



INTERIOR BOARD OF INDIAN APPEALS

Estate of Darryl Edwin Rice

49 IBIA 16 (03/24/2009)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ESTATE OF DARRYL EDWIN RICE) Order Affirming Decision
)
) Docket No. IBIA 07-102
)
) March 24, 2009

Arnold Rice (Appellant or Arnold) appeals to the Board of Indian Appeals (Board) from an Order Determining Heirs on Supplemental Hearing entered March 19, 2007 (Supplemental Decree), by Indian Probate Judge M.J. Stancampiano (Judge Stancampiano or IPJ), in the estate of Darryl Edwin Rice (Decedent), deceased Agua Caliente Indian, Probate No. IP SA-67-N-03. Judge Stancampiano’s Supplemental Decree revised a September 29, 2003, Order Determining Heirs, to add as heirs Decedent’s half-blood siblings and to distribute the estate in equal shares to Decedent’s whole-blood and half-blood brothers and sisters. Because the Supplemental Decree was issued as a result of the IPJ’s order to reopen the estate, we have taken Appellant’s “Petition for Rehearing” from that Supplemental Decree as a Notice of Appeal.¹ Decedent died intestate. The IPJ determined that sections 6402(c) and 6406 of the California Probate Code required intestate distribution of Decedent’s estate to all of his siblings, including half-blood siblings. Because we find no support for Appellant’s construction of the California Probate Code, we do not find any basis for a reversal or for a remand for a factual determination as to the marital status of the full and half siblings’ common parent, and therefore we affirm the Supplemental Decree.

Background

Decedent was a resident of California and a member of the Agua Caliente Band of Cahuilla Indians. He died intestate on October 17, 2000. Decedent had neither married nor settled with a domestic partner, nor had he fathered natural or adopted children. He had not prepared a will. Decedent was one of five children of Arthur and Dorothy Rice, both of whom predeceased him. Four whole-blood siblings survived Decedent: Georgianna Rice Ward, Marlene Chapparosa Rice, Steven Allen Rice, and Arnold. Administrative Law Judge (ALJ) William E. Hammett issued a September 29, 2003, Order Determining Heirs, distributing Decedent’s trust estate equally among these four siblings as

¹ Review of a probate judge’s order on reopening is through an appeal to the Board, 43 C.F.R. § 4.320(a), and not through a petition for rehearing submitted to the judge.

Decedent's only heirs. The Form OHA-7, "Data for Heirship Finding and Family History," available to the ALJ at that time, did not indicate that Arthur and Dorothy Rice had divorced, that Arthur had remarried, or that he had fathered any additional children.

On June 16, 2006, Judge Stancampiano issued an "Order Reopening Case [and] Suspending Distribution of Lease Income." The IPJ explained that he had discovered archived files from the probate of Arthur Rice's estate, in which there was a finding that not only was Arthur Rice survived by the five children he bore with Dorothy Rice, but that he also had three children with a second wife, Sonia Logan. Explaining that California Probate Code section 6406 identifies half-blood relatives as equivalent to whole-blood relatives of a decedent who dies intestate, the IPJ reopened the case. A hearing was later scheduled for and held on March 7, 2007. Arnold appeared at the hearing and expressed concern about distributing a portion of Decedent's estate to his half siblings, but he did not question that the half siblings were the biological children of Arthur Rice.

On March 19, 2007, Judge Stancampiano issued the Supplemental Decree revising the 2003 Order Determining Heirs, and distributing Decedent's estate into seven equal shares among Decedent's half and full siblings, citing sections 6402 and 6406 of the California Probate Code. In addition to the four heirs identified in the 2003 Order Determining Heirs, the IPJ added as three additional heirs Decedent's half siblings Evelyn Rice, Lynn Moore, and Sheila Sisto. Arnold submitted a Petition for Rehearing, which the IPJ properly addressed as a Notice of Appeal and forwarded to this Board.

Arnold does not dispute that the three children borne by Sonia Logan are Decedent's half siblings. He does not dispute that his own father, Arthur Rice, is the biological father of the half siblings. He agrees that the Department is authorized to distribute trust or restricted assets, 25 U.S.C. § 348, and that state law on the date of Decedent's death controls inheritance of his estate. *Estate of Samuel R. Boyd*, 43 IBIA 11 (2006).

Appellant's argument is based upon a technical construction of the California Probate Code. Arnold contends that, in the absence of proof that Arthur Rice was legally married to Sonia Logan, "their three children are not necessarily eligible to inherit from decedent's estate." Opening Brief at 5. To reach this assertion, he cites several provisions of the California Probate Code and reasons that Arthur's status as biological parent does not confirm him to be a natural parent of out-of-wedlock children for purposes of probate.² First citing section 6452, Arnold asserts that this provision means that "if a child is born out

² Appellant asserts that "[c]ertainly if Arthur Rice and Sonia Logan were married," his half siblings "would not [be] preclude[d]" from inheriting. *Id.* at 4.

of wedlock, neither his or her natural parent nor the relatives of his or her natural parent can inherit through the child unless the natural parent or relative both acknowledged the child *and* contributed to the support or care of the child.” *Id.* at 4. Acknowledging that section 6450 ensures that a child may inherit from his natural parents, notwithstanding their marital status, he nonetheless contends that “Section 6453 restricts the means by which a relationship of a natural parent to a child may be established for purposes of intestate succession.” *Id.* at 5. Thus, as we understand Arnold’s legal argument, he believes that even though Arthur Rice was in fact a biological parent and the only putative father of Decedent’s three half siblings, the California Probate Code requires some independent proof that Arthur was the “natural parent,” unless it can be shown that Arthur Rice and Sonia Logan were lawfully married. Complaining that the record does not establish their marital status, he “requests reversal” of the Supplemental Decree. *Id.* at 7. Alternatively, he asks for a hearing to determine their marital status “and, if they were not lawfully married, whether each of Sonia Logan’s three children are entitled to inherit from decedent’s estate pursuant to the California laws of intestate succession applicable to children born out of wedlock.” *Id.* at 8. Appellant also argues that the Board should, on an equitable basis, vacate the IPJ’s Supplemental Decree because there was little to no contact between the families, and because it would be “manifest injustice” to allow the half siblings to inherit property of the Decedent which came from his mother Dorothy Rice.

No other briefs were submitted.

Discussion

Appellant bears the burden of establishing that the Order Denying a Petition for Reopening is erroneous. *Estate of Martha Marie Vielle Gallineaux*, 44 IBIA 230, 234 (2007). While this appeal is taken from an order where the IPJ determined on his own motion to reopen the probate, we find that the appellant challenging such an order also bears the burden of proving error. Appellant has not met this burden.

Appellant’s argument is premised on a reading of the California Probate Code which would require independent proof that Arthur Rice, although admittedly a biological parent and the only putative father to Decedent’s half siblings, is a “natural parent” to them if he was not married to their mother; and an equitable argument that it is inherently unfair for half siblings related to a decedent by virtue of a common father to inherit property left to the decedent by the mother, who is not common to all siblings. This construction of the California Probate Code cannot be sustained, and we do not find the IPJ to have erred in applying the Probate Code. Nor do we find that Appellant’s equitable argument controls the outcome of this appeal.

Section 6402 of the California Probate Code directs intestate succession; it provides:

[T]he entire intestate estate if there is no surviving spouse or domestic partner, passes as follows:

. . . .

(c) If there is no surviving issue or parent, to the issue of the parents or either of them, the issue taking equally if they are all of the same degree of kinship to the decedent^{3]}

Section 6406 provides that “[e]xcept as provided in Section 6451, relatives of the half blood inherit the same share they would inherit if they were of the whole blood.”⁴ This provision was added to the Probate Code in 1983 expressly to adopt the Uniform Probate Code,⁵ and to eliminate any previous construction of the Code, under section 254, that would put half-blood relatives on a lesser footing than whole-blood relatives of a decedent.⁶ 20 Cal. L. Rev. Comm. Reports 1001 (1990). Whether the biological parent common to the half siblings — here, Arthur Rice — was legally married to the parent who was not common to all of them (Sonia Logan) is not relevant to this intestate distribution. To the contrary, section 6450 of the California Probate Code states that the relationship between parent and child “exists between a person and the person’s natural parents, regardless of the marital status of the natural parents.” Thus, given that Appellant presents no dispute that Arthur

³ Those in “unequal degree [or] those of more remote degree take in the manner provided in Section 240.” Section 240 specifies that such “property shall be divided into as many equal shares as there are living members of the nearest generation of issue then living and deceased members of that generation who leave issue then living”

⁴ Section 6451 addresses issues of adoption not relevant here.

⁵ Section 2-107 of the Uniform Probate Code states: “Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.”

⁶ In *Estate of Boyd*, 43 IBIA at 22, we noted that section 254 of the California Probate Code “provided that half blood relatives of the decedent who were not of the blood of an ancestor of the decedent were excluded from inheriting property of the decedent which had come to the decedent from such ancestor.” 43 IBIA at 22. We explained, however, that “section 254 was repealed in 1983 by Cal. Stat. Ch. 842 § 19, and replaced with section 6406, which provides that relatives of the half blood inherit the same share they would inherit if they were of whole blood.” 43 IBIA at 22 n.13.

was a common biological parent to all eight children, section 6450 ensures that the relationship exists “for the purpose of determining intestate succession.”⁷ *Id.*

Appellant cannot sustain his suggestion that the Probate Code requires additional proof if the parents of his half siblings were not legally married. First, section 6452 establishes a limitation on the opportunity for a natural parent to inherit, notwithstanding the legal relationship identified in section 6450, if the parent was not involved in any way in the child’s upbringing. It provides:

If a child is born out of wedlock, *neither a natural parent nor a relative* of that parent *inherits from or through the child* on the basis of the parent and child relationship between that parent and the child *unless* both of the following requirements are satisfied:

- (a) *The parent or a relative of the parent acknowledged the child.*
- (b) *The parent or a relative of the parent contributed to the support or the care of the child.*

(Emphasis added.) Thus, section 6452 is directed at the death of a child born out of wedlock; it addresses whether a natural parent who had nothing to do with that child’s life should be allowed to inherit from the deceased child. *See, e.g., Estate of Michael Wayne Shields*, 48 IBIA 147 (2008) (biological father not entitled to inherit from deceased biological son, under Montana law, when neither was aware of the other’s existence and they first communicated after the son reached the age of majority). By contrast, the decedent here was Darryl, Arthur’s child with Dorothy Rice. Setting aside whether Darryl was born during Arthur’s marriage to Dorothy, it is undisputed that Arthur and Dorothy

⁷ We do not have the entire record of the probate proceeding involving Arthur Rice’s estate; we do have pages from the transcript of the probate hearing pertaining to his trust estate conducted by Administrative Law Judge S.N. Willett on June 6, 1996. That transcript reveals that the various children of Arthur Rice were unclear about the precise timing of his marriages. Nonetheless, the offspring were clear that their mothers divorced him and, in addition, Judge Willett explicitly mentioned a marriage license for Arthur Rice and Sonia Logan dated November 16, 1972, as well as a divorce date of April 6, 1979. Transcript of Hearing at 10-11. We need not call up this record because, as noted in this opinion, we do not agree with Appellant that Arthur Rice’s marital status controls a determination of Decedent’s heirs.

eventually married each other and then divorced, and Appellant raises no issue in this case regarding whether Arthur acknowledged and supported Darryl.

To the extent that Appellant sees section 6452 as evidence that the Probate Code must be assumed also to contain a counterpart provision that similarly restricts inheritance *by* “an out-of-wedlock child . . . from or through the relatives of his or her natural parent,” Opening Brief at 5, we disagree. The California Probate Code expressly permits an out-of-wedlock child to inherit from the natural parent *without* the same restrictions on the parent’s care and acknowledgement as found when the parent is inheriting from the child. As noted above, section 6450 ensures that the “relationship of a natural parent and child exists . . . regardless of the marital status of the natural parents.” *See also* California Family Code section 7602 (parent and child relationship exists regardless of marital status of the parents). Nothing in the Probate Code or the Family Code requires independent proof that an undisputed biological parent and only putative father is a “natural parent” of an out-of-wedlock child, nor has Appellant suggested what separate proof is relevant to demonstrating “natural” parentage when biological parentage is undisputed. Yet, this would be the necessary premise of Appellant’s argument in the face of section 6450. Where Arnold concedes that Arthur was the biological parent of his half siblings, his request for relief would nonetheless seek proof that Arthur was a “natural parent” under that section if the parents cannot be shown to have been lawfully married. The California Probate Code requires no such proof.

Appellant relies on section 6453 for his argument, claiming that this section “restricts the means by which a relationship of a natural parent to a child may be established.” Opening Brief at 5. To the contrary, section 6453 establishes a mechanism by which an intestate probate proceeding may establish whether there is a natural parent and child relationship in cases where the issue is in doubt. We do not read that section as compelling a mandatory determination that a parent, conceded to be the only putative biological father, is also independently a “natural father.” Rather, subsection (a) specifies that “[a] natural parent and child relationship is established where that relationship is presumed and not rebutted pursuant to the Uniform Parentage Act . . .” and subsection (b) permits a “natural parent” relationship to be established pursuant to other provisions of that same Act. Appellant has not articulated how he believes these provisions would relate to the relationship between Arthur and Darryl, who he admits to be biological father and son. At this point, Appellant does not articulate how he would have the IPJ apply section 6453 for the outcome he demands. The only issue raised by Appellant is whether Arthur and Sonia were legally married, a matter not determinative of “natural parentage” under either section 6453 or section 6450. No provision of the California Probate Code restricts or confines a determination of “natural parentage” to those children of parents who are legally married.

Appellant would have the Board make complicated what is simple. In intestacy, California follows the Uniform Probate Code which specifies that half-blood siblings are to be given the same status for inheritance purposes as full-blood siblings. *See* Restatement 3rd of Property, Wills & Other Donative Transfers, Division I Chapter 2 Intestacy § 2.4. The Restatement explains that “relatives of the half blood are generally — though not universally — treated the same as relatives of the whole blood. The principle of equal treatment is codified in some states and in the Original and Revised UPC.” *Id.* at comment f. California is one of the states identified as following this rule. Though a few states distinguish descent of property to an heir depending on whether it derives from ancestors with common blood, California is not one of them. *Id.*

We recognize Appellant’s perception of unfairness in the situation, where he argues that some of the property owned by Decedent passed to Decedent through his mother, a woman who had no relationship with the children of Sonia Logan, but rather was mother only to the five borne of Arthur Rice’s first marriage. How we would decide this as an equitable matter is not the question, because we are faced with clear California law. Even where the Supreme Court of California thought that California’s Probate Code produced unjust results, it refused to take an equitable approach to avoid the Code’s application. In *Estate of Griswold v. See*, 24 P.3d 1191 (S. Ct. Ca. 2001), California’s Supreme Court applied the California Probate Code in a situation where the Court clearly found the outcome distasteful, holding: “Succession to estates is purely a matter of statutory regulation which cannot be changed by the courts.’ . . . While the Legislature remains free to reconsider the matter and may choose to change the rules of succession at any time, this court will not do so under the pretense of interpretation.” 24 P.3d at 1203-04 (citation omitted). A separate concurrence urged the legislature to reconsider the Probate Code, but “reluctantly” followed it. *Id.* at 1204.

Whatever we might find to be the most just outcome, we follow the plain result of applying sections 6402, 6406, and 6450 of the Probate Code. Appellant’s argument that application of those laws results in a “manifest injustice” is a request that we not follow the law. This we cannot do.

Conclusion

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, we affirm the March 19, 2007, Order on Supplemental Hearing.

I concur:

_____/ / original signed _____
Lisa Hemmer
Administrative Judge*

_____/ / original signed _____
Steven K. Linscheid
Administrative Judge

*Interior Board of Land Appeals, sitting by designation.