

SPECIAL SESSION:

State of West Virginia, County of Jefferson, to-wit:

At a Special Session of the County Commission of said County and State held at the Jefferson County Commission Meeting Room on the lower floor of the Old Charles Town Library at 200 E. Washington Street, on Wednesday, March 23, 2011 beginning at 10:00 o'clock a.m.

HEARING ON PETITION FOR PROBATE IN SOLEMN FORM OF THE LAST WILL AND TESTAMENT OF THE ESTATE OF MILDRED OLGA VALENTINE, DECEASED

PRESENT: Patricia Noland, President
Dale Manuel, Vice President
Lyn Widmyer, Commissioner
Frances Morgan, Commissioner
Walt Pellish, Commissioner
Tim Boyde, County Administrator

SPECIAL NOTE: Norwood Bentley, Esquire, from Berkeley County, West Virginia, is acting as legal counsel for the Commission in place of Stephanie Grove, Esquire who has a conflict of interest in this matter.

Charles B. Howard, Esq. -Proponent
John Dorsey, Esq. - Counsel for Mr. Howard
Robert E. Barrat, Esq. - Counsel for Mary Strickland, Frances Harrell and Ann Sheffield, nieces of deceased
Peter Pentony, Esq. - Counsel for the Missionary Oblates of Mary Immaculate, beneficiaries
Debbie Lowe - Sheriff's Representative for the Estate of Mildred Olga Valentine, deceased
Henry Morrow, Jr., Esq. - *Guardian ad litem* for unknown parties

Witnesses: Charles B. Howard, Esq.
Debbie Lowe, Sheriff's representative
Claudia Clatterbuck, deceased's best friend

Exhibits: Exhibit No. 1 - Green Postal Return Receipt Cards
Exhibit No. 2 - Original 2002 Will of Mildred Olga Valentine
Exhibit No. 3 - Copy of 2004 Will of Mildred Olga Valentine

Note for the record: Mr. Barrat objects to both Wills being entered as exhibits herein.

Testimony was given by Debbie Lowe regarding a search of Ms. Valentine's home in an attempt to locate the original of the 2004 Will of Ms. Valentine. The Will was not found.

Mr. Barrat presented his Motion to Disqualify Executor and Notice of Contest of Solemn Form Proceeding and stated his legal objections to hearing testimony from Mr. Howard. Mr. Barrat requested an additional ten to fifteen days in which to file a proposed Order and Memorandum of Understanding that would cite case law and more fully explain his clients' position.

Mr. Dorsey offered a general overview of the procedures for making and executing Wills and cited the West Virginia Code regarding attorneys as Executors and beneficiaries. He further stated that WV Code § 41-1-7

deals with the proper procedure for revoking a Will.

Claudia Clatterbuck was duly sworn and gave testimony as to Ms. Valentine's physical health, mental health and the condition of her home.

Mr. Howard testified as to his professional and personal relationship with Ms. Valentine and stated that he prepared her 2002 and 2004 Wills.

Note for the record: Ms. Morgan inquired as to the management of the estate and filing of required accountings.

Mr. Morrow answered that from the time Ms. Valentine passed away until the Jefferson County Commission, Sitting as a Probate Court, appointed Sheriff Shirley as Curator nobody was in charge of her estate. The estate was dormant.

The Commissioners noted that their duty at this proceeding is to decide, after hearing the facts and testimony given, which of the two Wills will go to probate.

The Commission took a 10-minute break at 11:50 a.m.

The Commission reconvened at 11:58 a.m.

Following the break, Mr. Barrat, Mr. Morrow and Mr. Pentony questioned Mr. Howard, then each attorney gave his closing argument.

Motion by Ms. Morgan that the Commission accept for probate the Will of Mildred Olga Valentine executed in 2004 and admit the copy as representing her intent. Motion was seconded by Mr. Pellish and unanimously approved.

Mr. Bentley commented that the motion seems supported by the testimony. He will prepare Findings of Fact and Conclusions of Law.

Mr. Dorsey requested that the Sheriff be substituted as Curator with the Bank of Charles Town. The Commissioners agreed that this matter would be placed on the Commission's agenda for discussion and/or action.

Mr. Morrow will submit an invoice for his services as *Guardian ad litem* for the unknown parties in this proceeding.

The Commission adjourned as a Probate Court and recessed for lunch.

Upon rising, the Commission recessed until this afternoon, Thursday, March 23, 2011, at 1:30 o'clock p.m.

PATSY A. NOLAND, PRESIDENT