

**SAINT REGIS MOHAWK TRIBAL COURT
IN AND FOR THE SAINT REGIS MOHAWK TRIBE**

**Estate of Joseph Herne,
Deceased.**

**Case No.: 19-PROB-00021
DISTRIBUTION ORDER**

PROCEDURAL HISTORY

Glen Lazore and Thomas Lazore filed a petition with the Saint Regis Mohawk Tribal Court requesting to be named the Administrators of the Estate of Joseph Herne, their great uncle. Joseph Herne died on November 18, 1951. He was a tribal member and was married to Mary Cook. They had two children, John Ballowette Herne and Katherine Lulu Herne. Mary Cook predeceased her husband, the decedent. The decedent's son, John Ballowette Herne died in 1967 and Katherine Lulu Herne also died in the 1960s. Mr. Glen Lazore and Mr. Thomas Lazore filed proof of death and placed the required legal notice in a local paper. No objections or debts were filed with the Court.

Hearings were held on January 28, 2020, February 18, 2020, and March 17, 2020. The Court issued the Letters of Administration to Mr. Glen Lazore and Mr. Thomas Lazore on February 18, 2020.

The only asset contained in the Estate is the real property inherited from the Estate of Anna Waheson Tarbell Herne.¹

JURISDICTION

Pursuant to the Saint Regis Mohawk Tribe's Probate Law, the Court "shall have personal jurisdiction to probate an estate when, at the time of death, (1) the deceased was either a Tribal Member or a person eligible for enrollment as a Tribal Member and the deceased resided or owned real or personal property located within the reservation."² Furthermore, "[t]he Tribal Court shall have exclusive jurisdiction to probate real property located within the reservation."³ In the instant matter, Joseph Herne, was a tribal member and the Administrators allege the decedent had an interest in real property within the Reservation. Thus, the Court possesses the requisite jurisdiction.

¹ In the matter of the Estate of Anna Waheson Tarbell Herne, 18-PROB-00014 (December 4, 2019).

² SRMT Probate Law § 1.3 (a) (enacted August 16, 2017).

³ SRMT Probate Law § 1.3. (b) (1) (enacted August 16, 2017).

APPLICABLE LAW

The present action is governed by the Saint Regis Mohawk Tribe Probate Law (SRMT Probate Law).⁴

ANALYSIS

Joseph Herne was the son of Anna Waheson Tarbell Herne, who died on September 23, 1900, and John Peter Baptiste Tsierakwisen Herne, who on died October 6, 1958. On December 4, 2019, the Court distributed the real property owned by the Anna Waheson Tarbell Herne to her four children [REDACTED]. Thus, upon his death, the decedent, Joseph Herne, owned [REDACTED] of the real property that was previously owned by his mother. The decedent, Joseph Herne, was predeceased by his wife, but survived by his two children, Katherine and John.

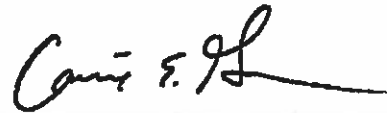
The SRMT Probate Law states when a decedent does not have a surviving tribal member spouse, “the surviving Tribal Member children of the deceased shall each receive equal shares in the real property of the estate.”⁶

The decedent’s wife predeceased him. The decedent’s two children survived him. The SRMT Tribal Clerk’s Office verified the decedent’s children were eligible for tribal membership. Thus, their Estates may receive equal shares of the decedent’s Estate, which is [REDACTED] interest the decedent received from his mother, Anna Waheson Tarbell Herne. The Estates of John Ballowette Herne and Katherine Lulu Herne shall own this interest in real property until their Estates are probated. Anyone, including the Administrators, may file a petition to probate these Estates.

ORDER

Based on the foregoing, it is **ORDERED, ADJUDGED, AND DECREED** that the real property held by the Estate of Joseph Herne, [REDACTED] interest in the property previously owned by the Anna Waheson Tarbell Herne Estate, is conveyed equally to the Estate of John Ballowette Herne and the Estate of Katherine Lulu Herne. Each Estate shall hold half an interest of the decedent [REDACTED] real property from the Anna Waheson Tarbell Herne Estate. Glen Lazore and Thomas Lazore, the Administrators of this Estate, are released and this case is closed.

Signed this 26th day of March 2020.



Carrie E. Garrow,
Chief Judge
Saint Regis Mohawk Tribal Court

⁴ SRMT Probate Law (enacted August 16, 2017).

⁵ In the matter of the Estate of Anna Waheson Tarbell Herne, 18-PROB-00014 (December 4, 2019).

⁶ SRMT Probate Law § 3.2(b)(5) (enacted August 16, 2017).

No later than ten (10) days after a judgment is final, a party may ask the Judge for a rehearing, reconsideration, correction vacation, or modification of the judgment. The parties have thirty (30) days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals.

