded her initials and date. See Clegg Estate, 24 Pa. D. & C. 4th 187, 191 (Bucks, 1993) and 20 Pa. C.S.A. § 2502. Therefore, all of the modifications prior to the Decedent's signature are valid. As such, the Court finds that the Estate of Kathryn Jane Pflieger should be administered in accordance with the terms of the Will and Codicil as modified on September 24, 2004, which includes the modifications made to Paragraph Second and subsection 45 of Paragraph Fourth.

ORDER

AND NOW, this _____ day of June 2008, it is hereby ORDERED and DIRECTED the Will be administered in accordance with the terms of the Will and Codicil as modified on September 24, 2004, which includes the modifications made to Paragraph Second and subsection 45 of Paragraph Fourth.

Further, the Petitioner's Petition to Appoint an Auditor is GRANTED. Christina L. Dinges, Esq., is hereby appointed Auditor of the Estate of Kathryn Jane Pfleegor.

By the Court,

Nancy L. Butts, Judge

xc: Heather Vance-Rittman, Esq.
Office of AG
Scott A. Williams, Esq.
Christopher M. Williams, Esq.
Christina L. Dinges, Esq.
Hon. Nancy L. Butts
Gary L. Weber, Esq. (LLA)
Trisha D. Hoover, Esq. (Law Clerk)