

**Matter of Bolton (Ramsey)**

2022 NY Slip Op 30940(U)

April 15, 2022

Surrogate's Court, New York County

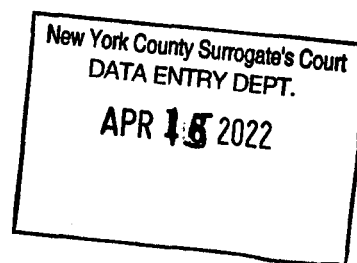
Docket Number: File No. 2019-1502/A

Judge: Rita Mella

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This opinion is uncorrected and not selected for official publication.

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK



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In the Matter of the Cross-Petition of Victoria Bolton and  
Alfonso Qahhaar, for Appointment as Administrators  
of the Estate of

CALVIN RAMSEY,

Deceased,

DECISION and ORDER

File No.: 2019-1502/A

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In the Matter of the Cross-Petition of Kimberly Phillips, for  
Appointment as Successor Temporary Administrator and  
Administrator of the Estate of

CALVIN RAMSEY,

Deceased,

File No.: 2019-1502/C

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M E L L A, S.:

Decedent Calvin Ramsey, former basketball player and New York Knicks broadcaster, died intestate on March 25, 2019. In the months following his death, competing petitions for the appointment of an Administrator for his estate were filed in this court. The first petition, by Ivane Phillips, identified decedent's distributees as seven nieces and nephews, the children of two pre-deceased alleged half-siblings of decedent, related through decedent's father (hereinafter referred to collectively as the niece/nephew class). With the consent of the other six members of this class, Letters of Temporary Administration issued to Ivane Phillips on June 21, 2019.

Thereafter, a cross-petition was filed by Alfonso Qahhaar and Victoria Bolton. Cross-Petitioners alleged that decedent's distributees are in fact two maternal first cousins, Mr. Qahhaar and Mary El-Amin (hereinafter referred to collectively as the cousins). Among the papers filed with Cross-Petitioners' application is a document appearing to have been executed by Ms. El-Amin on August 15, 2019, titled "Waiver of Citation, Renunciation and Consent to

Appointment of Administrator,” in which Ms. Bolton is designated to serve as an Administrator (the designation). Cross-Petitioners argue that no father is identified for decedent on either his birth certificate or death certificate and maintain that decedent’s father and thus the paternal side of his family is not established and that the niece/nephew class is not entitled to inherit from decedent’s estate. Because Cross-Petitioners identify cousins as decedent’s distributees, the Public Administrator of New York County was made a party to this proceeding (SCPA 1123[j][2]).<sup>1</sup> A verified answer to the cross-petition was filed by Ivane Phillips, along with an Affirmation by her counsel and a copy of decedent’s birth certificate, which lists Calvin Beaver as decedent’s father and Ruth Mae Ramsey as decedent’s mother and indicates that Mr. Beaver and Ms. Ramsey were not married.

The parties appeared by counsel before the court on October 22, 2019, on an application by the Temporary Administrator regarding access to certain estate assets and on the cross-petition. In light of the dispute regarding decedent’s distributees, the court imposed a bond in the amount of \$400,000 on Ivane Phillips’s Letters of Temporary Administration and directed Cross-Petitioners to amend their petition to identify unknown distributees and cause citation to issue on them in order for the court to proceed to make a kinship determination. Nothing further was filed with respect to the Cross-Petition until recently.

In the summer of 2021, Kimberly Phillips, another member of the niece/nephew class, filed her own cross-petition and therein advised the court that Ivane Phillips had died on January 11, 2021, leaving the decedent’s estate without a fiduciary. Kimberly Phillips asks the court appoint her as Administrator, and requests Letters of Temporary Administration to protect estate assets and prevent the funds in an estate account from being turned over to the state’s unclaimed

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<sup>1</sup> If Cross-Petitioners are correct that decedent was survived only by maternal cousins as distributees, the Public Administrator would have priority to Letters of Administration in his estate (SCPA 1001[1][f][ii]).

funds. Kimberly Phillips has the support of the niece/nephew class, but for one individual, Shahara Ogelsby, who, according to Kimberly Phillips, is not in fact a distributee of decedent.

Citation on Kimberly Phillips’s cross-petition issued to Alfonso Qahhaar, Victoria Bolton, Mary El-Amin, and the Public Administrator of New York County, returnable before the court on April 12, 2022. The cousins’ cross-petition was restored to the calendar for the same date by the court *sua sponte*. Prior to the appearance before the court, Ms. El-Amin filed verified objections to Kimberly Phillips’s cross-petition, asserting that Kimberly Phillips is not “an heir to the estate of Calvin Ramsey.”

At the call of the calendar on April 12, 2022, held by virtual means using Microsoft Teams, counsel for Kimberly Phillips, counsel for the Public Administrator, and counsel of record for the Cross-Petitioners appeared, as did Alfonso Qahhaar, Victoria Bolton, and Mary El-Amin.<sup>2</sup> To start, the court outlined the outstanding procedural infirmities of the cross-petition which had been brought to the attention of the parties when the matter was last before the court in October 2019.

In the context of this discussion, and with respect to counsel of record for the Cross-Petitioners, James U. Notice, Esq., of Notice Law, PLLC, the court accepted the statements of the Cross-Petitioners that Mr. Notice’s representation of them had been terminated and the court relieved him as their counsel of record. The court advised Mr. Qahhaar that if he was proceeding

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<sup>2</sup> Ms. El-Amin was accompanied by her daughter Ceylon Davis- Frazier, who was advised that she could not formally appear for Ms. El-Amin, because she is not a lawyer admitted to practice in the State of New York. The court further advised Ms. Davis-Frazier that the court had not accepted papers that she mailed to the court, purportedly in her capacity as agent for Ms. El-Amin because only a copy of the power of attorney was provided. Additionally, no power of attorney has been recorded with the court (*see* EPTL 13-2.3 and Uniform Rules of the Surrogate’s Court [22 NYCRR] § 207.48). These documents, styled as motions, are being returned at this time.

pro se, he should complete, serve, and file a Notice of Appearance form so indicating, a copy of which the court will provide to him.

Also regarding the cousins' petition, Ms. El-Amin disputed on the record in open court that she had designated Ms. Bolton to serve as co-Administrator. The court directed that any application by Ms. El-Amin to revoke her designation of Ms. Bolton and, should she choose to, seek to be substituted as a party in the cross-petition,<sup>3</sup> must be filed with the court and served on the other parties to the cross-petition in order for the court to consider it. Further, the outstanding procedural defects, specifically an amendment to identify unknown distributees and cause citation to issue and be served on them, must be addressed before the court can proceed to determine the cross-petition. In any event, as further explained below, the court is holding the cross-petition of the cousins (File No. 2019-1502/A) in abeyance.

Turning to Kimberly Phillips's petition, and the objections of Mr. Qahhaar and Ms. El-Amin to the status of the alleged nieces and nephews,<sup>4</sup> the court recognized some procedural steps that need to be taken before the merits of this dispute can be determined. First, with respect to Shahara Oglesby, the court directed that supplemental citation must issue to her in which it is particularly described that the petition has been amended to exclude her as an alleged distributee.<sup>5</sup> Kimberly Phillips's counsel should submit a proposed citation. The petition of

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<sup>3</sup> It will be for Ms. El-Amin to determine the appropriate mechanism for seeking relief from the court of her aforementioned apparent designation of Victoria Bolton.

<sup>4</sup> On the record before the court, Mr. Qahhaar questioned the strength of the documentary evidence submitted by the niece/nephew class in light of the fact that decedent was a non-marital child. He in particular challenged the significance and weight of the listing of Calvin Beaver as father on decedent's birth certificate. His position is also contained in his cross-petition and documents filed in support.

<sup>5</sup> This is directed in light of the amendment made to Kimberly Phillips's petition now claiming that Shahara Oglesby is not a niece of decedent. In the context of the petition of Ivane Phillips, Ms. Oglesby had been identified as a niece and signed and filed a waiver of citation, renunciation and consent to the appointment of Ivane Phillips as Administrator in May 2019. The court must be satisfied that Ms. Oglesby has appropriate notice and an opportunity to be heard regarding this amendment which would remove her as an interested party.

Kimberly Phillips (File No. 2019-1502/C) was adjourned to June 10, 2022, as the return date for this supplemental citation.

Further, returning to the status of the nieces and nephews as distributees, the court, once jurisdiction is complete on Kimberly Phillips's petition, will proceed to determine the claim that they are the distributees. In order to make that determination, process must also issue to unknown distributees, and such citation shall be served by publication. This citation should also be returnable June 10, 2022, and Kimberly Phillips's counsel is directed to submit this proposed citation as well.

The court advised the parties that a hearing will then be held for the purposes of addressing two issues: (1) whether the nieces and nephews can prove that they are related to decedent, that there are no other relatives more closely related than them and that there are no other members of their own class (*see Matter of Morrow*, NYLJ, Apr. 12, 2001, at 27, col. 5 [Sur Ct, Bronx County]); and (2) whether the niece/nephew class is entitled to inherit from decedent in light of the fact that decedent was a non-marital child. In view of the priority to inherit that nieces and nephews would have over cousins provided by EPTL 4-1.1(a)(5), the court concludes that this determination should be made first and that the cousins' cross-petition (File No. 2019-1502/A) should be held in abeyance pending resolution of Kimberly Phillips's petition (File No. 2019-1502/C).

Turning to Kimberly Phillips's application for her appointment as Temporary Administrator, the court first noted that Ms. El-Amin had, in a document filed with the court on March 25, 2022, opposed Kimberly Phillips's appointment and asked for the appointment of the Public Administrator. The court inquired of the parties as to whether they would all consent to the Public Administrator serving as fiduciary of decedent's estate, and asked Kimberly Phillips's

counsel to advise the court, after speaking with their client, whether she would consent. At this time, however, notwithstanding the objections, the court found no reason to deny Kimberly Phillips's request for her appointment as Temporary Administrator in light of the present need for a fiduciary to manage and marshal estate assets, and thus directed the issuance of successor Letters of Temporary Administration to her upon the filing of a bond in the amount of \$400,000. It is accordingly,

ORDERED that Letters of Temporary Administration heretofore issued to Ivane Phillips, now deceased, are revoked; and it is further

ORDERED that successor Letters of Temporary Administration on the estate of the above-named decedent issue to Kimberly Phillips, upon her filing a bond in the sum of \$400,000, and otherwise qualifying according to law; and it is further

ORDERED that, pursuant to SCPA 903(1), the powers of the Temporary Administrator include all powers and authority of an administrator except to pay or satisfy any intestate share.

Dated: April 15, 2022

  
SURROGATE