NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN RE: ESTATE OF WALTER R. HOLEWA, DECEASED	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
APPEAL OF: NANCY HOLEWA A.K.A. NANCY TAN	:	No. 1179 WDA 2023

Appeal from the Order Entered September 15, 2023
In the Court of Common Pleas of Allegheny County Orphans' Court at
No(s): 02-21-06251

BEFORE: MURRAY, J., McLAUGHLIN, J., and KING, J.

MEMORANDUM BY MURRAY, J.: **FILED: December 30, 2024**

Nancy Holewa a.k.a. Nancy Tan (Appellant) appeals from the orphans' court's order denying her petitions to revoke the letters of administration for the Estate of Walter R. Holewa (Decedent);[1] produce a will; provide an accounting; and to grant letters of administration to her, as Decedent's surviving spouse. In denying Appellant's petitions, the orphans' court determined Appellant failed to establish her common law marriage to Decedent.[2] Appellant additionally filed in this Court an application to impose

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[1] Appellant's sisters, Barbara Holewa and Sharone Bray (Respondents), previously were granted letters of administration for Decedent's estate.

[2] In this probate action, the orphans' court found Appellant was not the common law wife of Decedent. Because the orphans' court's order determined the status of fiduciaries and beneficiaries of Decedent's estate, the order is
(Footnote Continued Next Page)

fees and costs against Respondents for discontinuing their cross-appeal. We deny Appellant's application for fees and costs and affirm the orphans' court's order.

Appellant (born in 1932) met Decedent in 1974. At the time, Appellant was married to John Tan (Mr. Tan), but had been separated from Mr. Tan for approximately six months. Appellant moved into Decedent's apartment before finalizing her divorce from Mr. Tan. Appellant's divorce became final on March 29, 1976. Appellant lived with Decedent in the years that followed.

As the orphans' court stated in its opinion,

> Decedent … died [intestate] on August 11, 2021, at the age of 78. Decedent was survived by … [Respondents]. On August 17, 2021, Respondents were awarded letters of administration. On October 4, 2021, [Appellant] filed three Petitions with the Wills Division of the Department of Court Records. [Appellant] filed a Petition to Produce a Will[;] a Petition [for Citation] to Revoke Letters of Administration, Provide an Accounting and Grant Letters to Surviving Spouse[;] and a Petition for Appointment of Administrator *Pendente Lite*.
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> [Appellant] claim[ed] that on the date of Decedent's death, she was his common law wife, and therefore Decedent's sole heir [under Pennsylvania law], since a will has never been found. Decedent had approximately $8,000,000 in a Schwab investment account at the time of his death. Decedent also had the non-probate asset of a Fidelity account with approximately $2,039,876[,] for which [Appellant] was the named beneficiary. [The orphans' court] scheduled a trial to determine whether [Appellant] was Decedent's common law wife.

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appealable as of right. ***See*** Pa.R.A.P. 342(a)(5) (providing an appeal may be taken as of right from an orphans' court's order "determining the status of fiduciaries, beneficiaries, or creditors in an estate, trust, or guardianship[.]")

Orphans' Court Opinion, 9/15/23, at 1-2 (citation omitted).

Following a trial that took place on April 17-21, 2023, July 11-12, 2023, and July 17, 2023, the orphans' court denied Appellant relief on her petitions. Orphans' Court Order, 9/8/23. In particular, the orphans' court denied Appellant's petition to grant letters testamentary to her, as Decedent's surviving spouse, concluding that Appellant failed to establish her common law marriage to Decedent. ***Id.*** Appellant timely appealed and Respondents cross-appealed.[3] Appellant and the orphans' court have complied with Pa.R.A.P. 1925.

Appellant presents the following issue for our review:

> Whether the [orphans'] court erred by denying [Appellant's] Petition for Citation to Revoke Letters of Administration, Provide an Accounting and Grant Letters to Surviving Spouse[?]

Appellant's Brief at 4.

We review this issue mindful of the following:

> The register's decision to issue letters is a judicial act. A party contesting that act may appeal to the orphans' court. In turn, a party challenging a ruling of the orphans' court may, of course, appeal to this Court.

In re Estate of Tigue, 926 A.2d 453, 456 (Pa. Super. 2007) (citations omitted). Where, as here,

> the orphans' court has held an evidentiary hearing, we will then afford the court's findings the same weight as a jury verdict, and

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[3] Respondents subsequently withdrew their cross-appeal.

> we will disturb the court's decree only if it is unsupported by the evidence or if it includes an error of law….

Id. (citations omitted).

Appellant challenges the orphans' court's determination that she failed to establish a common law marriage between her and Decedent. Appellant's Brief at 25. Our Supreme Court has recognized,

> [t]he burden to prove the marriage is on the party alleging a marriage, and we have described this as a "heavy" burden where there is an allegation of a common law marriage. When an attempt is made to establish a marriage without the usual formalities, the claim must be reviewed with "great scrutiny."

Staudenmayer v. Staudenmayer, 714 A.2d 1016, 1020 (Pa. 1998) (internal citations omitted).

> Marriage in Pennsylvania
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> is a civil contract by which [two parties] take each other for husband and wife. ***In re Estate of Manfredi***, … 159 A.2d 697, 700 ([Pa.] 1960). There are two kinds of marriage: (1) ceremonial; and (2) common law. ***Id.*** A ceremonial marriage is a wedding or marriage performed by a religious or civil authority with the usual or customary ceremony or formalities. ***Id.*** ***See*** 23 Pa.C.S. § 1501, *et seq*.
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> Because claims for the existence of a marriage in the absence of a certified ceremonial marriage present a "fruitful source of perjury and fraud," Pennsylvania courts have long viewed such claims with hostility. ***See In re Estate of Wagner***, … 159 A.2d 495, 497 ([Pa.] 1960). Common law marriages are tolerated, but not encouraged. ***Id.*** ….

Id. at 1019.

In 2004, the Pennsylvania legislature amended the Domestic Relations Code, effective January 24, 2005, with regard to "common law" marriages:

> **§ 1103. Common-law marriage**
>
> No common-law marriage contracted after January 1, 2005, shall be valid. Nothing in this part shall be deemed or taken to render any common-law marriage otherwise lawful and contracted on or before January 1, 2005, invalid.

23 Pa.C.S.A. § 1103. Thus, our legislature abolished the doctrine of common law marriage effective January 2005, although common law marriages entered into prior to that date remain valid. ***See id.***

In ***Staudenmayer***, our Supreme Court stated that

> [a] common law marriage can only be created by an exchange of words in the present tense, spoken with the specific purpose that the legal relationship of husband and wife are created by that [exchange] [(also referred to as *verba in praesenti*)].
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> ….
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> **The common law marriage contract does not require any specific form of words, and all that is essential is proof of an agreement to enter into the legal relationship of marriage at the present time**.

Staudenmayer, 714 A.2d at 1020 (emphasis added). Nevertheless,

> [b]ecause common law marriage cases arose most frequently because of claims for a putative surviving spouse's share of an estate, … we developed a rebuttable presumption in favor of a common law marriage where there is an absence of testimony regarding the exchange of *verba in praesenti*. When applicable, the party claiming a common law marriage who proves: (1) constant cohabitation; and (2) a reputation of marriage which is not partial or divided but is broad and general, raises the rebuttable presumption of marriage. Constant cohabitation, however, even when conjoined with general reputation are not marriage[;] they are merely circumstances which give rise to a rebuttable presumption of marriage.

Id. at 1020-21 (citations and footnotes omitted). With this in mind, we consider Appellant's argument.

Appellant argues that she presented "uncontroverted" and "credible" evidence of "words exchanged between her and [Decedent], sufficient to create the union of marriage between them." Appellant's Brief at 25. Appellant asserts that, although Pennsylvania law requires no specific words to create a common law marriage, the orphans' court "placed an improper emphasis on the lack of [] specific words spoken" between the couple. ***Id.*** at 26.

Appellant argues that during trial, she presented uncontroverted testimony that in 1976,

> following her official divorce from [her former husband, Mr. Tan], she approached [Decedent] expressing her sincere desire to go to a church together to be married. During that conversation, [Decedent's] response to [Appellant] was that they were already[,] in fact[,] married. [Appellant] additionally testified that these conversations gave her the understanding that she and [Decedent] were in fact married.

Id. at 28. Appellant argues, Decedent's statement to her that "we are married, and [that] she expressed her happiness with that fact, suffices to create a common law marriage between them[.]" ***Id.*** at 29 (punctuation modified).

Appellant acknowledges she "could not remember the exact words exchanged between her and [Decedent] relating to the formation of their marriage[.]" ***Id.*** at 30. However, she argues "she was not obligated to

present evidence on 'form words' or the like." ***Id.*** According to Appellant, even in the absence of specific words, she and Decedent understood the effect of their conversations, and both consented to a marital relationship. ***Id.*** Appellant points out that the orphans' court credited her testimony regarding her conversations with Decedent. ***Id.*** at 31. Thus, Appellant challenges the orphans' court's failure to find a common law marriage by *verba in praesenti*.

Our review of the record discloses the following. At trial, Appellant testified that she met Decedent prior to the finalization of her divorce from Mr. Tan. N.T., 4/17-21/23, at 191. She stated she remained in a relationship with Decedent from the day they met until his death. ***Id.*** at 192.

In claiming her common law marriage to Decedent, Appellant relies on the following portion of her testimony:

> I really wanted to go to church and be married and I would have felt more comfortable about that, but [Decedent] said, that's not necessary. **He says, we are married.**

Id. at 194 (emphasis added). Later in her testimony, Appellant again described this conversation as follows:

> It was when -- as I said, I wanted to be married in church because we were both Catholic. And [Decedent] said that … going to church wasn't all that necessary. He said, you're married anyway.

Id. at 196. Appellant testified that, as part of this conversation, Decedent said he loved Appellant and wanted to live with her forever. ***Id.*** at 199. From that point on, Appellant considered herself married to Decedent. ***Id.*** at 194. Appellant could not recall when this conversation took place. ***Id.*** at 201.

However, she thought it took place **before** her divorce from Mr. Tan in 1976. ***Id.***

During cross-examination, Appellant admitted that during her 1988 deposition (during her prior divorce action against Decedent), she had a better memory of the events. ***Id.*** at 250. The transcript from Appellant's 1988 deposition was admitted into evidence. ***Id.*** In her deposition, Appellant explained she married her former husband, Mr. Tan, on November 8, 1952. N.T., 5/20/88, at 14. According to Appellant, they divorced on March 29, 1976. ***Id.*** Appellant also testified that, when referring to her "wedding anniversary" with Decedent, she meant the day that she met Decedent. ***Id.*** at 33. However, Appellant was still married to Mr. Tan when she met Decedent. ***Id.***

Appellant separated from Mr. Tan in June 1974, and divorced him in March 1976. ***Id.*** at 35. Appellant began dating Decedent six months after separating from Mr. Tan. ***Id.*** at 34. According to Appellant, she dated Decedent for a year,

> and he was transferred back down to Virginia Beach, and he told his employer that he was bringing his fiancée down, and that we were buying a home.

Id. at 37. Appellant was not present to hear the conversation between Decedent and his employer. ***Id.***

Appellant testified that in February or March 1976, after applying for her divorce from Mr. Tan, she moved in with Decedent. ***Id.*** at 39-40. Appellant

and Decedent purchased a home in Virginia Beach, Virginia. ***Id.*** at 41. In executing the purchase agreement, Appellant signed her name as both "Nancy Tan" and "Nancy Holewa." ***Id.*** However, Appellant admitted she did not tell the realtor that she and Decedent were married or "definitely getting married." ***Id.*** at 42.

In her deposition, Appellant testified that she and Decedent "talked about marriage and he said that we were indeed married." ***Id.*** at 90. Appellant explained, "I was insecure, not going to church to make our marriage what I considered more substantial for me. I just wanted a church wedding, and he said it wasn't necessary." ***Id.*** According to Appellant, "[w]e had talked about [marriage] when we were purchasing the home. We had talked about it before we went [to Virginia]. We talked about it just all the time." ***Id.*** She testified,

> [i]f I felt insecure, and I said, "When are we going to go to church?" [Decedent] said it wasn't necessary. So it made him upset. So it made him angry. And he said it wasn't necessary. So I felt, well, it wasn't necessary.

Id. at 91.

Appellant could not identify a time when Decedent said, "I'm married to you." ***Id.*** Nevertheless, Appellant stated, "I felt that after my divorce was final, I was married to [Decedent]." ***Id.*** at 92. However, other than introducing Appellant several times as his wife, Decedent never told her, "I'm married to you." ***Id.***

Appellant further admitted that many times, she said to Decedent, "'Let's just go to a church.' And [Decedent] would … either say nothing or he would just walk away and say it wasn't necessary because **you're already married anyway**." ***Id.*** at 97 (emphasis added). These instances occurred when Appellant discovered Decedent visiting "go-go bars." ***Id.***

The orphans' court considered the evidence, and concluded Appellant failed to establish a common law marriage "by an exchange of words in the present tense, spoken with the specific purpose that the legal relationship of husband and wife are created by that." ***Staudenmayer***, 714 A.2d at 1020. The orphans' court found as follows:

> [Appellant] was born on April 5, 1932. [Appellant] and Decedent met on November 8, 1974, when she was 42 and had been separated from her husband, [Mr.] Tan, for approximately six months. They dated and [Appellant] moved in with Decedent around January 18, 1976, **before** [**Appellant**] **was divorced from Mr. Tan**. [**Appellant**] **and** [**Mr. Tan**] **were divorced on March 29, 1976.**
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> The topic of marriage was discussed several times during their relationship. Decedent always responded in a similar manner when they discussed marriage. [Appellant] does not remember the dates of these conversations. [Appellant] was always the one who brought it up. She wanted to get married in a church and would discuss her desire for a church wedding with Decedent, and he would respond that it was not necessary since they were already married. [Appellant] does not remember her reply, but she was content because [Decedent] assured her that they would be together forever. [Appellant] let Decedent know that she was content. [**Appellant**] **testified that she thinks the conversation occurred <u>before</u> her divorce from Mr. Tan**. However, this type of conversation occurred several times in the first few years of their relationship.

Orphans' Court Opinion, 9/15/23, at 3 (citations omitted; emphases added).

As detailed by the orphans' court,

> [Appellant] first alleged a common law marriage in a divorce complaint that she filed on March 14, 1988, alleging a common law marriage date of March 30, 1976. Decedent filed an Answer and New Matter denying the existence of a common law marriage. [Appellant's] deposition was taken on May 20, 1988, due to the divorce proceedings. The parties stipulated that this 1988 deposition was admitted into evidence. The divorce action was never resolved because [Appellant] abandoned it since she did not have the money to continue it.

Orphans' Court Opinion, 9/15/23, at 2 (citations omitted).

Regarding Appellant's 1988 deposition, the orphans' court found the following:

> [I]n the early years of their relationship, when [Appellant] felt insecure about Decedent's seeing other women[,] she would request a church wedding. Decedent would respond either by saying nothing or walking away and saying it was not necessary since she was already married anyway. [Appellant] still did not feel secure and wanted a ceremony for Decedent to say I will do something. He never said anything like "I do" or "I do wed thee" or words to that effect. He said it was not necessary. [Appellant] does not remember the exact words Decedent said to her about them already being married. The only times the topic of marriage was discussed was when [Appellant] brought up the subject of getting married in a church. [Appellant] would bring the subject [up] when she felt insecure[,] and Decedent always replied that a church marriage was not necessary since they were already married.

Orphans' Court Opinion, 9/15/23, at 3-4 (citations omitted).

> [**Appellant**] **considered herself married on March 30, 1976, the day after she was divorced from Mr. Tan, although Decedent and** [**Appellant**] **did not discuss anything about marriage on that date**. ([N.T., 5/20/88,] at 89-92). [Appellant] believed she was married to Decedent the day after her divorce with Mr. Tan was granted because Decedent had already told his company that he was married (even though at the time he told

> his company[, Appellant] was already married to Mr. Tan so they couldn't have been married). ([***Id.*** at] 124-126).
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> [**Appellant**] **thought she was around 42** [**years old**] **the first time Decedent said they don't need a church wedding since they were already married. She believes this was the first time because she remembers being concerned that they were not married when she wanted to get pregnant**. This conversation would have occurred before [Appellant] was divorced from Mr. Tan. She did not approach Decedent about marrying in a church in the years closer to filing the divorce action. [Appellant] felt so insecure about their relationship and the lack of an official marriage that she bought her own health insurance when she first went to work in 1980 because she felt it was safer than having something happen and [Decedent] walking out.

Id. at 4-5 (emphasis added; some citations omitted).

Significantly, the orphans' court credited Appellant's testimony regarding her conversations with Decedent. ***Id.*** at 7. The orphans' court

> found [Appellant's] testimony about the words said regarding the alleged common law marriage to be credible. It is clear from [Appellant's] testimony that several times during the early years of their relationship, [Appellant] felt insecure about their relationship and requested they get married in a church. Decedent would respond that it was not necessary to marry in a church since they were already married. [Appellant] would acquiesce and be content until the next time she brought it up. These words are insufficient to establish a common law marriage. They are not *verba in praesenti*: **Decedent's words stated that something had occurred in the past. He told** [**Appellant**] **that they were married, and therefore did not need a church wedding. They were not words in the present tense, spoken with the specific purpose of creating the legal status of husband and wife. Additionally, there was no exchange of words.**
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> [Appellant] did not testify as to any words she said to Decedent establishing a common law marriage. She did not remember the exact words Decedent said to her or any reply she said to him, only that she was content afterwards and let him know that. They never said to each other words such as "we are now husband and

> wife[,"] never had an exchange of words in the present tense indicating marriage. [Appellant] believed they were married the day after her divorce from Mr. Tan, but this was an incorrect belief since there w[as] no contemporaneous exchange of words to be husband and wife on that date or on any other date.
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> ….
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> In the instant case, **Decedent's words were that** [**he and Appellant**] **were already married, and** [**Appellant**] **did not testify as to any words that she stated back to Decedent**, **only that she was content with Decedent's words.** A common law marriage does not require any specific form of words. However, it must be established that each party understood the relation into which they were about to enter, and mutually consented to marry. … [Appellant] and Decedent did not say words agreeing to enter into the legal relationship of husband and wife **at the present time**….

Id. at 7-10 (emphasis added; citations omitted). The orphans' court's findings are supported in the record, and its legal conclusion is sound. Appellant failed to establish, by clear and convincing evidence, a common law marriage by an exchange of *verba in praesenti*. ***See Staudenmayer***, 714 A.2d at 1020.

We note that Appellant's reliance on ***Cann v. Cann***, 632 A.2d 322 (Pa. Super. 1993), and ***In re Estate of Carter***, 159 A.3d 970 (Pa. Super. 2017), is misplaced. ***See*** Appellant's Brief at 26 (relying on ***Cann*** and ***Estate of Carter***). In ***Cann***, Charles Cann, II (Mr. Cann), married Ilonka Cann (Ms. Cann) in 1967. ***Cann***, 632 A.2d at 323. Ms. Cann subsequently disappeared. ***Id.*** In 1971, Mr. Cann entered into a relationship with another woman (the appellee), who knew of Mr. Cann's marriage to Ms. Cann, and Ms. Cann's subsequent disappearance. ***Id.*** The appellee moved into Mr. Cann's residence, "where she lived until 1987." ***Id.*** In 1986, the appellee filed a

divorce action against Mr. Cann, claiming a common law marriage and seeking equitable distribution of their property. ***Id.*** Mr. Cann denied ever being married to the appellee. ***Id.*** The trial court subsequently found a common law marriage existed between Mr. Cann and the appellee. ***Id.***

On appeal, this Court affirmed, concluding Mr. Cann's prior marriage did not preclude the common law marriage, where the former spouse is presumed dead:

> This court has long held that where a spouse from a prior marriage has been missing for a period of seven years, she is presumed dead for the purposes of the validity of a prior marriage. [Mr. Cann] argues that since an interested party never petitioned the court to declare [Ms.] Cann dead, the presumption is not applicable. However, in these instances the court has upheld this presumption, regardless of whether the court acted upon a petition. ***See***, ***e.g.***, ***Schaefer v. Schaefer***, … 149 A.2d 578 ([Pa. Super.]1959) (court recognized the validity of second marriage where appellant's husband had been missing for ten years); ***In re Estate of D'ippolito***, … 218 A.2d 224 ([Pa.] 1966) (court recognized the validity of second marriage where 24[-]year period elapsed between the time decedent was deserted by her first husband and the second marriage) …. ***See also*** 1 A. FREEDMAN & M. FREEDMAN, LAW OF MARRIAGE AND DIVORCE IN PENNSYLVANIA § 85 (1957) (where second marriage takes place seven years after first spouse was last heard of, presumption of death arises and second marriage is valid).
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> In the present case, [Mr. Cann's] wife disappeared in 1970 and has not been seen nor heard from since. In 1971, [Mr. Cann] entered into a meretricious relationship with [the] appellee. As [Mr. Cann's] wife had been missing for a period exceeding seven years, the trial court held that [Mr. Cann's] wife was presumed dead as of 1977. To overcome the presumption, the burden is on [Mr. Cann] to prove that his first spouse was alive at the time of the second marriage. As [Mr. Cann] offered no evidence to the contrary, the impediment to marriage was removed in 1977.

Id. at 323 (some citations omitted). This Court further determined that, five years after the impediment to Mr. Cann's marriage was removed, the couple formally exchanged vows:

> At that time the couple expressed a present intention to marry. In addition there is corroborative evidence introduced by [the] appellee that supports a finding that the parties were married in 1982.

Id. Thus, the appellee in ***Cann*** established a common law marriage by *verba in praesenti*. ***See id.***

By contrast, in this case, Appellant does not dispute her first husband, Mr. Tan, was alive at the time she began living with Decedent. Under ***Cann***, Appellant's marriage to Mr. Tan constituted an impediment to a common law marriage until their divorce. A common law marriage by *verba in praesenti* could not be established until after Appellant's divorce from Mr. Tan.

In ***Estate of Carter***, a case involving a same-sex couple, Michael Hunter (Hunter) appealed the trial court's order denying a declaration that he and his late partner, Stephen Carter (Carter), had entered into a common-law marriage. ***Estate of Carter***, 159 A.3d at 972. This Court reversed, concluding the evidence established a common law marriage between Hunter and Carter:

> At the hearing, Hunter testified that on December 25, 1996, he proposed to Carter and gave him a diamond ring. [Hunter] asked, "Will you marry me?" to which Carter replied, "Yes." At this point, any reasonable reading of the facts would lead to the conclusion that Hunter and Carter were engaged to be married.

> Two months later, on February 18, 1997, Carter completed the ring exchange by giving Hunter a ring in return. The ring bears the engraving, "February 18, 1997." Each year thereafter, Hunter and Carter celebrated their anniversary on February 18. Both of their families treated Hunter and Carter as spouses, with Carter's nieces referring to Hunter as "Uncle Mike." Hunter testified that he and Carter considered themselves married as of February 18, 1997[,] and referred to each other as spouses from that day forward. Hunter also submitted affidavits from his brother, several friends, and Carter's sisters, each of whom stated that Hunter and Carter had considered themselves married and held themselves out as a married couple.
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> [] [T]he uncontradicted evidence established that Hunter and Carter had **a present intent to marry** on February 18, 1997.

Id. at 980-81 (emphasis added, citations omitted). Thus, Carter's proposal with a ring, Hunter's completion of the ring exchange two months later, and the parties' celebration of the date of the presentation of the second ring as their anniversary corroborated the testimony of an exchange of words showing a present intent to marry. ***See id.*** at 981.

By contrast, the evidence in this case failed to establish Appellant and Decedent expressed their present intent to marry. Consequently, our holding in ***Estate of Carter*** offers no support to Appellant. Appellant's first issue merits no relief.

Appellant also argues the orphans' court improperly considered cohabitation and reputation evidence in determining whether she had

established a common law marriage by *verba in praesenti*.[4] Appellant's Brief at 32. According to Appellant, the orphans' court "gave improper weight to its determination that [Appellant] failed to provide sufficient cohabitation and reputation evidence." ***Id.*** Appellant claims the orphans' court erred in holding "that the insufficiency of the cohabitation and reputation evidence disproved the existence" of her common law marriage to Decedent. ***Id.*** at 33.

Upon review, Appellant misinterprets the orphans' court's consideration of reputation and cohabitation evidence. As stated above, where no *verba in praesenti* of a common law marriage are established, the orphans' court may consider whether Appellant established a rebuttable presumption of a common law marriage through cohabitation and reputation. ***Staudenmayer***, 714 A.2d at 1020-21.

Our review discloses that, after determining Appellant failed to establish a common law marriage by *verba in praesenti*, the orphans' court appropriately considered whether Appellant established a rebuttable presumption of a common law marriage. We discern no error or abuse of the orphans' court's discretion in considering reputation and cohabitation evidence in this context. Accordingly, Appellant's claim merits no relief.

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[4] This issue is not listed in Appellant's statement of questions involved. ***See*** Pa.R.A.P. 2119(a) ("No question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby.").

Based on the foregoing, the evidence supports the orphans' court's determination that Appellant failed to establish a common law marriage by *verba in praesenti*.[5] Accordingly, we affirm the orphans' court's order.[6]

Petition for fees and costs denied. Order affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

12/30/2024

[5] Appellant does not challenge the orphans' court's determination that she failed to establish a rebuttable presumption of a common law marriage by cohabitation and reputation.

[6] We further deny Appellant's application for fees and costs associated with the discontinuance of Respondents' cross-appeal.