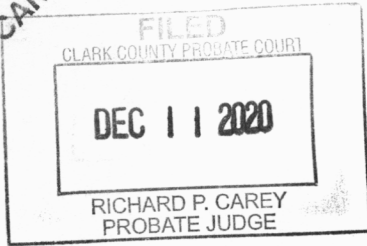


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20200410



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**IN THE COURT OF COMMON PLEAS
PROBATE DIVISION
CLARK COUNTY, OHIO**

IN THE MATTER OF : CASE NO. 20200410
THE ESTATE OF :
RYAN THORNSBERRY : ENTRY

This matter came on for hearing on the 8th day of December, 2020 to consider the allocation of the allowance for support pursuant to R.C. 2106.13. The surviving spouse, Miranda Thornsberry, appeared with counsel, Attorney Jack Spencer. The decedent's minor child, Hanna Thornsberry, appeared with counsel, Attorney Valerie Wilt. The facts are, generally speaking, not in dispute. Some history.

Hanna Thornsberry was born of the marriage between the decedent and Shannon Toyne --- said marriage lasting from December 8, 1997 until April 4, 2007. Hanna is one of three children born of that relationship, and was born November 21, 2002. That relationship dissolved and the decedent married Miranda Thornsberry on October 20, 2007. The decedent then died on December 21, 2019 leaving Miranda Thornsberry as his surviving spouse and one minor child, Hanna Thornsberry.

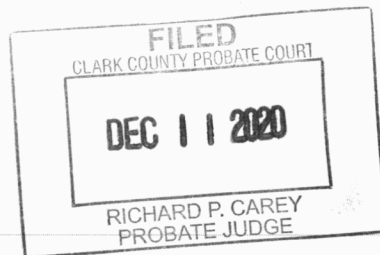
Miranda Thornsberry has resided in the mansion house for the past year following the death of the decedent. She receives a monthly worker's compensation benefit in the amount of \$3,631 which is guaranteed for ten years. She is also receiving a worker's compensation death benefit in the amount of \$1,009 per month which she will receive until her death or until her remarriage. This will yield an annual payment, for at least the next ten years, of \$52,332. Her monthly expenses average \$2,449.

Hanna Thornsberry, likewise, will receive a worker's compensation death benefit of \$1,009 per month for the next seven years. She will also receive \$1,300 per month from Social Security until May of 2021 --- when she graduates from high school. This will yield Hanna Thornsberry \$12,108 per year for the next seven years plus an additional \$6,500 over the next five months.

The Court did receive statements regarding certain particulars of the divorce decree and the status of various mortgages as they affected the sole asset in this estate, a parcel of real estate in which the decedent owned one-half interest --- located at 2439 Erter Drive, Springfield, Ohio. It is estimated that the net value of this real estate may be in the vicinity of \$16,000.

The law, however, directs this Court to consider not so much the history of the familial relationships, but rather "the respective needs" of the surviving spouse and the minor child. It has been suggested to the Court that the respective needs of Hanna Thornsberry be limited to the lost payment of child support by the decedent for the benefit of Hanna Thornsberry from the date of his demise until the date on which Hanna Thornsberry turned age 18. This would be in the approximate amount of \$2,000.

On the other hand, the Court was advised that Miranda Thornsberry is the beneficiary of a limited liability company which may also own three parcels of real estate. It is not clear to the Court the value of that LLC. The Court was advised, however, that Miranda Thornsberry received a funeral benefit in the amount of \$5,500, a single payment from Social Security in the amount of \$250.00, and has a bank account with a value of \$5,000.

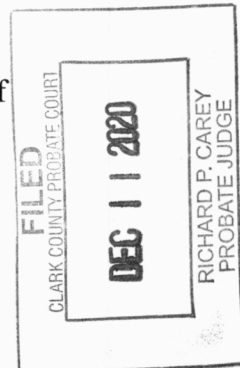


After considering the statements of counsel, the Court is struck that both Miranda and Hanna Thornsberry are on the same footing with respect to their financial situation -- the Court noting Miranda's monthly expenses and Hanna's plans for schooling. Hanna Thornsberry, by and through counsel, is asking the Court to simply split the family allowance into two equal shares. Miranda Thornsberry, by and through counsel, has suggested that it would be more appropriate to award Hanna Thornsberry \$2,000.00 --- representing the amount of support payments agreed to between the parties until Hanna's eighteenth birthday --- and award the balance to Miranda Thornsberry.

The Court observes that the question of the division of the family allowance has historically been directed toward the surviving spouse and any child of the decedent who is a "minor." The wording of this statute is such that it does not consider the needs of a child who is the age of 18. This seems to be the argument of Miranda Thornsberry: that Hanna was only a minor for eleven months following the death of the decedent.

The Court, however, is charged with dividing the family allowance into two "equitable" shares. Hanna Thornsberry was the decedent's financial responsibility long before he met and married his surviving spouse, Miranda Thornsberry. When he died, she was in fact still a minor child with financial needs. The ultimate question then: what significance should the Court assign the fact that Hanna Thornsberry turned the age of 18 by the time of the hearing herein?

After due consideration, the Court is inclined to assign little weight to the date of the eighteenth birthday of Hanna Thornsberry. What is significant is that Hanna was a minor on the date of death and, for that reason, is on equal footing with Miranda with respect to the participation in the division of the family allowance. The Court cannot



conclude that, on that date of death --- or during the balance of the minority of Hanna --- that Hanna had less respective need than Miranda. To that end, the Court is inclined to believe that equity calls for an equal 50/50 split of the family allowance in this case.

For the foregoing reasons, the Court does award 50% of the allowance for support to Miranda Thornsberry and 50% of the allowance for support to Hanna Thornsberry.

IT IS SO ORDERED.

THIS IS A FINAL APPEALABLE ORDER.


RICHARD P. CAREY, PROBATE JUDGE

cc: John M. Spencer, Esq.
Valerie Juergens Wilt, Esq.

