

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In re Ellen Combs, Deceased.

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FOR PUBLICATION  
July 24, 2003  
9:00 a.m.

ELAINE V. HAMILTON, Personal Representative  
of the Estate of ELLEN COMBS, Deceased,

Appellee,

v

ELOISE ELSER and LOUISE MICHAEL,

Appellants.

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No. 237358  
Branch Probate Court  
LC No. 99-030722-DE

Updated Copy  
September 12, 2003

Before: Whitbeck, C.J., and White and Donofrio, JJ.

WHITBECK, C.J.

Appellants Eloise Elser and Louise Michael appeal as of right an order distributing the proceeds from a wrongful death action to decedent Ellen Combs' children. Because we conclude that appellants are not "children of the deceased's spouse" under MCL 600.2922(3)(b), we affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

**I. Basic Facts And Procedural History**

Ellen Combs was involved in an automobile accident on December 16, 1998, and died on December 27, 1998, from injuries she sustained in the accident. In a will dated September 14, 1992, Combs left her property in equal shares to her four children. Combs' husband, Arlie Combs, was the father of appellants, and Combs was their stepmother. Arlie Combs predeceased Ellen Combs, dying on July 31, 1992.

The estate pursued a wrongful death action against the other driver involved in the accident. The action was settled for \$160,000. Appellee Elaine Hamilton, personal representative of Combs' estate, proposed an equal division of the estate among the four children. Appellants filed an objection, asserting that they were entitled to a share of the proceeds under § 2922. Hamilton argued that appellants lacked standing to assert an interest in the proceeds of the

wrongful death action. The probate court agreed, concluding that § 2922 did not grant children of a deceased spouse standing to assert a claim on the proceeds of the wrongful death action.

## II. Standard Of Review

The interpretation of a statute is a question of law that we review de novo.<sup>1</sup>

## III. MCL 600.2922(3)

Appellants assert that they are entitled to a portion of the proceeds of the wrongful death action under subsection 2922(3), which provides in part:

(3) Subject to sections 2802 to 2805 of the estates and protected individuals code, 1998 PA 386, MCL 700.2802 to 700.2805, the person or persons who may be entitled to damages under this section shall be limited to any of the following who suffer damages and survive the deceased:

(a) The deceased's spouse, children, descendants, parents, grandparents, brothers and sisters, and, if none of these persons survive the deceased, then those persons to whom the estate of the deceased would pass under the laws of intestate succession determined as of the date of death of the deceased.

(b) The children of the deceased's spouse.

The primary goal of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature.<sup>2</sup> The first step in determining legislative intent is to review the language of the statute.<sup>3</sup> If the language is clear and unambiguous, we assume that the Legislature intended its plain meaning, and we enforce the statute as written.<sup>4</sup>

Applying the plain meaning of this provision to the facts of this case, we conclude that appellants are not the "children of the deceased's spouse" because the deceased, Ellen Combs, had no spouse at the time of her death. A "spouse" is a married person.<sup>5</sup> In this case, Arlie Combs, Ellen Combs' husband, had passed away several years earlier, and his death ended their

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<sup>1</sup> *In re MCI Telecom Complaint*, 460 Mich 396, 413; 596 NW2d 164 (1999).

<sup>2</sup> *Frankenmuth Mut Ins Co v Marlette Homes, Inc*, 456 Mich 511, 515; 573 NW2d 611 (1998).

<sup>3</sup> *In re MCI*, *supra* at 411.

<sup>4</sup> *Stanton v Battle Creek*, 466 Mich 611, 615; 647 NW2d 508 (2002).

<sup>5</sup> See *Cornwell v Dep't of Social Services*, 111 Mich App 68, 70; 315 NW2d 150 (1981), citing *Webster's New Collegiate Dictionary* (1976).

marriage.<sup>6</sup> For this reason, we conclude that appellants are not entitled to a portion of the proceeds of the wrongful death action under MCL 600.2922(3).

Affirmed.

Donofrio, J., concurred.

/s/ William C. Whitbeck

/s/ Pat M. Donofrio

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<sup>6</sup> See, e.g., *Tiedman v Tiedman*, 400 Mich 571, 576; 255 NW2d 632 (1977); *Byington v Byington*, 224 Mich App 103, 109; 568 NW2d 141 (1997) ("Marriage is a status that legally terminates . . . upon the death of a spouse or upon entry of a judgment of divorce.").