

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

**In the Matter of the ESTATE OF ALLAN
J. GORROW, Deceased.**

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) **Case. No.: 16-CIV-00011**

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) **DECISION AND ORDER**
) **Motion to Reconsider**
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Procedural Background

On August 26, 2016, David Gorrow filed a complaint challenging a document purported to be an unsigned Last Will and Testament of Allan Joseph Gorrow, his father. On October 3, 2016, Jonathan Garrow filed an answer objecting to the Complaint. Jonathan Garrow argued all of the decedent's children had entered into a contract whereby they agreed to appoint Jonathan Garrow to serve as the Administrator and to follow the terms of an unsigned will in regards to the distribution of the decedent's Estate.

An initial status conference was held on October 4, 2016. Present in the Court, were Petitioner David Gorrow, and Peter J. Herne, attorney for Jonathan Garrow. The Court notes that Mr. Herne never filed a Notice of Appearance with the Court.

On October 5, 2016, the Court issued an Order finding that all the biological children of the decedent were parties to the Estate. The Court also issued a Cease and Desist Order stating that all of the biological children of the decedent were to refrain from making changes to the real property and buildings on [REDACTED] except for regards to the goods sold out of the Tobacco shop on the premise. The Order is still in effect.

On January 9, 2017, Mr. Thomas Wheeler filed a Notice of Appearance on behalf of Roberta Kalbfliesh, Allan Gorrow, Jr., Michelle Jones, Robert Gorrow, and David Gorrow.

At the status conference on April 25, 2017, the parties informed the Court that they were willing to enter into mediation with the Akwesasne Court Mediation Services.

On May 8, 2018, the Court held a hearing. Peter J. Herne, Esq. appeared and represented Jonathan Garrow, Lorrie Wells, and Dale Gorrow. Thomas B. Wheeler, Esq. appeared and represented Roberta Kalbfliesh, Allan Gorrow, Jr., Michelle Jones, Robert Gorrow, and David Gorrow. The parties informed the Court that mediation had been unsuccessful.

The Court denied Peter J. Herne's, Esq. Motion to Dismiss and determined that the writing purported to be the Last Will and Testament of Allan J. Gorrow is invalid, thus, the matter proceeds intestacy. As all the Gorrow biological heirs had agreed to these two individuals to serve as Co-Administrators, the Court appointed Lorrie Wells and Allan Gorrow, Jr. as Co-

Administrators. The Court reserved the question of whether the Agreement entered into by the biological children to follow the writing purported to be the Last Will and Testament of Allan J. Gorrow is a contract to which the parties are bound.

On May 21, 2018, the Court received a letter, requesting clarification regarding the payment of the house insurance and utilities, which Mr. Jonathan Garrow had been maintaining, from Peter J. Herne, counsel for Jonathan Garrow, Lorrie Wells, and Dale Gorrow. The letter was also sent to Thomas B. Wheeler, counsel for Roberta Kalbfliesh, Allan Gorrow, Jr., Michelle Jones, Robert Gorrow, and David Gorrow. The letter also included objections to the Administrator's Oath on behalf of Ms. Lorrie Wells. Mr. Herne requested the objections be made part of the record.

The Court issued an Order on May 24, 2018, requiring Jonathan Garrow to continue to make the payments for the property insurance, electricity, heat, and itemize all of his expenses and provide a list to the Co-Administrators. The Court granted Ms. Wells' request and made her objections part of the record.

On June 6, 2018, the Court received notice that Peter J. Herne, Esq. withdrew from representation of Jonathan Garrow, Lorrie Wells, and Dale Gorrow. Mr. Clair Montroy, III, Esq. contacted the Court and indicated he was going to substitute for Mr. Herne and represent Jonathan Garrow, Lorrie Wells, and Dale Gorrow. On June 7, 2018, the Court issued a scheduling order regarding the issue of whether the agreement between the parties to distribute the Estate according to an unsigned document prepared by the decedent was a contract.

On June 18, 2018, the Court received a copy of an updated family tree from the Saint Regis Mohawk Tribe Tribal Clerk's Office.

In early September, the Court requested Mr. Clair Montroy, III, Esq. to file a notice of appearance, as the record was not clear which parties he represented. On September 10, 2018, the Court received a Notice of Appearance from Mr. Montroy, III, Esq. on behalf Jonathan Garrow. Given that Lorrie Wells and Dale Gorrow are not represented and did not have an opportunity to respond to the question regarding the validity of the agreement, the Court issued a new scheduling order on September 14, 2018, allowing Lorrie Wells and Dale Gorrow to submit a brief on the issue of the validity of the agreement. On October 9, 2018, the Court received an Amicus Statement, Amicus Brief and Amicus Answer from Lorrie Wells and Dale Gorrow. The Court notes that both Lorrie Wells and Dale Gorrow are parties to the case, as they are heirs, and thus their submissions are classified as a party Statement, Brief, and Answer.

On October 23, 2018, the Court issued a Decision and Order on Potential Heirs.

On November 1, 2018, Lorrie Wells submitted a copy of Grace Albany Gorrow's Last Will and Testament and proof of death.

On December 7, 2018, Jonathan Garrow submitted financial bank records, a copy of the Saint Regis Mohawk Tribe business license issued to Jonathan Garrow, and a financial gain/loss statement.

On December 10, 2018, Lorrie Wells and Allan Gorrow, Jr. submitted an inventory.

On December 11, 2018, Lorrie Wells submitted a request for a Letter of Administration to administer the decedent's [REDACTED]

On December 13, 2019, the Court issued a limited Letter of Administrator to Lorrie Gorrow-Wells allowing her to take actions to administer the decedent's [REDACTED] The letter expired on January 25, 2019.

On January 3, 2019, Allan J. Gorrow, Jr. submitted an inventory.

On January 3, 2019, Lorrie Wells resubmitted an Inventory dated June 29, 2018.

On March 4, 2019, the Court held a hearing on the matter. Carlene Lehache and Glenda Diabo, decedent's step daughters, were not in attendance. The parties' legal counsels, Clair Montroy III, Esq., and Thomas Wheeler, Esq., submitted an oral motion to find that Glenda Diabo and Carlene Lehache, decedent's step-daughters, forfeited their interest by failing to appear. Lorrie Wells reminded the Court that she had previously submitted Grace Albany Gorrow's will.

On March 8, 2019, the Court received confirmation from the Saint Regis Mohawk Tribal Clerk's Office that Glenda Diabo and Carlene Lehache are not enrolled members of the Saint Regis Mohawk Tribe, nor has either individual applied for tribal enrollment.

On March 29, 2019, the Court issued a Decision and Order on the matter and found that the decedent's step-children, Glenda Diabo and Carlene LeHache, are able to inherit from the decedent's personal property.

On April 8, 2019, the Court held a status conference on the matter. During the status conference, the Court set forth the legal issues and set a hearing. At the status conference, Thomas Wheeler, Esq. on behalf of his clients advised the Court that Jonathan Garrow has not been allowing the co-administrators, Lorrie Wells-Gorrow and Allan Gorrow, Jr., to have access to the decedent's Estate. It was stressed that Jonathan Garrow is the only Gorrow sibling that has been able to access the property. Jonathan Garrow's legal counsel, Clair Montroy III, Esq., stated that this is the first it has come to his attention and access has not been previously requested by the co-administrators and advised the Court that his client has been taking care of the Estate and paying for many of the decedent's bills out of his own pocket.

On April 9, 2019, the Court received a filing by Allan Gorrow, Jr. contending that Jonathan Garrow has refused to give him the keys and alarm codes needed to access the decedent's residence and other assets.

On April 9, 2019, the Court issued an order directing Jonathan Garrow to provide the co-administrators, Lorrie Gorrow-Wells and Allan J. Gorrow with the key(s) and alarm code(s) necessary to access the decedent's residence, properties, and any other real and personal assets.

On April 12, 2019, Clair Montroy III, Esq. filed a Motion to Reconsider. On April 17, 2019, the Court received a signed affidavit from Lorrie Gorrow-Wells in support of the Motion to Reconsider.

Analysis

The Saint Regis Mohawk Tribe's Rules of Civil Procedure (SRMT Rules) clearly state that "[n]o 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 judgement."¹ Clair Montroy III, Esq.'s motion was filed on April 12, 2019, requesting the Court reconsider its March 29, 2019 order. Lorrie Wells also submitted a supporting affidavit on April 17, 2019.

Clair Montroy III, Esq., at the hearing on April 4, 2019, raised the issue of a Motion to Reconsider for the Court's March 29, 2019 Order. The issue was also raised by Lorrie Gorrow-Wells. The Court informed Clair Montroy, III, Esq. and Lorrie Wells that they needed to submit it in writing and serve it on the parties. The Court also informed them of the ten (10) day rule at April 4, 2019 hearing.

The SRMT Rules only allow the Court to consider this type of motion when it is submitted within ten (10) days. Clair Montroy III, Esq. submitted his Motion fourteen (14) days after the March 29, 2019 Order. Thus, the argument raised cannot be considered.

ORDER

The Motion to Reconsider is hereby denied.

Signed this 17th day of April, 2019.



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

Pursuant to the Saint Regis Mohawk Tribe's Rules of Appellate Procedure this Order may be appealed within thirty (30) days after the entry of judgment.

¹ Saint Regis Mohawk Tribe's Rules of Civil Procedure § XXIII [Rule 20].