

STATE OF MINNESOTA
IN COURT OF APPEALS

CASE TITLE:

In the Matter of the Estate of:

Prince Rogers Nelson,

Decedent.

STATEMENT OF THE CASE OF
DARCELL GRESHAM JOHNSTON,
LOYA JANEL WILSON, LOYAL JAMES
GRESHAM III, AND ORRINE
GRESHAM

DISTRICT COURT CASE NUMBER:
10-PR-16-46

APPELLATE COURT CASE NUMBER:

1. Court or agency of case origination and name of presiding judge or hearing officer.

District Court for the First Judicial District, Carver County, Probate Division, The Honorable Kevin W. Eide presiding.

2. Jurisdictional Statement

(A) Appeal from district court.

Statute, rule or other authority authorizing appeal:

Minn. R. Civ. App. P. 103.03(a) and Minn. Stat. § 525.71(a)(5).

Date of entry of judgement or date of service of notice of filing of order from which appeal is taken:

July 29, 2016, August 8, 2016, August 11, 2016, and August 12, 2016.

Authority fixing time limit for filing notice of appeal (specify applicable rule or statute):

Minn. R. Civ. App. P. 104.01, subd. 1.

Date of filing any motion that tolls appeal time:

None.

Date of filing of order deciding tolling motion and date of service of notice of filing:

None.

(B) Certiorari appeal.

Not applicable.

(C) Other appellate proceedings.

Not applicable.

(D) Finality of order or judgment.**Does the judgment or order to be reviewed dispose of all claims by and against all parties, including attorney fees?**Yes ___ No XX**If no:****Did the district court order entry of a final partial judgment for immediate appeal pursuant to Minn. R. Civ. App. P. 104.01?**Yes XX No ___**If yes, provide the date of order:**

July 29, 2016, August 8, 2016, August 11, 2016, and August 12, 2016.

If no, is the order or judgment appealed from reviewable under any exception to the finality rule?Yes ___ No XX**If yes, cite rule, statute, or other authority authorizing appeal:**

Not applicable.

(E) Criminal only.

Not applicable.

3. State type of litigation and designate any statutes at issue:

This appeal arises out of a special administration in a probate proceeding. The issue is how to determine the heirs in an intestate probate proceeding. Statutes at issue are the Minnesota Probate Code, Minnesota Statute Chapter 524 (the “Probate Code”) and the Minnesota Parentage Act, Minnesota Statutes §§ 257.01 through 257.75 (the “Parentage Act”).

4. Brief description of claims, defenses, issues litigated, and result below.

Bremer Trust, the Special Administrator (“Bremer”), proposed a protocol that filtered all claims of heirship through the presumptions of parentage found in the Parentage Act, Minnesota Statutes §§ 257.01 through 257.75. The district court adopted the protocol proposed by Bremer.

Appellants argued that the Parentage Act should not be used to determine the heirs in an intestate probate proceeding, because the Probate Code (Minnesota Statutes chapter 524) has its own statutory scheme for doing so, and the Probate Code’s independent statutory scheme should control -- particularly after the 2010 amendments to the Probate Code in which the Minnesota Legislature removed language from the Probate Code that had been interpreted to permit the use of the Parentage Act to determine heirship. Under the plain language of the Probate Code as amended in 2010, Appellants would be permitted to establish through clear and convincing evidence that they are descendants of the father of decedent, and thus heirs of the decedent under the laws of intestate succession.

The district court foreclosed this possibility by importing the presumptions of the Parentage Act into its determination of who should be permitted to submitted clear and convincing evidence to establish heirship. Despite the 2010 amendments to the Probate Code, the district court found that the presumptions of parentage contained in the Parentage Act applied to the determination of heirs in an intestate probate proceeding and thus excluded Appellants as a matter of law from establishing that they are heirs of the decedent.

5. List specific issues proposed to be raised on appeal.

- (1) Does the Probate Code permit a district court to import the presumptions of parentage found in the Parentage Act to determine heirs in an intestate probate proceeding?
- (2) Even if the presumptions of parentage in the Parentage Act may be imported into the Probate Code, did the district court abuse its discretion in doing so here, when the effect was to exclude as a matter of law persons claiming a genetic relationship to decedent?
- (3) Does the protocol as adopted by the district court violate the equal protection clauses of the U.S. and Minnesota Constitutions?

6. Related appeals.

List all prior or pending appeals arising from the same action as this appeal. If none, so state.

It is expected that an appeal on behalf of Venita Jackson-Leverette will be brought.

List any known pending appeals in separate actions raising similar issues to this appeal. If none are known, so state.

None.

7. Contents of record.

Is a transcript necessary to review the issues on appeal?

Yes ___ No XX

8. Is oral argument requested?

Yes XX No ___

If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2?

Yes ___ No XX

If yes, state where argument is requested:

9. Identify the type of brief to be filed.

Formal brief under Rule 128.02. XX

Informal brief under Rule 128.01, subd. 1 (must be accompanied by motion to accept unless submitted by claimant for reemployment benefits). ____

Trial memoranda, supplemented by a short letter argument, under Rule 128.01, subd. 2. ____

10. Names, addresses, and telephone numbers of attorney for appellant, respondent, and other interested parties.**Attorneys for Darcell Gresham Johnston, Loya Janel Wilson,
Loyal James Gresham III, and Orrine Gresham**

Cameron M. Parkhurst (MN 0264593)
Sharon H. Fischlowitz (MN 0273107)
222 North 2nd Street, Suite 300
Minneapolis, MN 55401
Tel: 612-465-0097

Attorneys for Bremer Trust, National Association

Laura E. Krishnan (MN 0311698)
David R. Crosby (MN 0237693)
Katherine A. Moerke (MN 0312277)
Elizabeth C. Kramer (MN 0325089)
Natasha A. Robertson (MN 0395590)
Stinson Leonard Street LLP
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402
Tel: 612-335-1500

Attorneys for Tyka Nelson

Matthew J. Shea (MN 0309308)
Brian A. Dillon (MN 0386643)
Gray Plant Mooty
80 South Eighth Street, Suite 500
Minneapolis, MN 55402
Tel: 612-632-3000

Attorneys for Norrine Patricia Nelson, Sharon Louise Nelson, and John Rodger Nelson

Kenneth J. Abdo (MN 0149585)
Adam P. Gislason (MN 0386643)
Lommen Abdo, P.A.
1000 International Centre
920 Second Avenue South
Minneapolis, MN 55402
Tel: 612-339-8131

Attorneys for Omarr Julius Baker

Steven H. Silton (MN 0260769)
Thomas P. Kane (MN 0053491)
Cozen O'Connor
33 South Sixth Street, Suite 4640
Minneapolis, MN 55402
Tel: 612-260-9000

Jeffrey Kolodny
Herbert B. Fixler
Cozen O'Connor
277 Park Avenue
New York, NY 10172
Tel: 212-883-4900

Anthony Jones
P.O. Box 27517
Los Angeles, CA 90027-0517
Tel: 415-336-7688

Attorneys for Alfred Frank Alonzo Jackson

Justin A. Bruntjen (MN 0392657)
Bruntjen & Brodin Legal
2915 Wayzata Boulevard
Minneapolis, MN 55405
Tel: 612-242-6313

Frank K. Wheaton
201 Illinois Street, Suite 1600
Indianapolis, IN 46204
Tel: 317-610-3455

Nicholas Granath (MN 0198729)
2915 Wayzata Boulevard
Minneapolis, MN 55405
Tel: 612-210-8460

**Attorneys for Brianna LaShawn Nelson and Jeannine Halloran on behalf of V.N.
(Minor)**

Jennifer Santini (MN 0390487)
Sykora & Santini, PLLP
125 Main Street SE, Suite 339
Minneapolis, MN 55414
Tel: 612-492-1844

Andrew Stoltmann
Celiza Braganca
Stoltmann Law Offices, P.C.
10 South LaSalle Street, Ste 3500
Chicago, IL 60603
Tel: 312-332-4200

Kenneth R. White (MN 0141525)
Law Office of Kenneth R. White
212 Madison Avenue, Suite 200
Mankato, MN 56001
Tel: 507-345-8811

Deanna Besbekos-LaPage
Stoltmann Law Offices, P.C.
600 Hart Road, Suite 115
Barrington, IL 60010
Tel: 312-332-4200

Joanna Sunderland
850 N. Lake Shore Drive, No. 301
Chicago, IL 60611
Tel: 219-201-7580

Attorneys for Venita Jackson-Leverette

James C. Selmer (MN 0178226)
Marc M. Berg (MN 020979x)
J. Selmer Law, P.A.
500 Washington Avenue South, Suite 2010
Minneapolis, MN 55415
Tel: 612-338-6005

Charles R. Brown
Taylor Fields
J. David Bowers
Fields & Brown, LLC
1100 Main, Suite 1600
Kansas City, MO 64105
Tel: 816-474-1700

Attorneys for Carlin Q. Williams

Paul F. Shoemaker (MN 0178226)
Shoemaker & Shoemaker, PLLC
5270 West 84th Street
Bloomington, MN 55437
Tel: 952-224-4605

Patrick S. Cousins
Cousins Law, A.P.A.
319 Clematis Street, Suite 701
West Palm Beach, FL 33401
Tel: 561-835-1727

Attorneys for Estabon Bennermon

Steve A. Brand (MN 0010790)
Denise S. Rahne (MN 0331314)
Robins Kaplan LLP
800 LaSalle Avenue, Suite 2800
Minneapolis, MN 55402
Tel: 612-349-8500

Richard F. Lert
David H. Stein
Wilentz, Goldman & Spitzer, P.A.
90 Woodbridge Ctr. Dr., Ste 900
Woodbridge, NJ 07095
Tel: 732-855-6086

Angela Foster
Law Office of Angela Foster
2906 Birchwood Court
North Brunswick, NJ 08902
Tel: 732-821-9363

Attorneys for Corey D. Simmons

Eric C. Dammeyer (MN 134375)
Dammeyer Law Firm, P.A.
3800 American Boulevard West, Ste 1500
Bloomington, MN 55431
Tel: 952-927-7060

Andrew M. Lehner (MN 388061)
Lehner Law Office, LLC
1069 South Robert Street, Ste 100
West St. Paul, MN 55118
Tel: 651-222-1122

Attorneys for Eighth Day Sound Systems, Inc.

Jeffrey P. Consolo
McDonald Hopkins LLC
600 Superior Avenue, East
Suite 2100
Cleveland, OH 44114
Tel: 216-348-5400

Attorneys for James M. Brandon

Louis C. Senat
The Law Office of Louis C. Senat, PLLC
3600 Red Road, Suite 407
Miramar, FL 33025
Tel: 954-947-6830

Michele L. Romelus
Falcon Legal, PLLC
8362 Pines Boulevard, Suite 251
Pembroke Pines, FL 33024
Tel: 786-752-0707

Claimants - Information Filed Under Seal

Elaine Whigham Williams

Information filed under seal pursuant to Order Sealing Submissions filed June 24, 2016 in *In the Matter of Prince Rogers Nelson*, Court File No. 10-PR-16-46, First Judicial District, County of Carver, State of Minnesota.

Claimant 1, Claimant 2, Claimant 3, Claimant 4, Claimant 5, Claimant 6, and Claimant 7

Information filed under seal pursuant to Order Sealing Heirship Affidavits and Responses of Special Administrator filed July 22, 2016 in *In the Matter of Prince Rogers Nelson*, Court File No. 10-PR-16-46, First Judicial District, County of Carver, State of Minnesota.

Anthony M. Steman

Information filed under seal pursuant to Order Sealing Genetic Testing Results filed August 8, 2016 in *In the Matter of Prince Rogers Nelson*, Court File No. 10-PR-16-46, First Judicial District, County of Carver, State of Minnesota.

Pro Se

Ricky Barron
11505 37th Avenue North
Plymouth, MN 55441
Tel: 612-385-7397

Jonette M. Carter
24523 Pierce Street
Southfield, MI 48075
Tel: 248-220-0321

Norman Yates Carthens
57 Wall Street
Barnwell, SC 29812
Tel: 347-813-3752

Karie Clay
746 North Locust Street
Reedsburg, WI 53959

Michael John Darling
53285 Falcon Avenue North
Rush City, MN 55069

Rodney H. Dixon
29635 Troon Court
Murrieta, CA 92563

Mia M. Stamper Dragojevich
3521 Meadowview Boulevard
Neshannock, PA 16105

Rev. Dennis W. Earle
100 Limehouse Beach Road
Columbia, SC 29210

Marjorie Lee Frazier
1067 Lake Avenue, Apt. 36
Rochester, NY 14613
Tel: 585-458-7242

Lorraine M. Huddleston
2709 Keating Street
Temple Hills, MD 20748
Tel: 301-899-3105

R. Kerr
AIN Solutions Recordings
794 Marietta Street
Atlanta, GA 30377
Tel: 404-940-1648

Maleika S. Mosley aka Gen. Dr. K.K. Ferrara
3350 Bobolink Circle SW
Atlanta, GA 30311

Roskco A. Motes
P.O. Box 2315
North Babylon, NY 11203

Claire Elisabeth Nelson aka Claire Elisabeth Elliott aka Claire Boyd
2801 Washington Road, Suite 107, #339
Augusta, GA 30909
Tel: 706-417-8885

Dana Samuels Nettles
103 Holly Street South
Mobile, AL 36608
Tel: 251-583-9460

Kimberly Felecia Potts
179 Potts Drive
Tallasse, AL 36078

Xavier Powell
(No address given)
xap17@hotmail.com

Jack Reuler
Mixed Blood Theatre
1501 South 4th Street
Minneapolis, MN 55454
Tel: 612-338-6131

Martha L. Samuels
1806 North 8th Avenue
Pensacola, FL 32503
Tel: 850-434-5365

Michael W. Samuels
1806 North 8th Avenue
Pensacola, FL 32503
Tel: 850-434-5365

April Lashaun Seward
129 Enclave Avenue
Calera, AL 35040
Tel: 205-422-5810

Maurice Lee Soledad
1580 State Road
London, OH 43140

Regina L. Jensen Sorenson
S 312 Glade Avenue
Spring Valley, WI 54767
Tel: 715-410-4536

Taz Laeni Walker
95 Barry Circle
Bloomfield, CT 06002-1974

Nicole P. White
490 Myrtle Avenue, #2J
Brooklyn, NY 11205
Tel: 718-717-9709

Priscilla S. Williams
600 Wooddale Boulevard, Apt. 266B
Baton Rouge, LA 70806
Tel: 225-954-2200

James Austin Womack
2310 West McNichols Road
Detroit, MI 48221
Tel: 313-909-9051

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SUSSMAN+PARKHURST, PLLC

/s/ Cameron M. Parkhurst

Cameron M. Parkhurst (MN 0264593)
Sharon H. Fischlowitz (MN 0273107)
222 North 2nd Street, Suite 300
Minneapolis, MN 55401
Tel: 612-465-0097
cameron@sussmanparkhurst.com
sharon@sussmanparkhurst.com

Attorneys for Darcell Gresham Johnston,
Loya Janel Wilson, Loyal James
Gresham III, and Orrine Gresham