

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

**Estate of Thomas Herne, Sr.,
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 Thomas Herne, Sr., their great uncle. Thomas Herne, Sr. died on August 27, 1979. He was a tribal member and was married to Sarah Cook. She died on September 1, 1923. They had three children; Kenneth Herne, James Herne, and Mae Herne. The decedent subsequently married Louise Cook and they had five children; John Herne, Mary Josephine Francis, Irene Roundpoint, Delores Roberts, Joseph Robert Herne. Louise Cook survived the decedent and she died on May 16, 1990. 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, March 17, 2020 and April 28, 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, Thomas Herne, Sr., 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

Thomas Herne, Sr. 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, Thomas Herne, Sr., owned [REDACTED] of the real property that was previously owned by his mother. The decedent, Thomas Herne, Sr., was survived by his wife, Louise Cook.

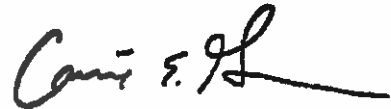
The SRMT Probate Law states that a “surviving Tribal member spouse shall inherit the real property interest in Reservation land and all other property owned by the deceased spouse.”⁶

The decedent’s second wife, Louise Cook, survived him. The SRMT Tribal Clerk’s Office verified the decedent’s second wife, Louise Cook, was enrolled. Thus, her Estate may receive the real property interest owned by the decedent’s Estate, which is [REDACTED] interest the decedent received from his mother, Anna Waheson Tarbell Herne. The Estate of Louise Cook Herne shall own this interest in real property until her Estate is probated. Anyone, including the Administrators, may file a petition to probate this Estate.

ORDER

Based on the foregoing, it is **ORDERED, ADJUDGED, AND DECREED** that the real property held by the Estate of Thomas Herne, Sr., [REDACTED] interest in the property previously owned by the Anna Waheson Tarbell Herne Estate, is conveyed to the Estate of Thomas Herne, Sr. Glen Lazore and Thomas Lazore, the Administrators of this Estate, are released and this case is closed.

Signed this 15th day of May 2020.



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

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

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)(1) (enacted August 16, 2017).

(30) days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals.