

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IMO ESTATE OF)
GEORGE KENNETH TRAMMELL, JR.) Register of Wills No. 271-S

MASTER'S FINAL REPORT

Submitted: February 4, 2010
Bench Decision: February 4, 2010
Final Report: February 9, 2010

Kermick Trammell, pro se, Exceptant.

George K. Trammell, III, pro se, Personal Representative for Estate

GLASSCOCK, Master

This report will memorialize my bench decision of February 4, 2010, and will serve as my final report.

The decedent, George Trammell, Jr., died in 2008, intestate. His son, George Trammell, III, (“George”)¹ was appointed administrator of his estate. A second son of the decedent, Kermick Trammell (“Kermick”) filed a pleading styled “Exceptions to [George’s] Petition to act as Personal Representative.” Since the original petition has been granted by the Register of Wills, and since George has been appointed as administrator, I have treated the “exceptions” as a petition to remove the administrator.

Kermick’s main complaint, as expressed at the hearing, is that he has received no information about the estate and its assets from George. After George’s testimony, it became clear that there were a number of independent grounds on which to remove George as administrator. First, 12 Del C. §1508 provides that “letters...of administration, shall not be granted...to a person convicted of a crime disqualifying the person from taking an oath.” An administrator must swear to perform his duty with fidelity. 12 Del. C. § 1509. George testified that he is a felon, convicted of second-degree forgery. This Court has previously found that, for purposes of § 1508, the disqualifying crimes are “infamous crimes,” in other words, felonies. In Re Estate of Jackson, Del. Ch., No. 99783, Allen, Ch. (Jan. 18, 1993)(Order)(affirming Master’s Report). Our Supreme Court has since interpreted the phrase “infamous crime”—in another context—more

¹ I use first names in this report, not out of disrespect, but to avoid confusion.

narrowly, indicating that a court must examine the purposes for exclusion of those guilty of infamous crimes from the class in question, as well as the type and circumstances of the crime committed, in determining whether a particular crime shall be regarded as “infamous.” *See e.g., In Re Request of Governor for Advisory Opinion*, Del. Supr., 950 A.2d 651 (June 24, 2008). Even should that Court’s rationale apply to § 1508, however, it is clear that forgery—a crime involving creating or maintaining a written instrument without authority, with the intent to defraud, deceive or injure another—is precisely the type of crime that would prevent the swearing of an effective oath, and that would suggest the felon’s unfitness to serve as a fiduciary for the estate.² Since George is statutorily unqualified to serve as administrator, he must be removed.

A number of independent reasons exist to remove George. First, George falsely swore to the veracity of the contents of his verified petition to serve as administrator, which indicated that he was the sole next of kin, and failed to disclose that Kermick is also decedent’s son. According to George, he failed to be forthcoming on this petition because he wanted to prevent Kermick’s involvement in the estate. Next, George made it clear at the hearing that despite the fact that his father had died intestate, he intended to carry out his father’s “true” wishes, that the estate should go to George solely and not to Kermick. Third, George testified that the reason he has not filed the required estate inventory and accounting is that he does not want Kermick to have knowledge concerning

²*See* 11 Del. C. § 861.

the estate. These filings are significantly overdue. “If an...administrator neglects official duties, the Court of Chancery may remove [him] from office.” 12 Del. C. § 1541.

Because it is clear that George is unable or unwilling to administer the estate in accordance with the applicable statutes, it would be appropriate to remove him for failure to comply with his responsibilities as administrator even if he were eligible to serve under § 1508. Because George is unqualified to serve pursuant to 12 Del. C. § 1508, and because the record persuades me that, even if qualified, he should be removed under 12 Del. C. § 1541, this matter is remanded to the Register of Wills for Sussex County for appointment of a successor administrator.

/s/ Sam Glasscock, III
Master in Chancery

cc: Register of Wills (SC)