

## **MODERN MYTHS**

**MYTH #1: The disease of alcoholism is caused by drinking alcohol.**

**MYTH #2: Alcoholism is caused by stress.**

**MYTH #3: Alcoholism is the symptom of an underlying psychological disorder.**

**MYTH #4: Alcoholics must drink to excess on a daily basis.**

**MYTH #5: Alcoholism is cured by not drinking.**

### **Alcoholism is:**

**a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. It is characterized by continuous or periodic impaired control over drinking, preoccupation with drug/alcohol, use of alcohol despite adverse consequences, and distortions in thinking, most notably denial.**

**There is no cure for alcoholism; however, with proper treatment the disease can be placed in remission.**

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BETTY M. HEACOX, ET AL. v. HARVEY E. RICE, JR.,  
ET AL., EXECUTORS OF THE ESTATE OF HARVEY E.  
RICE, C.P. Franklin County Division, Orphans Court Branch,  
No. 13 of 1999

*Heacox v. Rice. Orphans' Court*

1) Where Item #2 of the decedent's Will states: "I give and bequeath my dishes and personal effects to my daughters," and Item #3 states: "All the rest, residue and remainder of my estate, real, personal and mixed, of whatsoever kind and wheresoever situate, I give, devise and bequeath to my eleven children...in equal shares," the phrase "personal effects" does not include all objects of the decedent's personal property found in his house, but includes only those items intimately associated with his person, as opposed to household effects, which are more associated with his house.

2) Because "personal effects" and "household effects" are both types of personal property, courts are guided by the rule of ejusdem generis in distinguishing between them; the rule provides that where general words follow an enumeration of things, such general words are not to be construed in their widest extent, but are to be held as applying only to things of the same general kind or class as those specifically mentioned.

3) Because the general phrase "personal effects" follows the specific word "dishes" in Item #2, "personal effects" reasonably encompasses other objects normally associated with the preparation and serving of food and liquids, such as plates, platters, trays, saucers, bowls, pots, vases, glasses, cups, pitchers, silverware, sugar and creamer sets, salt and pepper shakers, dinner bells, tupperware and cookware, and as such, should pass to the petitioners, the decedent's daughters.

5) As for the remaining objects not associated with the preparation and serving of food and liquids, Item #3 leaving the residue of the decedent's personal property to all eleven of his children in equal shares would be rendered meaningless by the petitioner's claim that "personal effects" refers to the entire contents of the decedent's house and therefore "personal effects" should be narrowly construed to include articles frequently used by or carried on the decedent's person, and articles more intimately associated with a person than a household - objects likely to have sentimental value or objects used in the pursuit of a craft or hobby.

*Donald L. Kornfield, Esquire, Attorney for Plaintiffs  
Gregory L. Kiersz, Esquire, Attorney for Defendants*

ADJUDICATION

HERMAN, J., May 8, 2000:

## ADJUDICATION

### INTRODUCTION

Before the court is a declaratory judgment action arising from the May 17, 1994 Last Will and Testament of Harvey E. Rice. Mr. Rice died December 4, 1998 and his Will was probated four days later.<sup>1</sup> The petitioners are five of Mr. Rice's daughters. The respondents are two of Mr. Rice's sons, the Will's co-executors. The petitioners sent the executors a notice of claim by letter dated January 5, 1999 and filed this action on February 11, 1999.<sup>2</sup>

The Will provides as follows:

ITEM 2: I give and bequeath my dishes and personal effects to my daughters...

ITEM 3: All the rest, residue and remainder of my estate, real, personal and mixed, of whatsoever kind and wheresoever situate, I give, devise and bequeath to my eleven (11) children....in equal shares.

(Exhibit P-1 attached to the complaint). The petitioners allege "dishes" refers to all of Mr. Rice's dishes, including a so-called "collectible" set, and not only the common use dishes. They also allege "personal effects" includes all objects of Mr. Rice's personal property found in his house. It is the respondents' position that only Mr. Rice's common use dishes and articles closely associated with his person should pass to the petitioners under Item 2, with the rest of the house's contents passing to Mr. Rice's eleven children under the residuary clause in Item 3.

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<sup>1</sup>This action for a declaratory judgment in the context of an Orphans' Court matter is permitted under the Declaratory Judgments Act, 42 Pa.C.S. sections 7533 and 7535(3).

<sup>2</sup>This letter was admitted into evidence at trial as petitioners' exhibit #104.

The parties stipulated the Will contains no ambiguities and therefore the court cannot consider extrinsic evidence to explain what Mr. Rice meant by "dishes," "personal effects," and "personal property," but must glean his intentions solely from the four corners of the Will. *Bloom v. Selfon*, 531 A.2d 12 (Pa. Super. 1987), *affirmed* 555 A.2d 75 (Pa. 1989); *Estate of Felice*, 409 A.2d 382 (Pa. 1979). Admitted into evidence at trial was an inventory of approximately 100 items from Mr. Rice's house as depicted in 100 corresponding photographs. The inventory and photographs also correspond with boxes in which the items are packed.<sup>3</sup> In addition to deciding which items are "dishes" intended to pass to the petitioners, the court must decide whether "personal effects" refers to all of Mr. Rice's personal property or only to a particular kind of personal property.

### DISCUSSION OF THE LAW

Black's Law Dictionary defines "personal effects" as

"articles associated with [the] person, as property having more or less intimate relation to [the] person of the possessor; 'effects' meaning movable or chattel property of any kind...Term when used in [W]ill, includes only such tangible property as attended the person, or such tangible property as is worn or carried about the person."

*Black's Law Dictionary*, revised 4th edition, p. 1301.

Following Black's definition, courts in this Commonwealth have drawn a distinction between personal and household effects. Although both kinds of objects fall within the broad category of personal property, the phrase "personal effects" is construed more narrowly to refer to articles closely associated with the person, whereas household effects are associated with the house. For example, it has been held that "personal effects"

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<sup>3</sup>The inventory was admitted as petitioners' exhibit #103 and the accompanying photographs were admitted as part of that exhibit.

does not refer to the entire contents of a house but only to articles like clothing, jewelry and books. *In re Donaldson's Estate*, 67 A.2d 88 (Pa. 1949); *In re Lippincott's Estate*, 34 A. 58 (Pa. 1896); *In re Estate of Beisgen*, 128 A.2d 52 (Pa. 1956). The courts have been guided in their reasoning by the rule of ejusdem generis:

where general words follow an enumeration of...things...such general words are not to be construed in their widest extent, but are to be held as applying only to...**things of the same general kind or class** as those specifically mentioned...The rule, however, does not necessarily require that the general provision be limited in its scope to the **identical** things specifically named. Nor does it apply when the context manifests a contrary intention.

*Black's*, p. 608. (emphasis supplied). Under this rule, where the phrase "personal effects" follows a specified kind of object such as jewelry or clothing, that phrase is narrowly construed to refer to a similar, though not necessarily identical, kind of object. We adopt this approach to resolve the issues in the case at bar.

### DISCUSSION OF THE EVIDENCE

We have reviewed the 100-item inventory and accompanying photographs. We also examined the contents of boxes #30, 31, 33 and 58 at trial at the request of the parties because they were unable to stipulate to whether they contain common use or "collectible" dishes. Box #30 contains a rose pattern dinnerware set consisting of gravy dishes, tea cups, serving platters, saucers, dessert dishes, dinner and salad size dishes, cream and sugar bowls, and salt and pepper shakers. Box #31 contains ten green drinking glasses with a matching pitcher. In box #33 there are several white plates with red and green flowers, two glass or crystal drinking glasses, three ceramic bowls, two flowered trays and several glass dishes. Box #58 contains an off-white gravy pitcher, several small items

appearing to be made of glass or crystal, a blue cat, an orange glass bowl, a brass bell and a glass bell.

The first issue is whether "dishes" refers to all of Mr. Rice's dishes, including the so-called collectible dishes, or only to common use dishes. Because the Will does not differentiate, we must use the ordinary definition of "dish" which is "an open, generally shallow and concave container for holding or serving food." *Webster's II New Riverside University Dictionary* (1984). We find that most of the objects in #30 and #33 clearly fit this definition and should pass to the petitioners under Item 2 of the Will.

The next issue is whether the remaining objects in the inventory constitute personal as opposed to household effects. Applying the ejusdem generis rule helps to resolve this issue. Because the general phrase "personal effects" follows the specific word "dishes," we find "personal effects" reasonably encompasses other objects normally associated with the preparation and serving of food and liquids, such as plates, platters, trays, saucers, bowls, pots, vases, glasses, cups, pitchers, silverware, sugar and creamer sets, salt and pepper shakers, dinner bells, tupperware and cookware. Such objects are listed in the inventory as #31, 32, 34, 57, 58, 59, 60, 63, 64, 74, 75, 76 and 78, and should pass to the petitioners.

As for the remaining objects **not** associated with the preparation and serving of food, Item 3 of the Will leaves the residue of Mr. Rice's personal property to all eleven of his children in equal shares. Accepting the petitioners' view that "personal effects" refers to the entire contents of Mr. Rice's house, including furniture and furnishings, would render this provision meaningless. We therefore reject the petitioners' interpretation and instead find "personal effects" should be narrowly construed to include articles frequently used by or carried on the decedent's person, such as suitcases, canes, crutches, walkers, clothing, a cat hauler and a hunting knife

appearing in the inventory as #11, 14, 21, 22, 41, 66, 71 and 88. The petitioners are also entitled to receive objects more intimately associated with a person than with a household - objects likely to have sentimental value such as books, toys, tapes, and also hobby or craft materials appearing in the inventory as #15, 17, 24, 43, 46, 47, 50, 52, 72, 73, 80, 81, 83, 84, 90 and 91.

We find the following objects are neither dishes nor personal effects and should pass through the residuary clause: furniture, furnishings, blankets, curtains, bedding, clocks, telephones, equipment, appliances, and other decorative, though by no means unique, objects such as figurines appearing in the inventory as #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 16, 18, 19, 20, 23, 25, 26, 27, 28, 29, 35, 36, 37, 38, 39, 40, 42, 44, 45, 48, 49, 51, 53, 54, 55, 56, 61, 62, 65, 67, 68, 69, 70, 77, 79, 82, 85, 86, 87, 89, 92, 93, 94, 95, 96, 97, 98, 99 and 100. These types of objects are found in almost every home and are therefore more akin to household effects than to articles intimately associated with a particular person. An appropriate Decree Nisi will be entered as part of this Adjudication.

#### DECREE NISI

**NOW** this 8th day of May, 2000, this matter having come before the court pursuant to a request for declaratory relief regarding claims made under the Last Will and Testament of decedent Harvey E. Rice, and the court having held a hearing and considered the evidence, the law and the arguments of counsel, hereby finds as follows consistent with the attached Adjudication:

*The following objects are dishes and personal effects under Item 2 of the Will: #11, 14, 15, 17, 21, 22, 24, 30, 31, 32, 33, 34, 41, 43, 46, 47, 50, 52, 57, 58, 59, 60, 63, 64, 66, 71, 72, 73, 74, 75, 76, 78, 80, 81, 83, 84, 88, 90 and 91.*

*The following objects are neither dishes nor personal effects but are articles of personal property under Item 3 of the Will: #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 16, 18, 19, 20, 23, 25, 26, 27, 28, 29, 35, 36, 37, 38, 39, 40, 42, 44, 45, 48, 49, 51, 53, 54, 55, 56, 61, 62, 65, 67, 68, 69, 70, 77, 79, 82, 85, 86, 87, 89, 92, 93, 94, 95, 96, 97, 98, 99 and 100.*

The Clerk of Courts is directed to notify the attorneys of record of the filing of this Decree Nisi pursuant to Pennsylvania Rule of Civil Procedure 1517 and if no post-trial motions are filed within ten (10) days after such notice in accordance with Pennsylvania Rule of Civil Procedure 227.1, to enter the Decree Nisi as the Final Decree in accordance with Pennsylvania Rule of Civil Procedure 227.4