Supreme Court No. 99462-5

SUPREME COURT
OF THE STATE OF WASHINGTON

No. 79904-5-I

DIVISION I
OF THE STATE OF WASHINGTON

In re the Estate of CALVIN T. RAY, a/k/a CALVIN THOMAS RAY JR. and TOD RAY

MARK D. STINE,
Petitioner,

v.

WASHINGTON STATE DEPT. OF REVENUE,
Respondent.

MARK STINE'S PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Petitioner Mark D. Stine, appellant below, asks the Court to accept review of the Court of Appeals decision terminating review designated in part B of this petition.

B. COURT OF APPEALS DECISION

The Court of Appeals affirmed the summary judgment dismissal of Petitioner's TEDRA petition seeking a declaration of his right to inherit the intestate estate of his stepfather, Calvin T. Ray, rather than permit it to escheat to the State, by unpublished decision filed November 9, 2020. App. A hereto ("Decision"). Respondent Department of Revenue ("DOR") moved to publish on the basis that "this is the first Washington appellate decision interpreting the language and purpose of RCW 11.04.095…" DOR Motion to Publish, pp. 1-2. The decision was published by order dated December 29, 2020. App. B.

The Decision states several times that Petitioner failed to cite case law for his arguments based on statutory structure and commentary – which is hardly surprising when the statute had not been interpreted to date. For example, the Decision states that "Stine does not provide any caselaw in which the court has used the 1965 probate reforms to assign more inclusive meaning to an eligible class of takers under current probate statutes." Decision, Slip. Op. at 5. This statement is not analysis, but begs the question. It also is incorrect, as this Court did precisely that, albeit not in those precise terms. When it decided *In re Estate of Little,* 106 Wn.2d 269, 284, 721 P.2d 950 (1986), the Court used a non-literal (and thus more

inclusive) approach to harmonize the intestate statutes at issue to avoid escheat, though it did not involve stepchildren. See Reply Brief ("Reply") at 5-8, analyzing *Little*. The Decision specifically side-steps Petitioner's analysis of the underlying intent of the 1965 revisions as to the one statute addressing stepchildren, RCW 11.04.095, again for an asserted lack of case authority, despite the fact this is the first case addressing the statute.[1]

The decision thus mistakenly side-steps Petitioner's core argument invoking the underlying intent of the intestate statutes on the basis there was no case holding that the 1965 reforms should be used to assign a more inclusive meaning to an eligible class of takers, despite citation to *Little*. ***This is*** that case, asking the appellate court to expressly engage in that analysis. As trial counsel quoted Justice Ginsberg when in practice:

> I'm asking you to set a new precedent…as courts have done before when the law is outdated.

CP 89. That also is what Petitioner asks the Court to do here, where existing precedent and statutes are either "outdated" or have a gap that needs to be filled. *See, e.g.,* Opening Brief ("OB") at 16-18 (common law is used to fill gaps or omissions in statutory schemes), and Reply at 5-8 (describing this

[1] The Decision thus sidesteps applying the underlying intent to the intestate statutes on the basis of "no controlling authority," rather than because of any flaw in the legal, logical, or equitable analysis, chastising Petitioner because he "does not cite caselaw in which a court has interpreted RCW 11.04.095 to allow for inheritance in similar circumstances." Slip Op. at 7. Of course he did not. This is a case of first impression. The appeal deserves a genuine analysis of the statute and policies, not dismissal for "lack of binding precedent". Were that the test, many of our most important appellate decisions would not have occurred.

Court's non-literal approach to harmonize intestate statutes to avoid escheat in *In re Estate of Little, supra,* 106 Wn.2d at 284. *Accord, In re Custody of B.M.H.,* 179 Wn.2d 244, 240-244, 315 P.3d 470 (2013) (describing how the *de facto* parentage doctrine filled a statutory "gap" to permit a child's former stepfather to petition for parental rights). As Petitioner pointed out in both his briefs below, consistent with *Little*:

> It should make no difference which parent (parent or stepparent) dies first. In order to avoid escheat, RCW 11.04.095 should be interpreted to apply under these circumstances to allow Mark Stine to inherit from his stepfather.

Reply at 7, citing OB at 1-2 and referencing OB at 19-20.

The Court of Appeals' analysis only superficially addresses the question of the 1965 revisions' intent as to the goal of the intestate provisions, despite Petitioner providing ample basis for it. *See, e.g.,* Slip Op. at 4-5 (Petitioner "does not provide any caselaw in which the court has used the 1965 probate reforms to assign more inclusive meaning to an eligible class of takers"). ***First***, there are no cases applying ***any*** meaning to the primary statute at issue, RCW 11.04.095 – this is the first case. Nor did the Decision cite any cases which applied the 1965 reforms narrowly, literally, and restrictively – until the Decision did so itself, as though that underlying intent does not exist or have any meaning.

Second, there is ample authority of that intent, as explained in the briefing which will not be repeated. *See* Opening Brief at 13-16; Reply at 2-3, 9-12.

Moreover, that intent is recognized not only by the reporters for the four-year project that resulted in the 1965 revisions, Stewart and Steincipher, "Probate Reform in Washington", 39 Wash.L.Rev. 873, 876-877 (1965) (hereafter "*Probate Reform*"), but just three years ago by Professor Mark Reutlinger in the 2018 edition of his book on wills and intestate succession. *See* Mark Reutlinger, "Washington Law of Wills and Intestate Succession", p. 1 (WSBA, 3d. ed. 2018) (hereafter "*Reutlinger*").[2]

The brief Decision does not hint why it did not engage in a more reasoned analysis. This issue should be addressed now and with a full analysis that gives genuine meaning and effect to the underlying purpose of the 1965 revisions and the probate code's intestate provisions, which is to give effect to the likely intent and wishes of the average intestate decedent. As argued at length in the Court of Appeals, because of a gap in the statutes, a person in Petitioner's position is not expressly provided for – neither expressly included nor excluded. But that does not mean that the Court cannot fill that gap to help fulfill the undisputed intent of the intestate provisions in a common sense and lawful way, as this Court has done in other cases. It is important to give proper guidance to the lower courts who deal daily with our social reality where over 50 per cent of families are remarried or re-coupled, and 60 per cent of adults die intestate. *See* OB at 10-11. The flexibility of the common law of probate to accommodate a

[2] Review of his web page for Seattle University Law School shows his probate related publications the past thirty-five years. *See* https://law.seattleu.edu/faculty/profiles/emeriti/mark-reutlinger (last viewed 1/28/21). A Westlaw search shows that his works have been cited by Washington courts over a dozen times.

changing world is designed for this, and always has been. *See* OB at 11-14, describing the changes and built-in flexibility in the English probate system by the time it was brought to the colonies. The Decision improperly stultifies this inherent flexibility of the probate system in equity.

C. ISSUES PRESENTED FOR REVIEW

1. Nothing in the Probate Statutes expressly precludes intestate succession by a stepchild in Petitioner's position in order to avoid escheat. The comprehensive modernizing revisions of the Probate Code in 1965 were intended to establish the framework to carry out the likely wishes and presumed intent of an intestate deceased for disposition of his or her estate. Should the Court interpret the Probate Statutes and the court's equitable authority consistent with the underlying intent of the 1965 Probate Code revisions to permit the trial court to determine and carry out the likely wishes and presumed intent of the intestate decedent Mr. Ray, where the evidence on summary judgment could support a finding that his likely wishes were for his estate to descend to his step-son Mark Stine, not escheat to the State?

2. Is intestate succession in Washington limited to a strict interpretation and application of the intestate statutes when such frustrates the likely wishes or presumed intent of an intestate deceased, where meeting such intent is the underlying policy of the intestate statutes?

3. Even if RCW 11.04.095 does not affirmatively provide for a stepchild in Petitioner's position to inherit his or her stepparent's estate, where the statute does not expressly ***preclude*** such inheritance, can it be construed, or equity applied through *de facto* parentage or otherwise, to permit such inheritance where there are no other potential claimants, the record contains sufficient evidence to find the stepchild is the likely natural object of the deceased's affections so that the deceased's likely wish would be for the stepchild to inherit rather than allow for an escheat, and where the alternative is to permit the estate to escheat?

D. STATEMENT OF THE CASE

1. The Decedent Calvin Ray And His Stepson Mark Stine.

Calvin T. ("Tod") Ray worked at Boeing when he married Nancy Skinner and became the stepfather to her 10-year old son Mark Stine in 1979. CP 41-42. Mark Stine was Mr. Ray's genuine son whom he helped raise during the critical years of late elementary school through high school and after, until Mark married and left the family home at age 21. Mark Stine relates that he considered Mr. Ray "the only true father I ever had." He explained:

> 1. My mother, Nancy Skinner (then, Nancy Stine) met Calvin "Tod" when I was ten (1) years old. They were married shortly after and built a house together in Issaquah, WA where we all lived in up until I left home when I was 21 years old to get married.
>
> 2. I was excited when Tod and my mother got married, because I already knew he would be a great person to have as a stepfather. The bond we developed was very strong right away. From an early age, I considered Tod my father. He never made me feel like a "stepson" and treated me as if I was his own flesh and blood. I always appreciated this love and care from him. I still do.
>
> 3. Tod often told me he loved me and would care for me forever. He was the only true father I ever had.
>
> 4. Tod had worked for Boeing for most of his life, and retired when he was fifty (50) years old.

CP 41-42.

The record on summary judgment relates Tod Ray was "truly a great father to Mark," visited with Mark and his wife after their marriage, and at least once gave him the IRS maximum early distribution of $10,000 when Mark was in his mid-30's with his own family. *See* CP 41-46, 55-56 (declarations).

There is evidence from both Mark and his mother that Tod Ray spoke of having his estate go to Mark, *i.e.,* that Mark Stine was the object of Tod Ray's bounty. *Id.*

The record also relates that while Mark Stine was growing from a boy to a man and got married, he lived in a family home with Tod Ray as his genuine father, there were no marital problems between Mr. Ray and his mother, and thus no need for Mr. Ray to assert in court any rights to Mark Stine as a parent, *de facto* or otherwise. There was no practical need for adoption or any other legal determination of Tod Ray's relationship with, or parenting of Mark Stine while Mark was growing up. None was required or needed after Mark turned 18, then years later moved out of the family house as a grown man to get married. Thankfully, their family setting was not like the conflict in *In re Custody of B.M.H., supra,* where a stepfather estranged from the mother had to obtain court orders to continue his relationship with his non-biological child, orders which "filled a gap in the statutes" to insure the relationship could continue. But should a happy family relationship interfere with effecting Tod Ray's likely desire to pass his estate on to his only son, rather than escheat to the State?

Tod Ray died unexpectedly on April 5, 2011, at 64 years old. CP 2; 119 (death certificate). His Estate had over $4 million in cash value. *Id.* After the Estate paid state taxes, as of July 9, 2018, DOR held $3,650,000 in funds from the Ray Estate. CP 2 152 (order approving final report). The State believed that Mr. Ray had no will or legal heirs under RCW 11.04.015, resulting in an escheat estate under RCW 11.08," CP 123-124, claiming the

funds from the Estate. *See* CP 143-147 (order of 3/27/2012 declaring Estate is escheat).

2. Superior Court Proceedings.

Mark Stine filed his TEDRA petition to determine his right to inherit from Tod Ray's estate on July 13, 2018. CP 1-5. DOR moved to dismiss a month later, CP 8, to which Petitioner Stine responded (CP 29—36), and later filed declarations. CP 41-56. Judge Schubert heard the motion and referred the matter to mediation (CP 57-58) which failed, and DOR filed a motion for summary judgment the next day. CP 65. Petitioner responded with additional declarations (CP 79-81) and a brief (CP 83-92), and the matter was heard on March 29, 2019. RP 1-15. The trial court granted DOR's motion. CP 105-106.[3] After argument, the court stated it did not believe it had the authority to recognize Mark Stine as an intestate beneficiary of Tod Ray:

> I am honored to think that someone thinks that I have the ability to change precedent, but the appellate courts don't give me that option, so I am going to grant the motion for summary judgment.
>
> I can only operate on the materials in front of me. The appellate court may want to change the law, but that is not something that I have the authority to do.

[3] Although Mr. Ray died in 2011 and his estate was administered and taxes paid, and a formal order of escheat entered within a year, the matter was heard and addressed on the merits because the statute of limitations was seven years per RCW 11.08.240, and the TEDRA petition was filed within that time so was timely. *See* RP 9. DOR did not contest this issue, recognizing that "otherwise lost heirs" are allowed to come forward and claim their right to the estate that was subject to escheat. *See* RP 13.

RP 15. The Court of Appeals denied Mark Stine's appeal in a decision that fails to fully address, much less counter, Mr. Stine's substantive arguments, particularly those based on the underlying intent of the comprehensive 1965 Probate Code revisions, and the dramatically expanding understandings and definitions of family described in the Opening Brief.

3. RCW 11.04.095 and its history.

The statute was passed in its present form in 1965 and is designed to prevent escheat where a stepchild of the deceased could inherit, since escheat is disfavored in the law. The law currently reads:

> **RCW 11.04.095. Inheritance from stepparent avoids escheat.**
>
> If a person dies leaving a surviving spouse or surviving domestic partner and issue by a former spouse or former domestic partner and leaving a will whereby all or substantially all of the deceased's property passes to the surviving spouse or surviving domestic partner or having before death conveyed all or substantially all his or her property to the surviving spouse or surviving domestic partner, and afterwards the latter dies without heirs and without disposing of his or her property by will ***so that except for this section the same would all escheat***, the issue of the spouse or domestic partner first deceased who survive the spouse or domestic partner last deceased shall take and inherit from the spouse or domestic partner last deceased the property so acquired by will or conveyance or the equivalent thereof in money or other property; if such issue are all in the same degree of kinship to the spouse or domestic partner first deceased they shall take equally, or, if of unequal degree, then those of more remote degree shall take by representation with respect to such spouse or such domestic partner first deceased.

RCW 11.04.095 (bold heading in original; bold in text added), adopted at Laws of 1965, Ch. 145, § 11.04.095.[4]

The Decision dismissed use of the section heading in analyzing the the legislature's intent when passing the statute. This was wrong. The heading is properly considered in construing the legislators' intent because it was in both the original bill and in the final session laws. *See* App. C., copies of the original 1965 bill and session law setting out the section for "Inheritance From Stepparent Avoids Escheat". The heading properly helps guide this Court as to the intent behind the statute.[5] *See* Reply at 6-8, discussing *Estate of Little* and why the heading is important of the intent to provide a framework to avoid escheat when stepchildren are the only potential beneficiaries.

Viewed this way, the heading supports a flexible approach to insure a stepchild in Petitioner's position can inherit if there is evidence that is what the deceased stepparent would want, since while the statute does not expressly provide for the stepchild, neither does it expressly exclude such a stepchild from inheriting, leaving a gap, and the point is to avoid escheat.

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[4] The statute was amended in 2008 only to add domestic partner terms, as they were added throughout the statutes. Laws of 2008 Ch. 6, § 905.

[5] While RCW 11.02.001 states that the heading is not "any part of the law," nevertheless, since it was a part of the original bill considered by the legislature, and also was part of the final sessions laws and not merely added by the Code Reviser, it is properly considered when determining the intent of the legislature that passed the provision. *State v. Chhom*, 162 Wn.2d 451, 460 fn.3, 173 P.3d 234 (2007) ("In contrast to captions generated by the Washington State Code Reviser, section headings which are adopted as part of a statute may be referred to as a source of legislative intent."). *Accord, Bartz v. Burlington Northern Santa Fe, LLC*, 9 Wn.App.2d 1077, 2019 2019 WL 3417096, at *5 (2019) (unpublished) ("Only a title or section heading that is part of the legislative enactment itself, as opposed to a caption or label added later by the code reviser, may have any legal import in determining the legislative intent."). *See* Reply Brief at 7-8.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

1. Review should be accepted to give the definitive interpretation of RCW 11.04.095 in avoiding escheat under RCW 11.08.140, including the trial court's scope of authority in applying the one statute that addresses intestate inheritance by stepchildren. It is an issue of first impression and of statewide importance. RAP 13.4(b)(4).

DOR's motion to publish supports granting review since, as it noted, "this is the first Washington appellate decision interpreting the language and purpose of RCW 11.04.095." DOR Motion to Publish, pp. 1-2. Because this statute applies throughout the state, and as there are increasing numbers of blended families with stepchildren and less than half of adults use wills, how stepchildren are treated in the intestate statutes to avoid escheat is an issue that should be decided definitively by the Supreme Court. RAP 13.4(b)(4).

The Decision did not apply the statute within the context of the 1965 Probate Code revisions, which were premised on the intestate provisions permitting and promoting estate distributions that followed the expected intentions of the intestate decedent. It dismissed those points in conclusory fashion without reasoned analysis, as set out *supra.* This Court should accept review to provide a full analysis of the effect of the underlying intent of the intestate statutes for the benefit of the Bench, the Bar, and the public.

The Court of Appeals also neglected to fashion an interpretation of the statute and circumstances in today's social context to insure proper legal rules going forward. This is one of the duties and glories of the common law, case-decision system – being responsive to the changing needs of the times. In this third decade of the 21st Century the numbers and

proportions of blended families yielding stepchildren has increased: half or more of families are divorced, resulting in reconstituted and blended families as the norm.[6] Further, the majority of adults die intestate, making how the intestate statutes are applied more and more important.[7] Rigid adherence to rules and court decisions pre-dating the 1965 revisions should not control the reality of the dramatically changed family landscape like a "dead hand" long ago banned by the Rule Against Perpetuities. Further, among those who die intestate are many otherwise organized people who, like Tod Ray, die earlier than expected and before feeling the need to prepare a formal will. This is one of those cases, as Tod Ray died suddenly and unexpectedly at the early age of 64. It is neither fair to Tod Ray nor a proper remedy to Mark Stine to say, "well, he should have made a will." Not only is that not the usual path people take, it is the purpose of the intestate statutes to provide for those like Tod Ray who die intestate, no matter why.

Review should be granted for the Court to determine definitively how literally or liberally trial courts should interpret and apply the probate statutes governing intestate succession given the underlying premise of the 1965 Probate Code revisions that they "coincide with the intestate's natural ties of affection and be within accepted ideas of responsibility for support," and

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[6] *See* OB at 10, citing the U.S. Census Bureau for the figure that over 50% of U.S. families are remarried or re-coupled, and that 1300 new stepfamilies are formed each day.

[7] The Opening Brief documented studies that a majority of adults in the United States – 60% -- die intestate. *See* OB 11, citing recent articles.

thus "to accord with the wishes of the average decedent who dies intestate".[8]

Review should be granted to determine the scope of the trial courts' authority to insure proper disposition of an intestate decedent's estate when the alternative is for the property to escheat to the State. Review will also permit the Court to determine definitively what effect should be given to restrictive court decisions based on statutes dating long before the 1965 revised Code. What vitality and mandatory effect do these pre-revision cases retain?

In this case, the trial court felt constrained not to use a liberal construction infused with accomplishing the underlying purpose of the intestate provisions of the Probate Code. The Court of Appeals simply applied a too-crabbed interpretation, relying on cases and statutes that predate the 1965 revisions. This demonstrates that the lower courts need guidance for future cases.

Finally, the Decision criticized Petitioner for failing to cite a case which states that the intent of the 1965 revisions was to install a system that would give effect to the likely desires, the presumed intent of those who died intestate. *See* Slip Op. at 5. But Petitioner did cite the reporters for the four-year study group that developed the comprehensive probate revisions that the Legislature adopted in 1965, as well as *Estate of Little*. Moreover, this approach to the statutory revision is not obscure, but fundamental, as has been described by the commentators. *See, e.g.,* Mark Reutlinger,

[8] *Probate Reform*, 39 WASH.L.REV. at 876-877.

"Washington Law of Wills and Intestate Succession" (WSBA, 3d. ed. 2018) (hereafter "*Reutlinger*"). Prof. Reutlinger summarized that the intestacy statute

> presumably reflects the intention of the average person as to the distribution of his or her estate. It is a legislative determination of how someone would want property distributed if that person had been asked before death or had executed a valid will.

Reutlinger at. p. 1.

This also supports granting review so that these principles can be articulated clearly and fully. Otherwise, the lower courts and the Bar are left with a published decision which is incorrect on several points and fails to give proper guidance for future cases. Review should be granted so that the published Decision does not become the applicable law on this subject.

2. Review should be granted RAP 13.4(b)(4) to clarify the law governing escheat and correct Division One's mischaracterization and application of the law.

DOR claimed in its motion to publish that the Decision "clarifies that escheat under RCW 11.08.140—while disfavored—can occur in appropriate circumstances." That is a focal point that this Court needs to decide. Mark Stine contends that, while escheat can occur under some circumstances, under the statutes, equity, and these facts, ***these*** are ***not*** "appropriate circumstances" for escheat.

The escheat issue here is, where there is ample evidence on summary judgment that Tod Ray would prefer his estate to go to his stepson rather than escheat, is there room within the statutes and equity to give effect

to his likely intent? This Court should accept review to determine these boundaries.

DOR's motion also contended that "the decision provides a clear and concise discussion of inheritance rights and the law of escheat". Again, this is a conclusion that this Court should determine, precisely because the Decision, if left to stand as the only published decision on the issue, permits escheat without allowing for the trial court to take into account and give effect to Tod Ray's likely intent that his estate go to his stepson rather than escheat.

Neither the Court of Appeals decision nor DOR's briefing or post-decision motion place it in proper context by giving proper weight to the age of the old cases on which DOR relied, all of which predate the wholesale revisions to the Probate Code in 1965, and the context in which the 1965 statutes are now being applied in the third decade of the 21st Century.

This Court should grant review to give direction for applying the revised Probate Code consistent with its underlying purpose and our current societal norms for future cases. For instance, the 1965 revisions not only retained the policy of avoiding the escheat of to the State if possible, *they narrowed the circumstances that allow for escheat. See* Reply at 5, fn. 1, describing how the 1965 statute increased the group of persons who can resist an escheat, since it provides that property is subject to escheat only if the decedent is not survived "by any person entitled to [the property] under the laws of this state, …". The current statute thus does not restrict to "heirs" the claimants who can defeat escheat, as the earlier statute did. This policy change increased the disfavor of escheats. Further, *Estate of Little* is an

example from 1986 of the efforts the courts will make to avoid escheat. That lesson bears retelling.

Finally, Washington has gradually and continually expanded the definition of family members in the time since the Probate Code was revised, becoming more inclusive in recognizing "legitimate" families, recognizing as "family" persons beyond those solely related by blood or formal legal process such as adoption. These changes should be addressed in any interpretation of the escheat statute with RCW 11.04.095.

3. Review should be accepted RAP 13.4(b)(4) to decide whether *de facto* parentage or some other equitable basis can "fill the gap" in RCW 11.04.095 to allow a stepchild in Petitioner's position to inherit in order to avoid escheat.

In *Custody of B.M.H.,* this Court employed the *de facto* parentage doctrine to fill a statutory gap and allow for the determination of whether the petitioner there, Mr. Holt, "had undertaken a permanent role as B.M.H.'s parent." 179 Wn.2d at 240. *See* analysis at 179 Wn.2d at 240-245. This Court specifically held that the doctrine applies in the stepparent context.

The Court should accept review to decide whether the *de facto* parent doctrine or another equitable doctrine should be employed to ensure the intestate stepparent's estate will be inherited by his or her stepchild or stepchildren rather than escheat to the State. Consistent with the 1965 Probate Code revisions, it could be limited to where there is evidence of the deceased's natural ties of affection to and likely wishes to provide for that stepchild, and thus provide the basis for an inheritance for a stepchild

arguably left out of the statutory scheme due to the quirk of which parent died first, and a meaningful bequest by the deceased stepparent.

F. CONCLUSION

The Court should accept review to give a definitive interpretation of how RCW 11.04.095 is applied in conjunction with a potential escheat under RCW 11.08.140, and whether the *de facto* parent doctrine can fill any gap there may be in the statutory scheme that otherwise leaves some stepchildren out of inheritance based on the quirk of which parent died first.

Review will permit the Court to declare that Washington law provides for inheritance by stepchildren in order to avoid escheat, and it does not matter which stepparent died first.

Respectfully submitted this 28th day of January, 2021.

CARNEY BADLEY SPELLMAN, P.S.

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

☒ Court e-service and Email:

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DATED this 28th day of January, 2021.

S/ Allie M. Keihn
Allie M. Keihn, Legal Assistant

Appendix A

FILED
11/9/2020
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Estate of

CALVIN T. RAY, a/k/a CALVIN THOMAS RAY JR. and TOD RAY.

MARK D. STINE,

Appellant,

v.

WASHINGTON STATE, DEPARTMENT OF REVENUE,

Respondent.

No. 79904-5-I

DIVISION ONE

UNPUBLISHED OPINION

APPELWICK, J. — Stine appeals from an order granting summary judgment for and dismissing claims against the Washington State Department of Revenue. Stine contends the trial court erred in determining he had no legal right to inherit intestate from his stepfather, Calvin T. Ray, Jr. Stine argues this court should interpret RCW 11.04.095 to grant him the right of inheritance. Alternatively, he argues the court should use its equitable powers to allow him to inherit Ray's estate by holding that he was de facto adopted by Ray, or that Ray was Stine's de facto father. We affirm.

FACTS

On April 5, 2011, Calvin T. Ray, Jr., passed away. Ray died intestate without being survived by any person entitled to his estate under Washington law. Ray was a resident of the State of Washington at the time of his death. Mark Stine was his only stepchild

Stine's mother, Nancy Skinner, married Ray when Stine was 10. Stine, Skinner, and Ray lived together in the same home until Stine left home at the age of 21. Skinner and Ray dissolved their marriage on January 3, 1990. Ray and Stine remained close after the dissolution of his marriage to Ray's mother. Counsel for Stine declared that Ray expressly stated to several individuals his intent to make Stine his beneficiary. Ray never formally adopted Stine.

On March 27, 2012, the King County Superior Court issued a final order in probate directing his estate escheat to the State of Washington. The Washington Department of Revenue (DOR) holds Ray's estate, which totaled $3,650,000 in 2018. In July 2018, Stine filed a postprobate petition in King County Superior Court for a determination of his right to inherit. Stine asserted two legal theories in his petition. First, he claimed that he was entitled to inherit under RCW 11.04.095, which provides limited circumstances by which stepchildren may inherit intestate. Second, he argued that the court should rule that he was de facto adopted by Ray. The DOR moved to dismiss. In November 2018, the court ordered the parties to first proceed to mediation under RCW 11.96A.300. Mediation was unsuccessful.

The DOR then moved for summary judgment. On March 29, 2019, the trial court granted the motion for summary judgment and dismissed the action.

Stine appeals.

DISCUSSION

This court reviews summary judgment rulings de novo. Activate, Inc. v. Dep't of Revenue, 150 Wn. App. 807, 812, 209 P.3d 524 (2009). Summary judgment is appropriate if the record shows there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law. Anica v. Wal-Mart Stores, Inc., 120 Wn. App. 481, 487, 84 P.3d 1231 (2004). A material fact is one upon which the outcome of the litigation depends. Clements v. Travelers Indem. Co., 121 Wn. 2d 243, 249, 850 P.2d 1298 (1993). The court must consider the facts submitted and all reasonable inferences from those facts in the light most favorable to the nonmoving party. Id. The motion should be granted only if, from all the evidence, reasonable persons could reach but one conclusion. Cochran Elec. Co. v. Mahoney, 129 Wn. App. 687, 692, 121 P.3d 747 (2005).

I. RCW 11.04.095

Whether Stine should inherit under RCW 11.04.095 is a legal question that this court reviews de novo. See Bank of Am., NA v. Prestance Corp., 160 Wn.2d 560, 564, 160 P.3d 17 (2007) (holding whether equitable relief is appropriate is a question of law).

Intestate succession is governed by Washington's general descent and distribution statute. RCW 11.04.015. Where a person dies intestate with no surviving spouse or domestic partner, their estate descends next to their issue. RCW 11.04.015(2)(a). "Issue" is defined under Title 11 RCW to include all lineal

descendants, including adopted individuals. RCW 11.02.005(8). "Stepchildren" are not expressly included within the definition of "issue." See id. If an individual dies intestate and is not survived by anyone entitled to their estate, their property escheats to the State. RCW 11.08.140. RCW 11.04.095 provides a narrow set of conditions under which stepchildren may inherit intestate from their stepparents. Stine asserts this court should interpret RCW 11.04.095 to allow him to inherit Ray's estate, in keeping with the policy underlying RCW 11.04.095.

The language of RCW 11.04.095 lays out several requirements which must be met for a stepchild to inherit intestate. First, the stepchild's parent must predecease the surviving stepparent. Id. Second, substantially all of the parent's property must pass to the surviving stepparent either in death or conveyed before death. Id. Third, the stepparent subsequently dies intestate resulting in escheat but for inheritance by the stepchild. Id. Thus, where the natural parent dies first, and their property is transferred to a stepparent, this statute provides a way for property of the natural parent to return to the stepchild upon the death of an otherwise intestate stepparent.

Stine asks this court to interpret RCW 11.04.095 broadly to include his circumstances "consistent with the underlying purpose of the code" and broadened understandings of what constitutes "family."

A. Evolution of Washington Probate Law

First, Stine argues probate law has moved beyond anachronistic bloodline conceptions of property inheritance. Stine highlights the enactment of RCW 11.04.095 as part of a comprehensive probate code revision in 1965. He cites to

a law review article discussing the Legislature's repudiation of the "'anachronistic doctrine of ancestral property.'" (Quoting Robert A. Stewart & John R. Steincipher, Probate Reform in Washington, 39 WASH. L. REV. 873, 878-879 (1965)). However, Stine does not provide any caselaw in which the court has used the 1965 probate reforms to assign more inclusive meaning to an eligible class of takers under current probate statutes.

Stine highlights several other shifts in probate law, such as changes to antiquated notions of "legitimacy" in defining children. Here, Stine relies on In re Matthias' Estate, 63 F. 523, 525 (C.C.D. Wash. 1894). Matthias' Estate did not address the question of law in this case, but concerned the third section of "'[a]n act in relation to marriage,'" which expressly provided "'all children born of persons living and cohabiting together, as man and wife'" were eligible to inherit. Id. (quoting LAWS OF 1854, p. 404). The question before the court was whether the plaintiff's parents, who never legally wed, lived together as man and wife. Id. The court did not interpret the statute beyond its plain language to reach its conclusion. Id.

Additionally, Stine argues the recognition of stepchildren as beneficiaries under taxation provisions and in wrongful death actions evidences a legislative intent for stepchildren to inherit. Stine cites In re Estate of Bordeaux, 37 Wn.2d 561, 594, 225 P.2d 433 (1950), which recognized stepchildren as belonging to the same class as natural children for purposes of inheritance taxation. However, the relevant inheritance tax statute specifically designated that any "'child or stepchild'" of the deceased belong to class A for determining rates of taxation. Id. at 562-63

(emphasis omitted) (quoting Rem. Supp. 1943, § 11202, P.P.C. § 974-21). Here, "stepchild" is not expressly provided in the language of RCW 11.04.095. Similarly, stepchildren are now entitled to recover in wrongful death actions, but Stine himself concedes this change occurred through statutory reform.

Additionally, Stine contends that amendments to Title 11 RCW recognizing increased rights of nontraditional heirs and domestic partnerships are evidence of the legislature's desire for broadened interpretations of Title 11 RCW. But, again, these changes also evidence the legislature's ability to amend Title 11 RCW to comport with its new policy positions.

Had the legislature intended to make stepchildren equivalent to children in all instances of intestate law, it could have simply amended the definition of "issue" in RCW 11.02.005(8) to include "stepchildren," but it has not. To this point, the DOR cites to In re Estate of Henry, 189 Wash. 510, 513-14, 66 P.2d 350 (1937), detailing the legislature's modification of Washington's former inheritance tax code to classify both "children" and "stepchildren" as the same class of beneficiaries. If Title 11 RCW is inconsistent with trends in escheat or expanding notions of family, it is for the Legislature to enact changes in policy.

B. Policy Disfavoring Escheat in Washington

Next, Stine contends escheat is disfavored in Washington. He cites In re Estate of Little, 106 Wn.2d 269, 284, 721 P.2d 950 (1986), to support his claim. This case is distinguishable from Little. That case concerned a dispute between two groups of potential heirs over the estate of an intestate decedent. Id. at 281. Reading Washington's general descent and distribution statute and its ancestral

estate statute literally, their rights to inherit extinguished each other, resulting in escheat under RCW 11.08.140. See Little, 106 Wn.2d at 283-84. The court held the legislature could not have intended for those two statutes to conflict, resulting in escheat. Id. at 284. Therefore, the court gave preference to the more specific ancestral estate statute. Id.

Here, there is no dispute between two groups of potential heirs or two conflicting statutes. Additionally, the outcome of Little, 21 years after the 1965 probate code reforms, highlights the enduring recognition of bloodlines and ancestral property. Robert A. Stewart & John R. Steincipher, Probate Reform in Washington, 39 WASH. L. REV. 873, 878-879 (1965). This rebuts Stine's earlier arguments regarding the evolution of Washington probate law.

A general policy disfavoring escheat does not mean the legislature intended that escheat will never occur under any circumstances. On the contrary, the legislature provides for intestate escheat expressly under Title 11 RCW, barring exceptional circumstances outlined in statutes such as RCW 11.04.095.

C. Plain Language of Statute

Stine concedes that, under the plain language of the statute, he does not meet the first two statutory requirements since his mother did not predecease Ray. Only the third statutory requirement, that Stine's stepparent subsequently died intestate resulting in escheat but for inheritance by the stepchild, is present here. RCW 11.04.095(3). Stine does not cite caselaw in which a court has interpreted RCW 11.04.095 to allow for inheritance in similar circumstances.

Still, he argues this court should interpret the statute to allow him to inherit "consistent with other state statutes and caselaw and the unstoppable evolution of society's view of family." He contends "[i]t is a natural and logical progression for the [c]ourt to equitably fill this statutory gap." For this assertion, he cites In re Parentage of L.B., 121 Wn. App. 460, 475-476, 89 P.3d 271 (2004), rev'd in part on other grounds, 155 Wn.2d 679, 122 P.3d 161 (2005). The L.B. court recognized its ability to grant common law remedies where they are not preempted by legislation. 121 Wn. App. at 476 n.2. But, the court also clearly stated "unambiguous statutes are not open to judicial interpretation." Id. at 473.

The plain meaning rule directs courts to apply words per the meaning they are ordinarily given. Dep't of Ecology v. Campbell & Gwinn, LLC, 146 Wn.2d 1, 11, 43 P.3d 4 (2002). It is unnecessary to resort to aids of construction where a statute is unambiguous. See Id. at 12. In recognition of separation of powers, courts "should resist the temptation to rewrite an unambiguous statute to suit our notions of what is good public policy." State v. Jackson, 137 Wn.2d 712, 725, 976 P.2d 1229 (1999). Where a statutory mandate exists, courts will not employ equitable principles in derogation of that mandate. See Rhoad v. McLean Trucking Co., Inc., 102 Wn.2d 422, 427, 686 P.2d 483 (1984). This court has declined to judicially modify a statutory child support scheme where a partner did not formally adopt the child. State ex rel. D.R.M v. Wood, 109 Wn. App. 182, 194-95, 34 P.3d 887 (2001).

Here, there is no gap in the statute. This court does not need to look further than the plain language of the statute. A stepparent has clear options to ensure

their stepchild inherits their estate. Here, the legislature has expressly carved out limited exceptions to a bar on intestate inheritance by stepchildren with RCW 11.04.095.

It may be true, as Stine contends, that his stepfather Ray always intended that he would be his heir. But, Ray never pursued any of the available instruments to ensure succession. The legislature enacted a narrowly-tailored intestate exceptions for stepchildren, rather than add stepchildren to the definition of issue. Neither general policy considerations nor evidence of the likely intentions of the decedent are a sufficient basis to override clear legislative policy in the name of equity.

D. RCW 11.04.095's Section Heading

Finally, Stine argues the "title" of the statute, "Inheritance from stepparent avoids escheat," indicates the legislature's intent to broadly extend inheritance rights to stepchildren as well as its general disfavoring of escheat under RCW 11.04.095. This argument lacks merit.

Stine relies on Klossner v. San Juan County, 93 Wn.2d 42, 47, 605 P.2d 330 (1980), which described RCW 11.04.095, to assert that "[w]ith this statute, the legislature has extended inheritance rights to stepchildren when the property would otherwise escheat to this state." But, this statement was to distinguish the wrongful death statute at issue in Klossner, which unlike RCW 11.04.095, was silent with regards to stepchildren. Id. Additionally, Klossner cites RCW 11.04.095 to evidence how enhancements of stepchildren's rights have come by statute and have been narrow in scope. Id. at 46-47.

Further, RCW 11.04.095's section heading has no relevance to this case. Where a statute is ambiguous, section headings enacted as a part of the act may assist in determining legislative intent, but they do not control the plain meaning. See State v. Lundell, 7 Wn. App. 779, 781-82, 503 P.2d 774 (1972). These headings are only relevant if "they are placed in the original act by the legislature without any limiting provisions." Id. at 782 n.1. Here, the statute is unambiguous, so section headings are not needed to determine legislative intent. Additionally, the "title" Stine cites is the section heading for RCW 11.04.095. And, Title 11 RCW contains an express limiting provision stating section headings within Title 11 RCW do not constitute any part of the law. RCW 11.02.001.

We hold that Stine is not permitted to inherit Ray's estate under RCW 11.04.095.

II. Ray As Stine's De Facto Father

In the alternative, Stine argues that Ray was his de facto father. A lawfully adopted child is entitled to all rights of a natural child with regards to the adoptive parent, including rights of inheritance. RCW 26.33.260. Whether to assign equitable relief is a legal question, and as such, review is de novo. Niemann v. Vaughn Cmty. Church, 154 Wn.2d 365, 374, 113 P.3d 463 (2005); Norean Builders, LLC v. GMP Homes VG, LLC, 161 Wn. App. 474, 483, 254 P.3d 835 (2011).

An individual must be alive at the time a parentage action is commenced, and must claim to be the de facto parent of a minor child while the child is alive. RCW 26.26A.440(1)-(2). Here, Ray is deceased, Stine is not a minor child, and

Stine does not argue that Ray was ever adjudicated to be Stine's de facto parent. Stine argues that Ray was never adjudicated as such because such claims only arise during familial disputes, of which there were none here. Yet, that is precisely why this doctrine is inapplicable to the facts of this dispute. De facto parentage was never designed as an equitable relief for children to establish rights of inheritance. The statutory requirement that both parties be alive at commencement evidences the doctrine's inapplicability to probate law.

This court declines to expand the doctrine of de facto parentage to cover the circumstances of this dispute.

III. De Facto Adoption

Stine also argues in the alternative this court should utilize its equitable powers to hold that he was de facto adopted by Calvin Ray. Stine asserted this theory in his postprobate petition.

De facto adoption, also referred to as "equitable adoption" or "adoption by estoppel" is a common law doctrine entitling a person to the same rights they would have if legally adopted. Modern Status of Law as to Equitable Adoption or Adoption by Estoppel, 122 A.L.R. 5th 205 (2004).

Citing Thier, the DOR asserts that de facto adoption has never been recognized by a Washington appellate court. In re Marriage of Thier, 67 Wn. App. 940, 947 n.5, 841 P.2d 794 (1992) (noting no Washington case had recognized the doctrine). Stine is unable to cite any case where a Washington court has recognized the doctrine since Thier, but notes many foreign jurisdictions have as of 2004.

In Washington, adoptions are governed by statute, not common law. In re Estate of Renton, 10 Wash. 533, 542, 39 P. 145 (1895). In Renton, our Supreme Court held that stepchildren were prohibited from inheriting from their intestate stepfather as de facto adoptees because adoption in Washington is "purely statutory." Id.

Stine asserts that Renton is no longer controlling because it "would have been decided differently" today rendering it "simply not applicable and controlling." Stine's argument that Renton is no longer binding precedent is unsupported by caselaw. Therefore, we decline to recognize the common law doctrine of de facto adoption.

Stine is not eligible to inherit intestate under RCW 11.04.095. His other arguments lack merit. The trial court did not err in granting the State's motion for summary judgment and dismissing the action.

We affirm.

Appelwick, J.

WE CONCUR:

Appendix B

FILED
12/29/2020
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

In the Matter of the Estate of

CALVIN T. RAY, a/k/a CALVIN THOMAS RAY JR. and TOD RAY.

MARK D. STINE,

Appellant,

v.

WASHINGTON STATE DEPARTMENT OF REVENUE,

Respondent.

No. 79904-5-I

ORDER GRANTING MOTION TO PUBLISH

The respondent, Washington State Department of Revenue, has filed a motion to publish. The appellant, Mark Stein, has filed an answer. A majority of the panel has reconsidered its prior determination not to publish the opinion filed for the above entitled matter on November 9, 2020 finding that it is of precedential value and should be published. Now, therefore, it is

ORDERED that the motion to publish is granted; it is further

ORDERED that the written opinion filed November 9, 2020 shall be published and printed in the Washington Appellate Reports.

Appelwick, J.
Judge

Appendix C

SENATE BILL NO. 6

State of Washington
39th Regular Session

By Senators Petrich,
Neill and Gissberg

Read first time January 12, 1965.

AN ACT Establishing a code of probate law and procedure, including the making and probating of wills, administration of estates of deceased persons and appointment of guardians of the persons and estates of minors, insane and mentally incompetent persons and administration of their estates; enacting a title of the Revised Code of Washington to be known as Title 11--Probate Law and Procedure; providing penalties; repealing certain acts and parts of acts; and declaring an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

TITLE 11

PROBATE LAW AND PROCEDURE

Chapter 11.02

GENERAL PROVISIONS

Section 11.02.005 DEFINITIONS AND USE OF TERMS. When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number

shall be taken into account in the same manner as if it had been made directly to such heir. If such heir is entitled to a lesser share in the estate than the advancee would have been entitled had he survived the intestate, then the heir shall only be charged with such proportion of the advancement as the amount he would have inherited, had there been no advancement, bears to the amount which the advancee would have inherited, had there been no advancement.

Sec. 11.04.060 TENANCY IN DOWER AND BY CURTESY ABOLISHED. The provisions of RCW 11.04.015, as to the inheritance of the husband and wife from each other take the place of tenancy in dower and tenancy by curtesy, which are hereby abolished.

Sec. 11.04.071 SURVIVORSHIP AS INCIDENT OF TENANCY BY THE ENTIRETIES ABOLISHED. The right of survivorship as an incident of tenancy by the entireties is abolished.

Sec. 11.04.081 INHERITANCE BY AND FROM ILLEGITIMATE CHILD. For the purpose of inheritance to, through and from an illegitimate child, such child shall be treated the same as if he were the legitimate child of his mother, so that he and his issue shall inherit from his mother and from his maternal kindred, in all degrees, and they may inherit from him. Such child shall also be treated the same as if he were a legitimate child of his mother for the purpose of determining homestead rights, the distribution of exempt property and the making of family allowances. When the parents of an illegitimate child shall marry subsequent to his birth, or the father shall acknowledge said child in writing, such child shall be deemed to have been made the legitimate child of both of the parents for purposes of intestate succession.

Sec. 11.04.085 INHERITANCE BY ADOPTED CHILD. A lawfully adopted child shall not be considered an "heir" of his natural parents for purposes of this title.

Sec. 11.04.095 INHERITANCE FROM STEPPARENT AVOIDS ESCHEAT. If a person die leaving a surviving spouse and issue by a former spouse and leaving a will whereby all or substantially all of the deceased's

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property passes to the surviving spouse or having before death conveyed all or substantially all his or her property to the surviving spouse, and afterwards the latter dies without heirs and without disposing of his or her property by will so that except for this section the same would all escheat, the issue of the spouse first deceased who survive the spouse last deceased shall take and inherit from the spouse last deceased the property so acquired by will or conveyance or the equivalent thereof in money or other property; if such issue are all in the same degree of kinship to the spouse first deceased they shall take equally, or, if of unequal degree, then those of more remote degree shall take by representation with respect to such spouse first deceased.

Sec. 11.04.230 U. S. SAVINGS BOND--EFFECT OF DEATH OF CO-OWNER. If either co-owner of United States savings bonds registered in two names as co-owners (in the alternative) dies without having presented and surrendered the bond for payment to a federal reserve bank or the treasury department, the surviving co-owner will be the sole and absolute owner of the bond.

Sec. 11.04.240 U. S. SAVINGS BOND--EFFECT OF BENEFICIARY'S SURVIVAL OF REGISTERED OWNER. If the registered owner of United States savings bonds registered in the name of one person payable on death to another dies without having presented and surrendered the bond for payment or authorized reissue to a federal reserve bank or the treasury department, and is survived by the beneficiary, the beneficiary will be the sole and absolute owner of the bond.

Sec. 11.04.250 WHEN REAL ESTATE VESTS--RIGHTS OF HEIRS. When a person dies seized of lands, tenements or hereditaments, or any right thereto or entitled to any interest therein in fee or for the life of another, his title shall vest immediately in his heirs or devisees, subject to his debts, family allowance, expenses of administration and any other charges for which such real estate is liable under existing laws. No administration of the estate of such decedent, and no decree of distribution or other finding or order of any court shall

CHAPTER 145.

[Senate Bill No. 6.]

PROBATE CODE.

AN ACT establishing a code of probate law and procedure, including the making and probating of wills, administration of estates of deceased persons and appointment of guardians of the persons and estates of minors, insane and mentally incompetent persons and administration of their estates; enacting a title of the Revised Code of Washington to be known as Title 11—Probate Law and Procedure; providing penalties; repealing certain acts and parts of acts; and declaring an effective date.

Be it enacted by the Legislature of the State of Washington:

Title 11

Probate Law and Procedure

Chapter 11.02

GENERAL PROVISIONS

Probate law and procedure. Definitions and use of terms.

SECTION 11.02.005 *Definitions and Use of Terms.* When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum

charged with such proportion of the advancement as the amount he would have inherited, had there been no advancement, bears to the amount which the advancee would have inherited, had there been no advancement.

Tenancy in dower and by curtesy abolished.

SEC. 11.04.060 *Tenancy in Dower and By Curtesy Abolished.* The provisions of RCW 11.04.015, as to the inheritance of the husband and wife from each other take the place of tenancy in dower and tenancy by curtesy, which are hereby abolished.

Survivorship as incident, etc., abolished.

SEC. 11.04.071 *Survivorship as Incident of Tenancy by the Entireties Abolished.* The right of survivorship as an incident of tenancy by the entireties is abolished.

Inheritance by and from illegitimate child.

SEC. 11.04.081 *Inheritance By and From Illegitimate Child.* For the purpose of inheritance to, through and from an illegitimate child, such child shall be treated the same as if he were the legitimate child of his mother, so that he and his issue shall inherit from his mother and from his maternal kindred, in all degrees, and they may inherit from him. Such child shall also be treated the same as if he were a legitimate child of his mother for the purpose of determining homestead rights, the distribution of exempt property and the making of family allowances. When the parents of an illegitimate child shall marry subsequent to his birth, or the father shall acknowledge said child in writing, such child shall be deemed to have been made the legitimate child of both of the parents for purposes of intestate succession.

Inheritance by adopted child.

SEC. 11.04.085 *Inheritance by Adopted Child.* A lawfully adopted child shall not be considered an "heir" of his natural parents for purposes of this title.

Inheritance from stepparent avoids escheat.

SEC. 11.04.095 *Inheritance From Stepparent Avoids Escheat.* If a person die leaving a surviving

Probate law and procedure. Inheritance from step-parent avoids escheat.

spouse and issue by a former spouse and leaving a will whereby all or substantially all of the deceased's property passes to the surviving spouse or having before death conveyed all or substantially all his or her property to the surviving spouse, and afterwards the latter dies without heirs and without disposing of his or her property by will so that except for this section the same would all escheat, the issue of the spouse first deceased who survive the spouse last deceased shall take and inherit from the spouse last deceased the property so acquired by will or conveyance or the equivalent thereof in money or other property; if such issue are all in the same degree of kinship to the spouse first deceased they shall take equally, or, if of unequal degree, then those of more remote degree shall take by representation with respect to such spouse first deceased.

U. S. savings bond—Effect of death of co-owner.

SEC. 11.04.230 *U. S. Savings Bond—Effect of Death of Co-owner.* If either co-owner of United States savings bonds registered in two names as co-owners (in the alternative) dies without having presented and surrendered the bond for payment to a federal reserve bank or the treasury department, the surviving co-owner will be the sole and absolute owner of the bond.

U. S. savings bond—Effect of beneficiary's survival of registered owner.

SEC. 11.04.240 *U. S. Savings Bond—Effect of Beneficiary's Survival of Registered Owner.* If the registered owner of United States savings bonds registered in the name of one person payable on death to another dies without having presented and surrendered the bond for payment or authorized reissue to a federal reserve bank or the treasury department, and is survived by the beneficiary, the beneficiary will be the sole and absolute owner of the bond.

When real estate vests—Rights of heirs.

SEC. 11.04.250 *When Real Estate Vests—Rights of Heirs.* When a person dies seized of lands, tenements or hereditaments, or any right thereto or entitled to

CARNEY BADLEY SPELLMAN

January 28, 2021 - 4:17 PM

Filing Petition for Review

Transmittal Information

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Appellate Court Case Number:	Case Initiation
Appellate Court Case Title:	Mark D. Stine, Appellant v. Department of Revenue, Respondent (799045)

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