

SUPREME COURT OF THE STATE OF MONTANA

Estate of Du Lac

2012 MT 107N · No. DA 11-0320 · Decided May 15, 2012

SUMMARY

The Montana Supreme Court affirmed the dismissal of a probate action for lack of subject matter jurisdiction. The decedent was domiciled in California and the only property in Montana consisted of an old pair of eyeglasses and various documents, which were insufficient to establish jurisdiction. The court held that the decedent's assets were held in a California trust, and there was no tangible connection between the estate and Montana.

CASE DETAILS

|                       |                                                                                                                                                                                |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Montana                                                                                                                                          |
| WRITING FOR THE COURT | Patricia O. Cotter; Mike McGrath; Beth Baker; James C. Nelson; Jim Rice                                                                                                        |
| JURISDICTION          | Montana                                                                                                                                                                        |
| DECIDED               | May 15, 2012                                                                                                                                                                   |
| DOCKET                | DA 11-0320                                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Appeal from the District Court's order dismissing Jennings's petition for formal probate for lack of subject matter jurisdiction.                                              |
| STANDARD OF REVIEW    | A trial court's determination that it lacks subject matter jurisdiction is a conclusion of law reviewed to determine whether the court's interpretation of the law is correct. |
| PRECEDENTIAL VALUE    | Noncitable memorandum opinion                                                                                                                                                  |
| PARTIES               | Linda M. Jennings v. Leo Du Lac, Arline M. Prentice, and Ralph D. Du Lac, co-trustees of the Du Lac Family Living Trust dated 12/6/2002                                        |

TOPICS

- probate procedure
- subject matter jurisdiction
- probate
- trusts
- civil procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the District Court properly dismissed the matter for lack of subject matter jurisdiction.

## HOLDINGS

1. The District Court properly dismissed the matter for lack of subject matter jurisdiction because Jennings failed to demonstrate any tangible connection between the estate of the deceased and the State of Montana; the alleged property in Montana was insufficient to confer jurisdiction.

## KEY QUOTATIONS

*“(1) Venue for the first informal or formal testacy or appointment proceedings after a decedent’s death is: (a) in the county where the decedent had the decedent’s domicile at the time of death; or (b) if the decedent was not domiciled in this state, in any county where property of the decedent was located at the time of death.” (¶ 7)*

## FACTUAL BACKGROUND

Lois A. Du Lac died on October 20, 2009, at age 89, domiciled in San Bernardino County, California. Her daughter, Linda Jennings, filed a petition in Montana seeking formal probate of her mother's will, claiming Du Lac had property in Cascade County, Montana. The alleged property consisted of an old pair of eyeglasses, a document purporting to be Du Lac's will, and various contracts pertaining to California assets. All of Du Lac's real and personal property were held in the Du Lac Family Living Trust in California. Co-trustees of the trust objected to Montana jurisdiction.

## PROCEDURAL HISTORY

Jennings filed a petition for formal probate in Montana; the District Court granted the petition and appointed her personal representative. Co-trustees objected and moved to dismiss for lack of jurisdiction. The matter was referred to a Standing Master, who recommended dismissal; the District Court adopted the recommendation and dismissed.

## DISPOSITION

affirmed

## CASES CITED

- Art v. Mont. Dep't of Labor & Indus., 2002 MT 327, 313 Mont. 197, 60 P.3d 958
- Judicial Stds. Comm'n v. Not Afraid, 2010 MT 285, 358 Mont. 532, 245 P.3d 1116
- Lurie v. Blackwell, 285 Mont. 404, 948 P.2d 1161 (1997)

