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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

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*Opinion
No. 1250*

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

T. JOHN CROCKETT, III and
WOODSON P. HOUGHTON,
Personal Representatives,

Petitioners,

v.

DISTRICT OF COLUMBIA

Respondent.

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Docket No. 3690-85

ORDER

This matter came before the Court for hearing on Cross-Motions for Summary Judgment filed by petitioners, T. John Crockett, III and Woodson P. Houghton, Personal Representatives of the Estate of Olive R. C. Baldwin, and respondent, the District of Columbia.

The decedent, Mrs. Olive R. C. Baldwin, lived most of her life in the District of Columbia. Until 1962, she lived at 3042 Q Street, N.W. in the District. On April 26, 1962, this Court appointed her brother, Victor P. Conrad, as her Permanent Conservator. In the spring of 1962, Mr. Conrad, acting as her Conservator, decided that Mrs. Baldwin should be placed in the Fahrney-Needy Memorial Home for the Aged in Frederick, Maryland. Two of her sisters also lived there at that time. Mrs. Baldwin was moved there on May 10, 1962. She was not happy about her relocation and was often abusive and belligerent to the Home staff.

This Court authorized the sale of Mrs. Baldwin's D.C. residence and the removal of her personalty to Maryland on October 5, 1962, five months after her relocation. On May 15, 1963, she died. The house, however, was not sold at the time of her death. The Conservator had also been authorized

by the Court to transfer the Estate savings and checking accounts to the First National Bank of Maryland. He never specifically petitioned the Court to change Mrs. Baldwin's domicile.

A partial inheritance tax payment of \$4,482.70 was made to the state of Maryland on August 14, 1985. On June 6, 1985, the District of Columbia also assessed an inheritance tax on the decedent's estate. Petitioners paid the tax and then filed a claim for refund on August 12, 1985 formally challenging the determination that the decedent was domiciled in the District of Columbia. That challenge was denied by the Department of Finance and Revenue on September 5, 1985. Petitioners then filed suit in this Court claiming the decedent was not a D.C. domiciliary when she died and therefore her property should not be taxed by the District.

Petitioners assert that Mrs. Baldwin was domiciled in the state of Maryland when she died; therefore, the District has no right to tax her property. They argue that the decedent was mentally competent at the time she left the District notwithstanding the fact that decedent was a ward of this Court. Although she was in poor health, petitioners contend that she was aware that she was in Maryland and that her District residence had been authorized for sale by the Court. She knew, they maintain, that she would not be returning to live in the District. Further, petitioners aver that the Court had notice of Mrs. Baldwin's change of domicile when it authorized the sale of her home and the removal of her assets to Maryland. Contrary to respondent's contentions, petitioners argue that Mrs. Baldwin, not her

conservator, was required to have and did possess the requisite mental competency to change domicile.¹

Respondent argues that Mrs. Baldwin's domicile did not change when she was moved to the nursing facility in Maryland. The District asserts that her behavior was completely contrary to that which would indicate an intent to change domicile and the District remained her domicile of choice until her death. Respondent further contends that this Court retained control over Mrs. Baldwin's Estate and never authorized a change of domicile before her death. The District argues that because she was a ward of this Court when she died, the fact that she was elderly, died in a Maryland nursing home, and her D.C. residence was for sale are not sufficient to establish a change of domicile to Maryland. Therefore, her District property was properly taxed.

Upon review of the pleadings filed, the applicable statutes and case law, and the arguments of counsel at the hearing, the Court finds that Mrs. Baldwin's domicile at death was the District of Columbia notwithstanding her presence in Maryland for just over a year.

Mr. Conrad was appointed as Mrs. Baldwin's Conservator on April 26, 1902. Clearly, once a conservatorship is created by Court Order, the intent of the conservator, not the ward, is relevant in determining whether domicile has changed. See D.C. Code §21-1503 (1981 ed.). That section states, in relevant part:

¹ In the alternative, petitioners argue that the District should only receive a portion of the taxes assessed. They contend that D.C. Code §47-1005 (1981 Ed.) mandates that a compromise may be reached between a state making similar tax claims against an estate and the District if both jurisdictions claim the decedent as a domiciliary. The Court defers to the discretion of the Office of Finance and Revenue on this matter as provided for by the statute.

The conservator before entering upon the discharge of his duties shall execute an undertaking with surety to be approved by the court in such amount as the court orders, conditioned on the faithful performance of his duties as conservator. He shall have control of the estate, real and personal, of the person for whom he has been appointed conservator, with power to collect all debts due the person, and upon authority of the court to adjust and settle all accounts owing by him, and to sue and be sued in his representative capacity. He ... shall in all other respects perform the same duties and have the same rights and powers with respect to the property of the person as have guardians of the estates of infants.

Domicile is defined as the place where a person has his true, fixed, permanent home and principal establishment, and to which, whenever he is absent, he has the intention of returning. Domicile is acquired or changed when there is a concurrence of the essential elements of actual and physical presence in a place, accompanied by an intention to remain in that place indefinitely. District of Columbia v. Murphy, 31 U.S. 441 (1941).

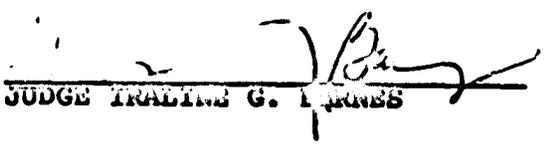
Because the Conservator never explicitly expressed to the Court his intent to change Mrs. Baldwin's domicile, the Court is reluctant to infer such an intent from his actions. Admittedly, the Petition to Authorize the Sale of Mrs. Baldwin's home was granted, yet the property remained unsold and in her estate when she died. This property, valued at \$265,000, constituted the bulk of her Estate. The mere transfer of some bank accounts to Maryland for convenience does not demonstrate to the Court a clear intent by Mr. Conrad to change Mrs. Baldwin's domicile. The Conservator remained bonded in the District and the Court maintained

jurisdiction over the Ward until her death. The Court deems these facts, without more, to be insufficient indices of the Conservator's intent to change the Ward's domicile to Maryland.²

Wherefore, it is this 23 day of July, 1986,

ORDERED that Respondent's Motion for Summary Judgment is hereby granted; and it is

FURTHER ORDERED that Petitioners' Motion for Summary Judgment is hereby denied.


JUDGE IRADINE G. JAMES

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27 The Court notes that had the property sold, thereby removing Mrs. Baldwin's entire Estate from the District, a clearer intent to change her domicile might have been inferred from the Conservator's actions absent a specific request of the Court for such a change. Unfortunately, Mrs. Baldwin's untimely death precluded such an occurrence.