

SUPREME COURT OF THE STATE OF MONTANA

In re Estate of Henry Todd Marson

328 Mont. 348 (2005) · No. No. 04-525 · Decided September 13, 2005

SUMMARY

The Montana Supreme Court reversed and remanded a summary judgment awarding Susan Collins a share of the estate as a putative spouse. The Court held that the Estate was not given notice and a full and fair opportunity to brief, develop facts, and respond to the putative-spouse theory under Montana Code Annotated § 40-1-404. The dissent would have affirmed, reasoning that the material facts were undisputed and the issue was solely one of law.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice John Warner; Chief Justice Karla M. Gray; Justice Brian Morris; Justice W. William Leaphart; Justice James C. Nelson
JURISDICTION	Montana
DECIDED	September 13, 2005
DOCKET	No. 04-525
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Estate appealed from an order granting summary judgment to Susan Collins and awarding her a portion of the estate as a putative spouse.
STANDARD OF REVIEW	De novo review of a district court's summary judgment ruling.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Estate of Henry Todd Marson v. Susan Collins

TOPICS

- probate procedure
- probate
- summary judgment
- appellate procedure
- estate litigation

PRACTICE AREAS

- Probate
- Civil procedure
- Appellate procedure
- Family law

QUESTIONS PRESENTED

1. Whether the District Court erred by granting summary judgment to Collins as a putative spouse when the Estate had not received notice and a full and fair opportunity to address that theory.

HOLDINGS

1. The District Court erred by granting summary judgment in favor of Collins without first providing the Estate notice and a reasonable opportunity to develop facts and argument concerning the putative-spouse theory and the application of § 40-1-404, MCA.

KEY QUOTATIONS

“However, it is critical that the court ensure the original movant had “full and fair opportunity to meet the proposition, that there is no genuine issue of material fact and the [nonmoving] party is entitled to judgement as a matter of law.”” (¶ 9)

“It was error for the District Court to grant summary judgment in favor of Collins without first affording the Estate notice and a reasonable opportunity to be heard.” (¶ 12)

FACTUAL BACKGROUND

Henry Todd Marson and Susan Collins executed a handwritten declaration of common-law marriage in 1987. During Collins's later dissolution proceeding, Linda Lundgren claimed that she had previously entered into a common-law marriage with Marson and that the marriage had never been dissolved; the validity of that alleged marriage had not been determined. After Marson died testate without leaving Collins anything, Collins claimed that Marson's alleged fraud entitled her to surviving-spouse benefits, including an elective share and statutory allowances.

PROCEDURAL HISTORY

Collins filed a claim against Marson's estate seeking spousal benefits, including an elective share and homestead and exempt-property allowances. The Estate moved for partial summary judgment on the ground that Collins was not a surviving spouse. During an unrecorded in-chambers hearing, Collins raised the putative-spouse theory for the first time, and the District Court later granted summary judgment in her favor on that theory. The Montana Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The District Court must provide each party a reasonable opportunity to develop facts and argument regarding all relevant issues, including issues surrounding § 40-1-404, MCA, and any material facts that could render the putative-spouse issue irrelevant or require consideration of alternative legal theories.

CASES CITED

- Stanley L. and Carolyn M. Watkins Trust v. Lacosta, 2004 MT 144, 321 Mont. 432, 92 P.3d 620
- Hereford v. Hereford, 183 Mont. 104, 598 P.2d 600 (1979)
- Chain v. Montana Department of Motor Vehicles, 2001 MT 224, 306 Mont. 491, 36 P.3d 358
- Madison County v. State, 1998 MT 285, 291 Mont. 446, 968 P.2d 732

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