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## 2002 Survey of Rhode Island Law: Cases: Trusts and Estates

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**Trusts and Estates.** *Tierney v. Department of Human Services*, 793 A.2d 210 (R.I. 2002). In determining an applicant's eligibility for Medicaid, all assets held by the applicant in a joint bank account with a right of survivorship are presumed to be resources of the applicant, even if he or she dies during the determination of eligibility.

#### FACTS AND TRAVEL

On March 2, 1998, Kevin J. Tierney, along with his aunt Helen R. Markley (plaintiffs), applied to the Rhode Island Department of Human Services (DHS) on behalf of Kevin's mother, Mary Tierney (Mary), seeking benefits under the Medical Assistance Program (Medicaid) to finance Mary's nursing home care.<sup>1</sup> According to DHS policy, Mary would be eligible for Medicaid benefits only if her assets did not exceed \$4,000.<sup>2</sup> DHS determined that Mary held \$27,108.24 in various joint bank accounts with the plaintiffs.<sup>3</sup> The plaintiffs did, however, retain a right of survivorship in the event of Mary's death.<sup>4</sup> According to DHS policy, "all of the funds are presumed to be the resources of the applicant" whenever the applicant is a joint account owner.<sup>5</sup> Finding that the plaintiffs had only been added to the bank account for convenience purposes, DHS denied the claim.<sup>6</sup>

On June 24, 1998, plaintiffs appeared before a DHS hearing officer to appeal this decision.<sup>7</sup> At the hearing, plaintiffs acknowledged the money in the account originally belonged to Mary.<sup>8</sup>

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1. *Tierney v. Dep't of Human Servs.*, 793 A.2d 210, 211 (R.I. 2002).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.* at 211 n.1 ("Whenever the applicant is a joint account holder who has unrestricted access to the funds in the account, ALL of the funds are PRESUMED to be the resources of the applicant or deemor. The applicant or deemor will be offered the opportunity to submit evidence in rebuttal of this presumption. A successful rebuttal will result in finding that the funds (or a portion of the funds) in the joint account are not owned by the applicant or the deemor and, therefore, are not the resources of the applicant." (quoting R.I. DEP'T OF HUMAN SERVS. MANUAL R. 0382.15.10.10 (emphasis omitted))).

6. *Tierney*, 793 A.2d at 211.

7. *Id.* at 211-12.

8. *Id.* at 212.

Prior to the hearing officer issuing his decision, Mary Tierney died on August 3, 1998.<sup>9</sup>

On August 6, 1998, the DHS officer affirmed the denial of the plaintiffs' claim, concluding Mary was the source of the funds in the joint bank accounts and that she had unrestricted access to these accounts during her lifetime.<sup>10</sup> Therefore, the plaintiffs failed to rebut the presumption that the funds were "the resources of the applicant."<sup>11</sup> Furthermore, the hearing officer stated that *Robinson v. Delfino*<sup>12</sup> was not relevant to any determination of a deceased's assets pertaining to her eligibility for Medicaid, because such a determination only pertained to applicant's assets while alive, rather than after death.<sup>13</sup>

On the plaintiffs' appeal, the superior court disagreed, stating that *Robinson* mandated a finding that funds in the joint bank accounts were the property of the plaintiffs and could not be considered by DHS in determining Mary's eligibility for Medicaid.<sup>14</sup> DHS appealed this decision to the Rhode Island Supreme Court.

#### BACKGROUND

In an appeal from the decision of a state agency, the supreme court may concern itself only with errors of law<sup>15</sup> and may not substitute its own judgment for the agency's findings of fact.<sup>16</sup>

#### ANALYSIS AND HOLDING

On appeal, the plaintiffs advanced two arguments in support of a finding that the DHS hearing officer erred in denying their claim for Medicaid funds for Mary Tierney: (1) under *Robinson*, the

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9. *Id.* at 211.

10. *Id.*

11. *Id.*

12. 710 A.2d 154 (R.I. 1998). The rule of law established in *Robinson* is: [A]bsent evidence of fraud, undue influence, duress, or lack of mental capacity, the establishment of a joint bank account with survivorship rights "is conclusive evidence of the intention to transfer to the survivor an immediate, *in praesenti*, joint beneficial possessory ownership right in the balance of the account remaining *after the death of the depositor.*"

*Tierney*, 793 A.2d. at 213 (quoting *Robinson*, 710 A.2d at 161 (emphasis added)).

13. *Tierney*, 793 A.2d at 212.

14. *Id.*

15. *Id.* at 212 (citing *Star Enter. v. Delbarone*, 746 A.2d 692, 695 (R.I. 2000)).

16. *Id.* at 213 (citing *Technic Inc. v. R.I. Dep't of Employment and Training*, 669 A.2d 1156, 1158 (R.I. 1996)).

fact that Mary died prior to the hearing officer's ruling dictated the funds were now the property of the plaintiffs, and therefore should not have been included in a determination of eligibility for Medicaid funds and (2) the initial finding by the DHS hearing officer that the plaintiffs were added to the bank accounts for convenience purposes was erroneous.<sup>17</sup> Because neither assertion is relevant to the DHS determination of Mary Tierney's eligibility for Medicaid, the superior court erred in finding for the plaintiffs.<sup>18</sup>

First, the rule expounded in *Robinson* does not change DHS policy, because while that case is controlling on ownership issues after death, a DHS determination of eligibility for Medicaid pertains to the applicant's assets prior to death.<sup>19</sup> Therefore, *Robinson* has no bearing on any determination of Mary Tierney's assets during her life.<sup>20</sup> In contrast, the Rhode Island Supreme Court in *Mitchell v. Mitchell*<sup>21</sup> held that a joint bank account creates immediate possessory interests during the lives of both owners.<sup>22</sup> Ultimately, DHS should have considered the assets contained in the joint bank accounts in determining Mary's eligibility for Medicaid because any determination of her assets pertained only to the time period in which she was alive.<sup>23</sup> Therefore, the trial justice committed reversible error in overturning the DHS decision denying the plaintiffs' claim.<sup>24</sup>

Second, the assertion regarding plaintiffs being added to Mary's accounts for mere convenience was both not relevant to the issue at hand and a non-reviewable finding of fact by the agency.<sup>25</sup> The assertion was not relevant because DHS had to determine whether Mary had unrestricted access to the account, not the nature of the plaintiffs' access.<sup>26</sup> Also, because the conclusion Mary had unrestricted access to the accounts was a finding of fact by DHS, any finding to the contrary by the court would violate the standard of review.<sup>27</sup>

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17. *Id.*

18. *Id.* at 214.

19. *Id.*

20. *Id.*

21. 756 A.2d 179 (R.I. 2000).

22. *Tierney*, 793 A.2d. at 213 (quoting *Mitchell*, 756 A.2d at 182).

23. *Id.*

24. *Id.* at 214.

25. *Id.*

26. *Id.*

27. *Id.*

## CONCLUSION

In *Tierney v. Department of Human Services*, the Rhode Island Supreme Court reversed the ruling of the superior court that held *Robinson* changed DHS policy regarding the determination of assets for Medicaid eligibility. The court upheld the policy of DHS, which mandates that assets held in a joint bank account with a right of survivorship will be presumed to be the property of the applicant. To rebut this presumption, the applicant must prove he or she does not have unrestricted access to the account. The death of the applicant during the determination of eligibility is also not relevant to this presumption.

Kyle Zambarano

**Trusts and Estates.** *Tinney v. Tinney*, 799 A.2d 235 (R.I. 2002). The inheritance rights of a person adopted as an adult are the same as those of a person adopted as a child under section 15-7-16(a) of the Rhode Island General Laws.

#### FACTS AND TRAVEL

In 1990, eighty-four-year-old Ruth Tinney (Ruth) adopted thirty-eight-year-old Kevin Tinney, a.k.a. Kevin Jacob Koelisch (Kevin).<sup>1</sup> Thereafter, when Ruth died intestate in December 1995, Kevin filed a petition to probate her estate, listing himself and her biological son, Donald Tinney (Donald), as heirs at law with a one-half ownership interest each.<sup>2</sup> In disagreement, Donald sought a declaratory judgment that Kevin, as an adopted adult, was not entitled to intestate inheritance.<sup>3</sup> Donald named Kevin and the administrator of Ruth's estate, B. Mitchell Simpson, as defendants.<sup>4</sup> Donald contended that section 15-7-16(a) of the Rhode Island General Laws, which grants a lawfully adopted child inheritance rights equal to those of a child born to the parent, did not apply to persons adopted as adults.<sup>5</sup> The superior court hearing justice granted summary judgment in favor of Kevin, concluding that the statute applied to an adopted child regardless of age at adoption.<sup>6</sup> Donald timely appealed.<sup>7</sup>

#### ANALYSIS AND HOLDING

At issue was the intended meaning of the statute providing for inheritance by adopted children, which states in relevant part: "A child lawfully adopted shall be deemed for the purpose of inheritance by the child and his or her descendants from the parents by adoption . . . the child of the parents by adoption the same as if he or she had been born to them in lawful wedlock."<sup>8</sup>

Affirming the summary judgment order, the Rhode Island Supreme Court dismissed the plaintiff's contention that use of the

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1. *Tinney v. Tinney*, 799 A.2d 235, 235 (R.I. 2002).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.* at 235-36 (citing R.I. GEN. LAWS § 15-7-16(a) (2000)).

6. *Id.* at 236.

7. *Id.*

8. *Id.* (quoting R.I. GEN. LAWS § 15-7-16(a) (2000)).

word "child" in section 15-7-16(a) indicated a legislative intent to omit such adult adoptees from the operation of the statute.<sup>9</sup> Rather, the court explained that when the language of a statute is clear and unambiguous, legislative intent can be determined by giving the words their plain and ordinary meaning and "child" means the son or daughter of a parent, regardless of age.<sup>10</sup>

The plaintiff's attempt to illustrate ambiguity in the term "child" by analogy to section 15-7-4(d), the statute permitting the adoption of adults in which the term "persons" is used, was defeated by a historical analysis of the reasons for differing procedures.<sup>11</sup> The court explained that historically juvenile court had jurisdiction over the adoption of minors and probate court had jurisdiction over the adoption of adults.<sup>12</sup> When the family court replaced the juvenile court, jurisdiction over the adoption of minors was transferred to the family court, but jurisdiction over the adoption of adults remained in probate court.<sup>13</sup> Furthermore, the supreme court explained that despite the jurisdictional difference, the legislature at no time distinguished between the rights of those adopted as minors and those adopted as adults.<sup>14</sup> The court also explained that this interpretation was consistent with the public policy purpose of the statutorily created adoption relationship, which is to promote family unity.<sup>15</sup>

#### CONCLUSION

Since the language of section 15-7-16(a) is clear and unambiguous, the term "child" means a son or daughter of a parent, regardless of age. Therefore, all adoptees have the same inheritance rights whether they were adopted before or after they reached the age of majority.

Johnna Tierney

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9. *Id.*

10. *Id.* at 237.

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*