



Superior Court of California
County of Kern
Bakersfield Division P

DATE: March 12, 2018

Time: 8:00 AM - 5:00 PM
BPB-17-003121

IN THE MATTER OF:
CHARLES MILLES MANSON DECEASED

COURTROOM STAFF

Honorable: Alisa R. Knight

Clerk: Jannet Olivares

Court Reporter:None

Bailiff:None

PARTIES:

JASON FREEMAN, Respondent, not present
KERN COUNTY CORONER, Petitioner, not present
MICHAEL BRUNNER, Petitioner, not present
MICHAEL CHANNELS, Petitioner, not present

DALE KIKEN, Attorney, not present
BRYAN WALTERS, Attorney, not present
DANIEL MONTENSEN, Attorney, not present
DAVID BALDWIN, Attorney, not present

NATURE OF PROCEEDINGS: RULING PETITION TO INSTRUCT THE KERN COUNTY CORONER REGARDING DISPOSITION OF REMAINS OF DECEASED [Health & Safety Code Section 7105]

Hearing Start Time: 8:00 AM

The Court's ruling with regards to the matter heard on 03/07/18 and taken under submission is as follows:

On 1/8/2018, the instant petition was filed by County Counsel on behalf of the Kern County Coroner (alternatively "Coroner" or "Petitioner") for instructions regarding the disposition of the remains of Decedent Charles Manson (alternatively, "Decedent" or "Manson"). Jason Freeman ("Freeman") filed his response to petition on 1/30/2018. On 1/30/2018, Michael Brunner ("Brunner") filed his competing petition. On 1/31/2018, the parties appeared and requested a continuance for the purpose of pursuing informal discovery and possible informal resolution. The court advised the parties that this matter was considered exigent insofar as human remains were at issue and had been held by the Coroner since 11/19/2017 and ordered a single brief continuance.

On 2/6/2018, a protective order issued regarding records produced by California Department of Corrections and Rehabilitation ("CDCR") directly to the court under seal and in response to a subpoena served by County Counsel.

On 2/28/2018, Freeman filed his response and objections to the Brunner petition.

On 3/6/2018, Michael Channels ("Channels") attempted to electronically file his competing petition. The petition was ultimately rejected by the clerk of the court for failure to comply with the Rules of Court.

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On 3/7/2018, an amicus brief was filed by Marvin Dean ("Dean"), objecting to burial of decedent's remains at Union Cemetery in Bakersfield, California.

The parties appeared through respective counsel and the matter was argued and submitted on 3/7/2018.

I. Background Facts

Manson was convicted of 7 counts of murder and 1 count of conspiracy to commit murder for which he was sentenced to death following trial in Los Angeles County [See *People v. Manson* (1976) 61 Cal.App.3d 102.] The sentence was commuted pursuant to the California Supreme Court's holding in *People v. Anderson* (1972) 6 Cal.3d 628, cert. denied, 406 U.S. 958, invalidating California's death penalty statute. Manson was eventually placed in a CDCR facility located in Corcoran, County of Kings, California and remained there for a number of years until his death at a Bakersfield (Kern County) hospital on 11/19/2017. At the time of his passing, Decedent was still legally in the custody of CDCR.

Due to the need for an appropriate storage facility for Decedent's remains, Petitioner entered into an informal agreement with CDCR to store the remains of the Decedent at the Coroner's storage facility in Kern County and the Decedent's body currently remains in Kern County.

Right to Control of Remains

In an effort to determine who has the right to control the disposition of remains, pursuant to Health & Safety Code, Section 7100(a), County Counsel considered two wills that had been delivered to the Coroner. The wills were dated 2/14/2002 and 1/11/2017, respectively.

The first will was lodged by Channels ("Channels Will") with the Kern County Superior Court in court file number BRW-17-001301. The Channels Will leaves all of Decedent's estate, including his remains to Channels. The Channels Will specifically disinherits Decedent's children, heirs, and others. Page Two of the Channels Will is illegible in some respects such that it cannot be competently determined whether it qualifies as a self-authenticating will under Probate Code, Section 6110. The verbiage on Page Two also creates some ambiguity concerning decedent's testamentary intent. The Channels Will does not qualify as a holographic will under Probate Code, Section 6111. [On 11/29/2017, Channels' petition to administer Decedent's estate was rejected for filing by clerk of the Kern County Superior Court, since decedent was not a resident of Kern County at the time of his death].

One of the witnesses to the will is Channels, the primary beneficiary under the will, and his witness signature is dated 2/10/2002, four days before Decedent purportedly executed the will. See Probate Code, Section 6112(c) [unless there are at least two other subscribing witnesses to the will who are disinterested witnesses, the fact that a will makes a devise to a subscribing witness creates a presumption affecting the burden of proof that the witness procured the devise by duress, menace, fraud, or undue influence].

The second will ("Lentz Will") was presented to the Petitioner by Benjamin Gurecki and Matthew Lentz ("Lentz"), but was apparently not lodged with any court. The Lentz Will purports to leave Decedent's entire estate to Lentz. However, the Lentz Will does not appear to be properly executed in accordance with Probate Code, Section 6110 as it was executed by just one witness. The Lentz Will does not qualify as a holographic will under Probate Code, Section 6111. It should be noted that the Lentz will is silent as to how the remains of the Decedent are to be disposed of. Nor does it name a person to take possession of Decedent's remains.

Jason Freeman, purported grandson of the Decedent, filed his petition for probate in the County of Los Angeles.

On 1/26/2018, the matter came on for hearing and it was determined that future probate estate proceedings would be heard by Los Angeles County Superior Court, while the instant hearing would proceed in Kern County to determine the disposition of the remains. An objection to the petition for probate was filed on behalf of Brunner.

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According to the Petitioner's "next of kin research", Decedent allegedly had three sons:

(1) Charles Miles Manson, Jr., aka Jay White, aka Charles Jay White, aka C.J. White, was born of Decedent's marriage to Rosalie Handley ("Rosalie") who is now deceased. The dissolution proceeding of Decedent and Rosalie concluded with their divorce on September 10, 1958. Charles Manson Jr. committed suicide on June 23, 1993 and was survived by one son, Shawn Freeman aka Jason Freeman - Decedent's grandson.

(2) Michael J. Brunner, aka Michael Manson, aka Valentine Michael Manson, born to Mary Brunner and Decedent.

(3) Charles Luther Manson, aka, Jay Charles Warner, was born of the marriage between Leona Rae "Candy" Stevens aka Leona Warner ("Leona") and Decedent. Charles Luther Manson died on February 19, 2007. It has been alleged that Charles Luther Manson had a daughter who survived him but she has not appeared and has not filed any papers herein.

(4) Matthew Robert Lentz asserts that he was born to Terry Bruegger and decedent, but admits that he was adopted by another family one week after his birth. Adoption severs all ties with the biological parents of the adopted child. Probate Code, Section 6451(a) [adoption severs the relationship of parent and child between the adopted person and a natural parent of the adopted person.]

Subsequent Petitions and Responses Regarding the Right to Control Remains

On 1/30/2018, a response to the petition for instructions was filed by Freeman. In his response, Freeman alleges that he is next in line due to the invalidity of the wills submitted in this matter and due to the adoption of the purported sons.

Brunner provided copies of a birth certificate and baptismal certificate, attached as exhibits to his petition. Brunner argues that he is the adult son of the Decedent and qualifies under Health & Safety Code, Section 7100(a)(3) as the person entitled to control the remains of the Decedent.

It is noted that the Channels Will identifies Brunner as being one of two of Decedent's children. The Channel Will was also purportedly signed by the Decedent.

In opposition to Brunner's petition, Freeman asserts that the birth certificate does not effectively identify Brunner as Decedent's son because his middle initial is omitted and the father's middle name is spelled "Willes" instead of Milles. Freeman also alleges, incorrectly, that the Brunner birth certificate lists the incorrect age of the Decedent. Decedent was born on 11/12/1934, so he would not turn 34 years of age until 11/12/1968, but would still be 33 years of age on 4/15/1968, the date Brunner was born. Therefore, the age listed is correct.

Freeman also alleges, without an offer of proof, that Brunner was adopted by his grandparents, thereby cutting off his claim as an adult son of the Decedent. At the 3/7/2018 hearing, counsel for Brunner admitted that he was adopted without Decedent's consent.

Finally, the objection of Freeman requests, pursuant to Family Code, Section 7551, a court order for DNA testing of Brunner to determine whether he is the son of the decedent.

II. Legal Analysis

A. Jurisdiction and Venue

This court is the proper court for venue of this matter in that Kern County is the County where the remains are located as provided under Health & Safety Code, Section 7105(c).

B. Disposition under Health & Safety Code Section 7100.

Health and Safety Code, Sections 7100-7105, govern the custody and duty of interment of Decedent's remains in this matter. Pursuant to Section 7100(a)(3), the right to control the disposition of the remains of a deceased person, absent specific directions by the decedent, vests in the sole surviving competent adult child of the decedent, or, if there is more than one competent adult child, then to the majority of the children. Health and Safety Code, Section 7100(a)(6), provides that the next in line for purposes of the instant matter would be the surviving competent adult person or persons in the next degree of kinship or the majority of them. The Public Administrator is third in line for control of the remains.

Lentz has not provided any documentation to demonstrate that he is a child of the Decedent. No DNA test results were provided. Lentz has declared that he was adopted one week after his birth. Adoption therefore cuts off his claim as a matter of law. See Section 6451(a) [adoption severs the relationship of parent and child between the adopted person and a natural parent of the adopted person].

The Channels Will includes a statement that Decedent had two known sons, one of which is Brunner. Lentz was not named. Brunner has filed a separate petition claiming a right to control disposition of the remains of the Decedent. In support of his petition, Brunner attached a copy of his birth certificate and baptismal certificate. However, at the 3/7/2018 hearing, counsel for Brunner admitted that he was adopted as well.

On 3/12/2018, Brunner filed a supplemental declaration in support of his petition. It should be noted that this matter stood submitted on 3/7/2018 upon the agreement of all parties on the record. The court will not consider any filings received on or after the date of submission.

C. Disposition under Health & Safety Code Section 7100.1.

The provisions for disposition set forth in the Channels Will are not controlling (Health & Safety Code section 7100.1(c)), due to the fact that specific details as to such disposition are not set forth in the will. The will simply states that Channels is to use "his judgment" in determining the services, viewings, and funeral arrangements which were apparently to be "arranged in advance by decedent".

One of the requirements for application of section 7100.1 is that the will sets forth the directions clearly and completely as to the final wishes of the decedent in sufficient detail so as to preclude any material ambiguity with regard to the instructions. The instructions set forth in the Channels Will fall far short in this regard. Had the specific details been spelled out, the validity of the will would not have been a consideration. Health and Safety Code, Section 1700.1(c).

The Lentz Will does not contain any provision for the disposition of the remains of the Decedent.

D. Request for Genetic Testing Pursuant to Family Code 7551

Family Code Section 7551 provides, in pertinent part, as follows:

"In a civil action or proceeding in which paternity is a relevant fact, the court may upon its own initiative . . . so as not to delay the proceedings unduly, order the mother, child, and alleged father to submit to genetic tests."

Paternity is generally defined as the state of being someone's father, or a person's paternal origin.

Section 7551 is inapplicable to the present case in that the paternity of the decedent in relation to Brunner is not relevant or probative in the present matter in light of the adoption of Brunner.

E. Documents Under Seal

The court conducted an in camera review of subpoenaed CDCR records herein. The court opines that said records are not probative and declines to order production of the records pursuant to the proposed protective order.

CONCLUSION

Notice has been provided in the manner required by law. Health and Safety Code, Section 7100(a)(1)-(9).

Freeman is hereby determined to be the surviving competent adult next of kin of the Decedent. No sufficient probative evidence was provided to this court to refute Freeman's claim. The court orders that disposition of the remains are to be determined by Freeman (qualifying under Probate Code Section 7100(a)(6)), who will also be responsible for the costs of burial and funeral expenses. The Coroner is authorized and instructed to release the Decedent's remains to Freeman forthwith in accordance with applicable law and its usual custom and practice.

Copy of minute order mailed to all parties as stated on attached certificate of mailing.

MINUTE ORDER ENTERED BY:

JANNET OLIVARES

ON: 3/12/2018

CERTIFICATE OF MAILING

The undersigned, of said Kern County, certify: That I am a Deputy Clerk of the Superior Court of the State of California, in and for the County of Kern, that I am a citizen of the United States, over 18 years of age, I reside in or am employed in the County of Kern, and not a party to the within action, that I served the *Minute Order dated March 12, 2018* attached hereto on all interested parties and any respective counsel of record in the within action by depositing true copies thereof, enclosed in a sealed envelope(s) with postage fully prepaid and placed for collection and mailing on this date, following standard Court practices, in the United States mail at Bakersfield California addressed as indicated on the attached mailing list.

Date of Mailing: March 12, 2018

Place of Mailing: Bakersfield, CA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Terry McNally
CLERK OF THE SUPERIOR COURT

Date: March 12, 2018

By: _____
Jannet Olivares, Deputy Clerk

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