Filed in First Judicial District Court
9/11/2017 10:08:49 AM
Carver County, MN

STATE OF MINNESOTA
IN COURT OF APPEALS
A16-2042

In the Matter of the Estate of:
Prince Rogers Nelson, Decedent.

Filed September 11, 2017
Affirmed
Toussaint, Judge*

Carver County District Court
File No. 10-PR-16-46

Alexander N. Loftus (pro hac vice), Stoltmann Law Offices, PC, Chicago, Illinois; Kenneth R. White, Law Office of Kenneth R. White, P.C., Mankato, Minnesota; and Jennifer Santini, Sykora & Santini, PLLP, Minneapolis, Minnesota (for appellants Brianna Nelson and Jeannine Halloran)

Joseph J. Cassioppi, Mark W. Greiner, Sarah M. Olson, Emily A. Unger, Fredrikson & Byron, Minneapolis, Minnesota (for respondent Comerica Bank and Trust N.A.)

Randall W. Sayers, Nathaniel A. Dahl, Adam J. Rohne, Hansen, Dordell, Bradt, Odlaug & Bradt, PLLP, St. Paul, Minnesota (for respondents Norrine Nelson, Sharon Nelson, and John Nelson)

Steven H. Silton, Thomas P. Kane, Armeen F. Mistry, Cozen O'Connor, Minneapolis, Minnesota; and Dexter R. Hamilton (pro hac vice), Philadelphia, Pennsylvania (for respondents Omarr Baker and Tyka Nelson)

Justin A. Bruntjen, JAB Legal LLC, Minneapolis, Minnesota; and Nicholas Granath, Seham, Seham, Meltz & Petersen, LLP, Minneapolis, Minnesota (for respondent Alfred Jackson)

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* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

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Paul F. Shoemaker, Shoemaker & Shoemaker, Bloomington, Minnesota (for respondent Carlin Williams)

Considered and decided by Ross, Presiding Judge; Connolly, Judge; and Toussaint, Judge.

U N P U B L I S H E D O P I N I O N

TOUSSAINT, Judge

Decedent died without a will. Appellants, who do not claim to be genetically related to decedent, sought to inherit from decedent under *In re Estate of Palmer*, 658 N.W.2d 197 (Minn. 2003). The district court ruled that, as a matter of law, appellants were excluded from those who could inherit from decedent. On appeal, appellants argue that the district court misread *Palmer* and misunderstood the impact of the 2010 amendments of the probate code on *Palmer*. This court, in a related case, recently ruled that the relevant portion of *Palmer* was rendered stale by the 2010 amendments of the probate code. *In re Estate of Nelson*, ___ N.W.2d ___, ___, No. A16-1545, A16-1546, slip. op. at 10 (Minn. App. Sept. 5, 2017). Therefore, we affirm the district court in this appeal.

D E C I S I O N

Because the parties' arguments require this court to construe *Palmer* and the probate code, this court's review of the district court's decision is de novo. *See, e.g.*, *Zurich American Ins. Co. v. Bjelland*, 710 N.W.2d 64, 68 (Minn. 2006) (stating that "[appellate courts] interpret statutes and case law de novo").

This court recently noted:

> In *Palmer*, the supreme court held that the parentage act is not the exclusive means of establishing paternity, emphasizing that

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> [when *Palmer* was decided, the relevant provision of the probate code] provided that a "parent and child relationship *may* be established under the Parentage Act," and that the word "may" was permissive and allowed a claimant to establish a parent-child relationship by clear-and-convincing evidence [outside the parentage act]. 658 N.W.2d at 198-200 (emphasis added).

Nelson, slip op. at 9. Here, appellants argue that, under *Palmer*, "Minnesota law provides for and recognizes parent-child relationships that are not genetic or established as a matter of law[,]" and that the district court erred in reading *Palmer* as being "limited to only those parties seeking to show the existence of a biological/genetic parent-child relationship."[1]

We doubt that *Palmer* addressed recognition of "parent-child relationships that are not genetic or established as a matter of law[,]" as alleged by appellants. The supreme court's *Palmer* opinion does not mention that point. It appears that, in *Palmer*, the existence of a genetic connection between the claimant and decedent was undisputed: This court's opinion states that "[a]ppellant Marie Palmer married [decedent] in 1948. They had no children, but in 1957, [decedent] and Beverly Smith had a son, [the claimant.]" *In re Estate of Palmer*, 647 N.W.2d 13, 14 (Minn. App. 2002), *aff'd*, 658 N.W.2d 197 (Minn. 2003). Because the existence of a genetic relationship was undisputed in *Palmer*, any inference that *Palmer* addressed situations without a genetic relationship would be contrary to caselaw:

> Opinions must be read in light of the issue presented for decision. *Skelly Oil Co. v. Comm'r of Taxation*, 269 Minn. 351, 371, 131 N.W.2d 632, 645 (1964). And assumptions underlying an opinion that are not the subject of a court's analysis are not precedential on the point that is assumed. *See Chapman v. Dorsey*, 230 Minn. 279, 288, 41 N.W.2d 438, 443 (1950) (stating that an opinion deciding an appeal based on the assumption that appellate

[1] The district court's analysis, as well as the parties' arguments, show that their discussions are limited to the context of intestate succession.

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> jurisdiction existed is not precedential regarding the existence of appellate jurisdiction where the existence of appellate jurisdiction was not addressed by the court).

In re Rollins, 738 N.W.2d 798, 802 (Minn. App. 2007); *see Peterson v. Holiday Recreational Indus., Inc.*, 726 N.W.2d 499, 504 n.1 (Minn. App. 2007) (same), *review denied* (Minn. Feb. 28, 2007).

Further, as set out in *Nelson*, the relevant portion of *Palmer* was based on provisions in the then-existing probate code which were removed when the code was revised in 2010. *See Nelson*, slip op. at 9-10. As a result, *Nelson* held:

> Because *Palmer*'s holding that the parentage act is not the exclusive means of establishing paternity for the purposes of intestate succession is based on the permissive word "may" in the paternity presumption reference in the pre-amendment version of [the relevant probate code provision], that holding does not apply to the current version of the probate code.

Id. at 10 (citations omitted). Thus, regardless of how *Palmer* is read, the relevant portion of *Palmer* was rendered stale by the 2010 amendment of the probate code.[2] Therefore, the district court did not err in rejecting appellants' attempts to inherit from decedent under *Palmer*.

Affirmed.

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[2] Appellants assert that this court, in an unpublished opinion, recognized that *Palmer* remained good law after the 2010 amendments of the probate code. Unpublished opinions, however, are not precedential. Minn. Stat. § 480A.08, subd. 3(c) (2016); *Gen. Cas. Co. of Wis. v. Wozniak Travel, Inc.*, 762 N.W.2d 572, 575 n.2 (Minn. 2009). Further, the unpublished opinion does not mention the 2010 amendments of the probate code. Therefore, the impact of those amendments on *Palmer* was not at issue in that case, and not only can the opinion not be read to address the impact of those amendments on *Palmer*, but any inference drawn from the unpublished opinion about the impact of those amendments runs afoul of principles summarized in *Rollins*, quoted above.