

SAINT REGIS MOHAWK TRIBAL COURT

Estate of ██████████ Thompson

DECISION ON JURISDICTION

Case No.: 18-CIV-00010

Procedural History

On March 26, 2018, ██████████ Thompson filed a Petition for Probate of a Will for ██████████ Thompson. On April 11, 2018, a Status Conference was held and the Court determined the will was valid. The Court also determined Mr. Thompson's real property and home attached is located within the area known as the Hogansburg Triangle. Given the Saint Regis Mohawk Tribe's pending land claims lawsuit regarding the Triangle, the Court determined the Tribe had an interest in whether the Court possessed jurisdiction over the Decedent's real property. The Tribe was invited to submit a brief on the issue of jurisdiction. The Tribe submitted a brief and was represented by Marsha Schmidt at a hearing on May 21, 2018. Ms. Thompson was also present.

Analysis

The issue is whether the Triangle is located within the Reservation, which would allow the Court to exercise exclusive jurisdiction in order to probate the Decedent's Estate.

The Saint Regis Mohawk Tribe's Probate Law states the "Tribal Court shall have exclusive jurisdiction to probate real property located within the Reservation."¹ The SRMT Probate Law defines the Reservation as the "Reservation as established by the 1796 Treaty with the Seven Nations of Canada and any other lands over which the Tribe exercises jurisdiction now or in the future."² The Treaty of 1796 included the Triangle within the reservation boundaries. The Triangle was subsequently purchased by New York State in violation of the Nonintercourse Act,³ which has resulted in the subsequent land claims lawsuits.⁴ These claims are still pending.

The United States Supreme Court makes it clear that only the United States Congress may change or diminish the boundaries of a federal recognized reservation, such as the Saint

¹ SRMT Probate Law § 1.3(b)(1).

² SRMT Probate Law § 1.2(i).

³ 25 U.S.C. § 177.

⁴ *The Canadian St. Regis Band of Mohawk Indians v. New York et al.* (82-CV-783); *The Canadian St. Regis Band of Mohawk Indians v. New York et al.* (82-CV-1114); *The St. Regis Mohawk Tribe, by the St. Regis Mohawk Tribal Council and the People of the Longhouse at Akwesasne, by Mohawk Nation Council of Chiefs v. The State of New York, et al.* (89-CV-829).

Regis Mohawk Indian Reservation.⁵ The U.S. Supreme Court stated in *Solem v. Bartlett*, “The first and governing principle is that only Congress can divest a reservation of its land and diminish its boundaries. Once a block of land is set aside for an Indian reservation and no matter what happens to the title of individual plots within the area, the entire block retains its reservation status until Congress explicitly indicates otherwise.”⁶ Also in the *City of Sherrill v. Oneida Indian Nation*, the Court expressly declined to address the Second Circuit’s previous determination that the Oneida Indian Nation Reservation had not been disestablished noting that “only Congress can divest a reservation of its land and diminish its boundaries.”⁷ Furthermore, the United States has repeatedly affirmed the Triangle remains reservation land.⁸

Given that the SRMT Probate Law grants the Court “exclusive jurisdiction to probate real property located within the reservation”⁹ and that the illegal purchase of the lands within the Triangle is immaterial as only the United States Congress can change or diminish the SRMT Indian Reservation, the Court finds it has exclusive jurisdiction to probate and distribute the assets of the Estate of [REDACTED] Thompson.

It is hereby ADJUDGED that the Court has exclusive subject matter jurisdiction and the probate action shall proceed. [REDACTED] Thompson is granted the Letters Testamentary and the action shall proceed pursuant to the SRMT Probate Law.

Signed by my hand this 24th day of May, 2018.



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

⁵ *Nebraska v. Parker*, 136 S. Ct. 1072 (2016); *Decoteau v. District Court*, 420 U.S. 425 (1975); *United States v. Celestine*, 215 U.S. 278 (1909).

⁶ *Solem v. Bartlett*, 465 U.S. 463, 470 (1984).

⁷ 544 U.S. 197, 216 n. 9 (2005).

⁸ Saint Regis Mohawk Tribe’s Brief, Attachment B, United States Second Circuit Appeal Brief filed in *United States v. Wilson*, Docket No. 11-915, dated July 1, 2011, 11-12.

⁹ SRMT Probate Law § 1.3(b)(1).