

**SAINT REGIS MOHAWK TRIBAL COURT  
IN AND FOR THE SAINT REGIS MOHAWK TRIBE**

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**Estate of James Smoke,  
Deceased**

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**Case No.: 18-PROB-00012**

**DISTRIBUTION ORDER**

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**PROCEDURAL HISTORY**

On October 18, 2018, Patricia Ann Smoke Ripley filed a petition with the Saint Regis Mohawk Tribal Court requesting to be named the Administrator of the Estate of James Smoke, her great uncle. James Smoke died on August 12, 1962. Mrs. Ripley submitted a death certificate and it notes that he was married, but does not list his wife’s name. Mrs. Ripley submitted a church record in French that appears to identify Mr. Smoke’s wife as Agatha Curotte. Mrs. Ripley submitted a newspaper article regarding the incident resulting in Mr. Smoke’s death and it states Mr. Smoke had a surviving son, Angus Smoke, who was serving in the Air Force in Germany. Mrs. Ripley also submitted a document from Ancestry.com that lists Agatha Curotte as Mr. Smoke’s wife and their son, Angus Jerome Smoke. According to the document, Angus Jerome Smoke died on September 20, 2011 in Waynesville, Missouri.

On July 23, 2019, the Saint Regis Mohawk Tribal Clerk’s Office (SRMT Tribal Clerk) submitted an Affidavit by Derrick King which stated the decedent was eligible for membership.

On October 18, 2018, Mrs. Ripley submitted a document, as evidence that the decedent owned property within the Saint Regis Mohawk Indian Reservation. The SRMT Tribal Clerk’s Office submitted several records which indicate the decedent owned land within the Saint Regis Mohawk Indian Reservation.

**JURISDICTION**

Pursuant to the Saint Regis Mohawk Tribe’s Probate Law, the Court “shall have personal jurisdiction to probate an estate when, at the time of death, (1) the deceased was either a Tribal Member or a person eligible for enrollment as a Tribal Member and the deceased resided or owned real or personal property located within the reservation.”<sup>1</sup> Furthermore, “[t]he Tribal Court shall have exclusive jurisdiction to probate real property located within the reservation.”<sup>2</sup>

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<sup>1</sup> SRMT Probate Law § 1.3 (a).

<sup>2</sup> SRMT Probate Law § 1.3. (b) (1).

In the instant matter, James Smoke, was eligible to be a tribal member and has a possible interest in real property. Thus, the Court possesses requisite jurisdiction.

### APPLICABLE LAW

The present action is governed by the Saint Regis Mohawk Tribe Probate Law (SRMT Probate Law).<sup>3</sup>

### ANALYSIS

The two issues before the Court are whether the decedent owned any real property on the Saint Regis Mohawk Indian Reservation (SRMIR) and identifying the decedent's heirs.

The Petitioner, Mrs. Ripley, and the SRMT Tribal Clerk's Office submitted copies of a document dated February 2, 1957. It is on letterhead for the St. Regis Mohawk Indian Reservation American Party and signed by three chiefs of the Saint Regis Mohawk Tribe. It demonstrates that the Mary Grey Estate and the SRMT Council concluded that James Smoke and Joseph Adams were to share equally in Mary Grey's Estate. It also notes that James Smoke was to have the first opportunity to buy Joseph Adams' share. The property is described as a [REDACTED]

A copy of a second document was submitted by the Petitioner, Mrs. Ripley, and the SRMT Tribal Clerk's Office, dated June 17, 1958. It was also signed by three SRMT Chiefs and on St. Regis Mohawk Indian Reservation American Party letterhead. It is also regarding the Estate of Mary Grey. The SRMT Council concluded that James Smoke was to buy his uncle's, Joseph Adams, share of the property for [REDACTED]. The document notes [REDACTED] was paid by James Smoke and it was signed by Joseph Adams. Thus, the Court finds that James Smoke owned property on the SRMIR in 1958.

The Court is required to issue an order identifying person entitled to inherit from the Estate.<sup>4</sup> The decedent, James Smoke, did not have a Last Will and Testament. The SRMT Probate Law states that when an estate proceeds intestate, or without a will, the order of inheritance for real property is as follows: the surviving tribal member spouse, surviving tribal member children, surviving tribal member grandchildren, surviving tribal member parents, surviving tribal member siblings, and if there is no qualified beneficiary, the estate passes to the Tribe.<sup>5</sup> The term 'surviving' refers to whether the person was living at the time of the decedent's death.

It is unknown whether the decedent's wife, Agatha Curotte, was living at the time that the decedent died. However, she was not a tribal member; thus she could not own real property on

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<sup>3</sup> SRMT Probate Law (enacted August 16, 2017).

<sup>4</sup> SRMT Probate Law § 3.2(a).

<sup>5</sup> SRMT Probate Law § 3.2(b).

the Reservation, even if she survived the decedent. Thus, any real property owned by the decedent at the time of his death could not pass to his wife.

The decedent's son, Angus Smoke, did survive his father. Angus Smoke did not die until September 20, 2011. Angus Smoke was an enrolled tribal member; thus was able to own real property on the Reservation. Thus, he is a surviving tribal member child of the decedent and the real property interest the decedent owned passes to Angus Smoke's Estate. The Estate of Angus Smoke will hold the property until it is probated. The Tribal Court has exclusive jurisdiction over real property located on the Reservation;<sup>6</sup> thus, even if Angus Smoke's Estate was probated in the jurisdiction where he resided at the time of his death, a probate action would still need to be undertaken in this jurisdiction to distribute this property.


A final issue before the Court is Mrs. Ripley's request to be appointed as the Administrator of this Estate. At this point, there is no need for an Administrator, as the sole item is simply transferred to the Estate of Angus Smoke.

### ORDER

Based on the above, the Court hereby **ORDERS** the following:

1. The decedent's heir is Angus Smoke.
2. The real property owned by James Smoke is transferred to the Estate of Angus Smoke.
3. This case is closed.

Signed this 26<sup>th</sup> day of February, 2020.

  
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Carrie E. Garrow,  
Chief Judge  
Saint Regis Mohawk Tribal Court

*No later than ten (10) days after a judgment is final, a party may ask the Judge for a rehearing, reconsideration, correction vacation, or modification of the judgment. The parties have thirty (30) days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals.*

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<sup>6</sup> SRMT Probate Law § 1.3(b)