

The Orphans' Court for Prince George's County  
Estate No. 89638

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 01430

September Term, 2017

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DIONNE R. JONES

v.

JACQUELINE MCREYNOLDS

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Leahy,  
Shaw Geter,  
Salmon, James P.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Shaw Geter, J.

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Filed: March 19, 2019

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises from a ruling by the Orphans' Court for Prince George's County removing Dionne Jones (appellant) as personal representative of Marsha Ann Richerson's (decedent) estate and appointing Jacqueline McReynolds (appellee) as successor personal representative of the estate, as well as naming Jones and McReynolds heirs to the estate.

On appeal, appellant presents the following questions for our review, which we have rephrased slightly, as follows:<sup>1</sup>

1. Did the orphans' court abuse its discretion by appointing decedent's same-sex spouse, Jacqueline McReynolds, as personal representative and heir of decedent's estate?

### **BACKGROUND**

Marsha Ann Richerson died on January 19, 2012. Shortly thereafter, Dionne R. Jones, decedent's sister and appellant in this case, filed a petition with the register of wills for administrative probate of decedent's estate. Appellant was appointed personal representative on February 21, 2012. On March 16, 2012, Jacqueline McReynolds filed a letter with the orphans' court requesting the court appoint her as successor personal representative of decedent's estate and to remove appellant as the current personal representative. The orphans' court held a hearing on May 23, 2012, where appellee's

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<sup>1</sup> Before rephrasing, appellant presented the following question: Did the Orphans Court Exceed its Jurisdiction and abuse its discretion by ordering that the same sex partner, appellee, has the right as spouse to act as personal representative of decedent's intestacy estate over that of the decedents closest relative, appellant; and that the same-sex partner of decedent is co-heir to decedent's estate with appellant, decedent's sister and closest living relative on the basis of an alleged foreign marriage certificate and the Md. Court of Appeals case, *Port v. Cowan*; and the US Constitution, Article IV, Full Faith and Credit Clause respectively; or on any other basis that does not fall within Maryland Law, as of January 19, 2012, the date of decedent's death.

attorney argued that appellee should be appointed as the personal representative of the estate because she was the spouse of the decedent as the result of a legal same-sex marriage performed in Provincetown, Massachusetts. Appellee’s counsel presented a copy of the marriage certificate, which the court accepted. Relying on a recent Court of Appeals ruling, the court recognized the marriage between appellee and decedent as a valid marriage for purposes of the probate proceedings, even though Maryland did not legally recognize same-sex marriage as a valid marriage at that time. The court then appointed appellee as personal representative of the estate and sole heir.

Appellee’s counsel also informed the court that there was a purported will, but conceded that it lacked testamentary provisions and did not name a personal representative. Appellant, appearing pro se, contested the appointment of appellee as the personal representative and sole heir of the estate, as well as the assertion that the will was not valid. The court commented that such a will would not meet the requirements for a valid will under Maryland law. The court instructed appellant to file a separate petition as to the admittance of the will. The court then designated the estate as a regular estate and informed appellee that she needed to post \$1,000 bond to receive her letters of administration.

Five years later, on February 23, 2017, appellant filed a letter with the court inquiring about the final disposition of the decedent’s estate. A hearing was held on August 3, 2017, during which the court informed appellant that the estate had been closed and that appellant had been properly reimbursed funeral expenses. Although the estate was closed, the court ruled that appellant was “an heir” to the estate because she was the biological

sister of the decedent. Appellant continued to argue that appellee was not legally the surviving spouse and an heir to the estate based on the lack of statutory authority in Maryland recognizing same-sex marriage at the time of decedent’s death. The court clarified that Maryland law requires the court to recognize and give full faith and credit to a valid same-sex marriage performed in another state. Appellant noted an objection for the record. This timely appeal followed.

### STANDARD OF REVIEW

When reviewing a decision by an orphans' court, we give deference to its findings of fact and we will not set aside its judgment unless clearly erroneous. *See* Md. Rule 8-131(c) (governing the standard of review for actions tried without a jury, as is the case here); *see also Pfeufer v. Cyphers*, 397 Md. 643, 648 (2007) (“It is well settled that the findings of fact of an [o]rphans' [c]ourt are entitled to a presumption of correctness.”) (internal quotations omitted). However, we review an orphans’ court’s legal conclusions de novo. *Id.* (“interpretations of law by [an orphans’ court] are not entitled to the same “presumption of correctness on review: the appellate court must apply the law as it understands it to be.” *Id.* (quoting *Comptroller of Treasury v. Gannett Co. Inc.*, 356 Md. 699, 707 (1999)).

An orphans' court abuses its discretion when “no reasonable person would take the view adopted by the court, or when the court acts without reference to any guiding rules or principles.” *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (internal citations and quotations omitted). “An abuse of discretion may also be found where the

ruling under consideration is clearly against the logic and effect of facts and inferences before the court, or when the ruling is violative of fact and logic.” *Id.* (internal citations and quotations omitted).

## DISCUSSION

### **I. The orphans’ court did not abuse its discretion by appointing decedent’s same-sex spouse, Jacqueline McReynolds, as personal representative and heir of decedent’s estate.**

Appellant asserts the orphans’ court abused its discretion by appointing appellee as the personal representative and sole heir of decedent’s estate. To support this contention, appellant presents two arguments. First, appellant argues that the marriage certificate admitted as evidence of a valid marriage between decedent and appellee was an “unsubstantiated Massachusetts marriage certificate for which the court did not employ the authentication process” as provided in Maryland Rule 10-204(a).<sup>2</sup> Second, appellant argues that “the court’s finding that appellee is the legal spouse is . . . legally incorrect on the basis that the decedent died on January 19, 2012, and from 1974 to January 1, 2013, Md. Code, Family law Title 2-201(b) read [o]nly a marriage between a man and woman who are not otherwise prohibited from marrying is valid in this state.” Appellant further asserts that “The Marriage Protection Act became effective on January 1, 2013 with no

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<sup>2</sup> A copy of a public record, book, paper, or proceeding of any agency of the government of the United States, the District of Columbia, any territory or possession of the United States, or of any state or of any of its political subdivisions or of an agency of any political subdivision shall be received in evidence in any court if certified as a true copy by the custodian of the record, book, paper, or proceeding, and if otherwise admissible. Md. Rule 10-204(a)

retroactive provision affecting the standing of Md. Code, Family Law Title 2-201(b) at the time of the decedent’s death.” We shall address each argument in turn.

During the initial hearing of this matter, appellant did not object or raise the issue of the validity of the marriage certificate itself, rather she focused on the invalidity of same-sex marriage. Maryland Rule 8-131(a) provides that, except for jurisdiction of the trial court, “[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court.” Md. Rule 8-131(a). Thus, because this issue was not preserved for appeal we decline to review it.

Assuming *arguendo* that the issue was properly preserved for appeal, the orphans’ court’s acceptance of the authenticity of the marriage certificate was not erroneous or an abuse of discretion. A marriage certificate is self-authenticating. Maryland Rule 5-902(a)(4) provides that “extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to . . . [a] copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office.” Md. Rule 5-902(a)(4). Further, appellee, through counsel, informed the court she had the original marriage certificate readily available to produce to the court. Under these circumstances, we hold the court did not err or abuse its discretion in admitting the marriage certificate.

With respect to appellant’s second contention, it is well recognized that a court must “apply the law in effect at the time it renders its decision, unless doing so would result in manifest injustice or there is statutory direction or legislative history to the contrary.”

*Bradley v. Richmond School Board*, 416 U.S. 696, 711 (1974). The orphans’ court, in rendering its decision, relied on the Court of Appeals ruling in *Port v. Cowan*, 426 Md. 435 (2012).

In *Cowan*, the Court addressed whether valid out-of-state same-sex marriages were entitled to be legally recognized in Maryland under common law comity principles. *Id.* *Cowan* involved a same-sex couple married in California in 2008 who agreed to mutually separate two years later. *Id.* at 438. One of the spouses filed for a divorce in the Circuit Court for Prince George’s County Maryland, on the grounds of voluntary separation. *Id.* The court denied the divorce, holding that the marriage was not valid as it was contrary to the public policy of Maryland. *Id.* The parties then appealed. *Port v. Cowan*, 426 Md. at 441 (2012).

The Court of Appeals noted that under the principles of the doctrine of comity, “Maryland courts will withhold recognition of a valid foreign marriage only if that marriage is ‘repugnant’ to State public policy.” *Id.* at 455. Finding that the repugnancy threshold was a “high bar” and had not been met,<sup>3</sup> the Court reasoned it could not “conclude logically that valid out-of-state same-sex marriages are ‘repugnant’ to Maryland public policy.” *Id.* at 450–51 (2012). Thus, the court held that the marriage was legally recognizable.

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<sup>3</sup> The Court noted Maryland cases that have previously recognized valid out-of-state marriages under the doctrine of comity that would have been void if attempted to be formed in Maryland, including common law marriages and an uncle-niece marriage (at the time considered a misdemeanor punishable by fine if performed in this State). *Port v. Cowan*, 426 Md. at 446, 447–50 (2012).

Accordingly, in the case before us, the orphans' court did not abuse its discretion in making its decision appointing appellee as personal representative of and heir to decedent's estate. At the time of the May 23, 2012 hearing, *Cowan* had been decided and same-sex marriages were legally recognized in Maryland.

**JUDGMENT OF THE ORPHANS' COURT  
FOR PRINCE GEORGE'S COUNTY  
AFFIRMED; COSTS TO BE PAID BY  
APPELLANT.**