

1959

Dorothy W. Olson v. Clyde Edmonds et al : Brief of Respondents

Utah Supreme Court

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In the
Supreme Court of the State of Utah

DOROTHY W. OLSON, Administratrix of
the Estate of Mary J. Westover, Deceased,
Plaintiff and Appellant,

—vs.—

CLYDE EDMONDS, WARD HOL-
BROOK, EDITH GARNER, NOBLE
CHAMBERS, the CACHE COUNTY DE-
PARTMENT OF PUBLIC WELFARE
and THE STATE OF UTAH DEPART-
MENT OF PUBLIC WELFARE.
Defendants and Respondents.

Appeal No.
8975

FILED
FEB 26 1959

BRIEF OF RESPONDENTS

Clark, Supreme Court, Utah

Appeal from the District Court of the First Judicial
District of the State of Utah

In and For the County of Cache

HONORABLE LEWIS JONES, *Judge*

E. R. CALLISTER, *Attorney General*

By EARL S. SPAFFORD

Assistant Attorney General

State Capitol Building

Salt Lake City, Utah

Attorneys for Defendants and Respondents

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BRIEF OF RESPONDENTS

STATEMENT OF FACTS

The statement of facts as contained in Appellant's Brief on Appeal are, as Respondent views it, substantially correct and for purposes of this Appeal do accurately reflect the material facts relating to this case.

STATEMENT OF POINT

POINT I.

THE DISTRICT COURT DID NOT ERR IN SUSTAINING THE ACTION OF THE CACHE COUNTY WELFARE DEPARTMENT AND OF RESPONDENTS IN RETAINING THE SUM OF \$420.00 AS EARNED INTEREST TO APPLY ON THE LIEN SETTLEMENT OF THE MARY J. WESTOVER ESTATE.

ARGUMENT

POINT I.

THE DISTRICT COURT DID NOT ERR IN SUSTAINING THE ACTION OF THE CACHE COUNTY WELFARE DEPARTMENT AND OF RESPONDENTS IN RETAINING THE SUM OF \$420.00 AS EARNED INTEREST TO APPLY ON THE LIEN SETTLEMENT OF THE MARY J. WESTOVER ESTATE.

From Respondents examination of the law, this appears to be a case of first impression as to the interpretation of Utah Code Annotated, 55-2-5 (3) (b) relating to interest charged in connection with the settlement of welfare liens. Respondent relies upon the provisions of Utah Code Annotated, 1953, 55-2-5 as amended and here-in refers to those portions of the aforesaid section which relate directly to the issue of this case.

UCA 1953, 55-2-5 (3) (b) provides in the second and third paragraph thereof as follows :

“Whenever a lien becomes due and payable, a certificate in form approved by the State Department certifying as to the amount of assistance given the recipient, and the amount of the lien

shall be mailed to the recipient or the recipient's heirs or administrators of the estate, and the same shall be allowed, approved, filed and paid as other claims in the administration of the estate of the decedent. The amount so certified shall constitute the entire claim as of the date of such certificate against the real property of the recipient or his or her spouse and any person dealing with the recipient may rely upon such certificate as evidencing the amount of the existing lien against such real estate.

“If the heirs are unable to make a lump sum settlement of the lien at the time it becomes due and payable, the State Department may permit settlement based upon periodic payments in a manner prescribed by the State Department. In such cases, interest at the rate of 6% per annum shall be chargeable beginning ninety days after the lien becomes due and payable. . . .”

The language of the aforesaid section of the statute is controlling in this case. In a manner prescribed by the State Department of Public Welfare an extension of time was granted the estate of Mary J. Westover for settlement of the lien agreement. By reason of the extension of time, interest was charged at the prescribed statutory rate. A fair value was placed upon the property with interest charges based upon the value so fixed. This value corresponds with the actual sale price of the property less the sum of \$1,000.00, which sum represents the legal exemption allowed by law.

Utah Code Annotated 1953, 55-2-5 (2) creates the legal exemption in the settlement of Welfare liens. We quote from the second paragraph of subsection (2):

“At the time of the settlement of a lien given in accordance with Section 55-2-5, (1),

“(a) there shall be a cash exemption of \$1,000.00 to be deducted from the market value of such property less any assistance granted under the provisions of Section 55-2-5, (1),

“(c) when husband and wife are both recipients and one or both of them own an interest in real property the lien shall attach to the interest of both for the reimbursement of assistance received by either or both spouses and but one exemption as provided herein shall be allowed. . . .”

This same section goes on to provide “. . . the amount of reimbursement of all liens now held by the State Department as well as all liens subsequently acquired shall be determined on the basis of the above described formula when they become due and payable.”

The Legislature has stated that the Department of Public Welfare has a specific lien on all real property or interest in real property held by the recipient of public assistance and/or his or her spouse. \$1,000.00 of the value of such property is exempt from the lien but the remainder is chargeable for the entire amount of assistance granted. The exemption does not guarantee that the heirs receive \$1,000.00, but only restricts the amount recoverable by the Department pursuant to the lien instrument itself. In no way is the Welfare Department precluded from collecting interest nor is the source from

which such interest may be collected limited by the statute.

The last above-quoted language providing that the formula shall be applied in determining the amount of assistance recoverable when the lien becomes due and payable further strengthens Respondent's position in this case for the reason that Respondent did in fact accept the actual sales price as the basis for applying the formula and computed interest on this sum less the \$1,000.00 statutory exemption.

The interest charged in the case of Welfare liens is in the nature of an ordinary debt or obligation, and once the amount of interest is properly computed as was the case at point, it becomes collectible in the same manner and according to the same principals of law as the collection of other debts. In this case, money came into the possession of the State Department of Public Welfare, who had a claim stemming from two separate sources. The first, of course, for assistance rendered and secured by the lien. The second based upon the statutory formula for interest. The Welfare Department, then, having been paid the sum of \$1,000.00, which money belonged to the estate, was in contemplation of law and based upon sound principals of equity justified in claiming a setoff to the extent of the interest earned and not paid. This the Department did by deducting the sum of \$420.00 interest earned and remitting to the estate the balance then remaining.

Appellants suggest that Respondents, in exercising the power and right herein asserted, in effect reduced the exemption by administrative fiat and that by so doing they exceeded their lawful authority. Respondent suggests that the settlement of a lien can be accomplished summarily by action of the administrator or the heirs and that interest does not accrue until beginning ninety days after the lien became due and payable. Thus we see that settlement of the lien can be accomplished based upon an appraised value and without any delay and the payment of interest completely avoided.

CONCLUSION

Respondent has uniformly applied the construction herein set forth in the interpretation and enforcement of the provisions of law cited by Respondents. The Legislature has afforded a legal exemption to the heirs in order to meet the expenses incident to settlement of estates, and in order to pay debts incurred by the estate in connection with the settlement of the affairs of the deceased and the proper administration and distribution of the deceased assets. Where the Administrator elects to delay settlement of a claim and thereby exposes the estate to the payment of interest, such interest becomes a debt of the same character as other estate incurred obligations and is collectable from the same sources of revenue or assets, including but not limited to the \$1,000.00 exemption provided by law.

It is regrettable in this case that the Administrator chose to delay settlement for such a prolonged period and

thereby incurred what may appear to be needless interest, but having done so, we submit that the debt thereby incurred compels the same favorable treatment as other obligations.

If the Administrator was malfeasant in the handling of the estate by failing to accomplish a more speedy disposition of the lien, then this becomes a problem to be disposed of by action initiated by the heirs or the courts and does not concern the Welfare Department.

Respectfully submitted,

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