

SUPREME COURT OF ALASKA

Estate of Maldonado v. Bailey

117 P.3d 720 (Alaska 2005) · Decided July 22, 2005

SUMMARY

The Alaska Supreme Court held that wrongful death proceeds received by a surviving spouse are not property owned by the spouse at the decedent’s death and therefore are not included in the decedent’s augmented estate for calculating the surviving spouse’s elective share. The court distinguished survivorship claims, which arise from the decedent’s pre-death injuries and constitute probate assets. The court reversed and remanded for determination of what portion of the asbestos settlement, if any, represented survivorship claims.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Carpeneti, Justice; Bryner; Carpeneti; Eastaugh; Fabe; Matthews
JURISDICTION	Alaska
DECIDED	July 22, 2005
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Alaska Supreme Court granted Barbara Maldonado's petition for review of a superior court decision, following a probate master's recommendation, that included her interest in wrongful death settlement proceeds in the decedent's augmented estate for purposes of calculating her elective share.
STANDARD OF REVIEW	Summary judgment and questions of law are reviewed de novo. The court adopts the rule of law most persuasive in light of precedent, reason, and policy.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; precedential.
PARTIES	Barbara Maldonado v. Guardian ad Litem, Bailey

TOPICS

- elective share
- probate procedure
- statutory interpretation
- estate administration
- wrongful death

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a surviving spouse's interest in wrongful death proceeds is property owned by the spouse at the decedent's death and therefore included in the decedent's augmented estate under AS 13.12.207.
2. Whether wrongful death proceeds received by surviving beneficiaries are included in the decedent's net probate estate under AS 13.12.204.
3. Whether settlement proceeds attributable to survivorship claims are probate assets included in the augmented estate for calculating the surviving spouse's elective share.

HOLDINGS

1. A surviving spouse's interest in or proceeds from a wrongful death claim are not property owned by the surviving spouse at the time of the decedent's death and are not included in the augmented estate under AS 13.12.207.
2. When the decedent is survived by a spouse, children, or other dependents, wrongful death proceeds are excluded from the decedent's net probate estate and therefore are not included in the augmented estate under that category.
3. Any portion of the settlement attributable to survivorship claims is a probate asset of the decedent's estate and must be included in the augmented estate for purposes of calculating the surviving spouse's elective share.

KEY QUOTATIONS

“But we need not decide whether to extend the holding of these cases to the present controversy, because even if the wrongful death proceeds are “property” under the probate code, we conclude today that they could not have been owned by the surviving spouse at the time of the decedent’s death, as is required under AS 13.12.207.” (117 P.3d at 726-727)

“The expectancy interest in wrongful death proceeds is an asset that is created by reason of the decedent’s death; it is not an asset that passes from one owner to another.” (117 P.3d at 727)

“Wrongful death recovery must not be viewed as a form of inheritance or as a property transfer from one spouse to another, or from a parent to a child.” (117 P.3d at 729)

“We therefore conclude that any interests in or proceeds from a wrongful death claim are not included within the augmented estate for the purposes of calculating the surviving spouse’s elective share.” (117 P.3d at 729)

FACTUAL BACKGROUND

Florian Maldonado died testate on November 28, 1999, survived by his wife and two minor children. Before his death, he had filed asbestos-related personal-injury claims; after his death, the estate's personal representative added wrongful death claims. The claims were settled for approximately \$945,000 under agreements resolving wrongful death, survivorship, loss-of-consortium, and other claims. The settlement was allocated among Barbara

and the children, and the dispute concerned whether Barbara's portion of the wrongful death recovery reduced her elective share by inclusion in Florian's augmented estate.

PROCEDURAL HISTORY

Florian Maldonado's estate settled asbestos-related claims after his death for approximately \$945,000. Barbara Maldonado sought an elective share under the will and Alaska's elective-share statute. The guardian ad litem moved for partial summary judgment contending that Barbara's wrongful death interest was property owned by her at Florian's death. The probate master recommended granting the motion, and the superior court agreed. The Alaska Supreme Court reversed and remanded for allocation of the settlement between wrongful death and survivorship claims.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The superior court must determine what portion, if any, of the settlement agreements is attributable to Florian Maldonado's survivorship claims rather than the beneficiaries' wrongful death claims. The survivorship portion must be included in the augmented estate; the wrongful death portion must be excluded.

CASES CITED

- Mount Juneau Enters., Inc. v. City & Borough of Juneau, 923 P.2d 768, 772-73 (Alaska 1996)
- Carr-Gottstein Props., L.P. v. Benedict, 72 P.3d 308, 310 (Alaska 2003)
- Koski v. Alaska Juneau Gold Mining Co., 6 Alaska 334, 335 (D. Alaska 1921)
- Hanebuth v. Bell Helicopter Int'l, 694 P.2d 143, 145 (Alaska 1984)
- In re Estate of Pushruk, 562 P.2d 329, 330-31 (Alaska 1977)
- Horsford v. Estate of Horsford, 561 P.2d 722, 726-27 & n. 11 (Alaska 1977)
- Walls v. Am. Optical Corp., 740 So. 2d 1262, 1270, 1274 (La. 1999)
- Shaw v. Jendzejec, 717 A.2d 367, 369-70 (Me. 1998)
- Alyeska Pipeline Serv. Co. v. DeShong, 77 P.3d 1227, 1234 (Alaska 2003)
- Muller v. BP Exploration (Alaska) Inc., 923 P.2d 783, 787 (Alaska 1996)
- Guin v. Ha, 591 P.2d 1281, 1284 n. 6 (Alaska 1979)
- Anderson v. State ex rel. Cent. Bering Sea Fishermen's Ass'n, 78 P.3d 710, 714 (Alaska 2003)
- Patrick v. Lynden Transp., Inc., 765 P.2d 1375, 1378 (Alaska 1988)
- Bush v. Reid, 516 P.2d 1215, 1219 (Alaska 1973)
- Connecticut Bank & Trust Co. v. United States, 465 F.2d 760, 763 (2d Cir. 1972)
- Kulawik v. ERA Jet Alaska, 820 P.2d 627, 636 (Alaska 1991)
- Reynolds v. Sisco Group, Inc., 70 P.3d 388, 392 (Alaska 2003)
- John's Heating Serv. v. Lamb, 46 P.3d 1024, 1031-32 (Alaska 2002)

