

**COURT OF COMMON PLEAS  
PROBATE DIVISION  
HAMILTON COUNTY, OHIO**

ESTATE OF	:	CASE NO. 954702
MARJORIE B. SCHILLING	:	
	:	OPINION AND ENTRY
	:	REGARDING EXCEPTIONS
	:	TO INVENTORY
	:	
	:	
	:	
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This matter came before Judge Wayne F. Wilke on December 12, 1996, concerning exceptions to the inventory of this estate. Present were Audrey A. Campbell, on behalf of the Estate; Franklin A. Klaine, on behalf of Women Helping Women, a residual beneficiary; and John Roszmann, on behalf of the Exceptor herein, Christine S. Roszmann. The parties were given until January 10, 1997 in which to present closing arguments and until January 17, 1997 in which to file replies to each other's closing argument.

FACTS

The decedent herein, Marjorie B. Schilling, died testate on September 18, 1995. She was survived by two daughters, to wit: Ann Flournoy and Christine S. Roszmann, both of which are to receive only one dollar each under the terms of the will.

On July 12, 1996, the Executor of this estate filed an inventory and appraisal indicating that the estate contained assets totaling \$261,809.00. Christine S. Roszmann filed exceptions to the inventory on July 29, 1996. Her exceptions are premised on two beliefs: that certain items left off the inventory should be included and that other items

which were included should have been omitted. The items alleged to have been left off the inventory are as follows:

- “1. oriental stool
2. antique pressed glass goblets
3. wicker log basket
4. silver candlesticks
5. silver trays
6. antique Victorian water server - silver plate
7. recipe boxes
8. various family papers and correspondence and books
9. Pearl necklace with ruby clasp
10. gold enameled basket pin
11. sunburst pin with diamonds”

The other exceptions to the inventory were that there were items of personalty included in

the inventory that belonged to individuals other than the decedent by gift *inter vivos* or otherwise. In other words, the Exceptor alleges that the following items should not be included in the inventory:

- “1. Oriental rug - Heriz
2. Corner cupboard
3. Antique chest with side rails
4. walnut towel stand
5. oriental dividing screen
6. mahogany overhang chest with mirror
7. teapot
8. apothecary”

#### CONCLUSIONS OF LAW

Revised Code §2115.16 provides for the filing of exceptions to an inventory. The purpose of a hearing on those exceptions is to determine whether those charged with the responsibility therefor have included in a decedent's estate more or less than the decedent owned at the date of death. *In re Gottwald* (1956), 164 Ohio St. 405. Where, as here, an

individual alleges an estate inventory is deficient in assets, the burden of proving the existence of such additional assets is on the objector. *Steward v. Barry, Admr.* (1921), 102 Ohio St. 129; *Bolen v. Humes* (1951), 94 Ohio App.1, 4. The Court finds that the Exceptor has met this burden and has demonstrated to the Court that the following items shall be included in an amended inventory:

1. oriental stool
2. antique pressed glass goblets
3. wicker log basket
4. silver candlesticks
5. silver trays
6. antique Victorian water server - silver plate
7. recipe boxes
8. various family papers and correspondence and books
9. Pearl necklace with ruby clasp
10. gold enameled basket pin
11. sunburst pin with diamonds

With regard to the Exceptor's allegation that certain items should not have been included in the inventory, the Court finds that the Exceptor has not demonstrated that the exceptions should be sustained. The Exceptor alleges that certain of the property listed on the inventory was owned by others and simply stored by the decedent.

The evidence presented was simply insufficient to establish ownership by anyone other than the decedent. The evidence surrounding the decedent's lifestyle, in conjunction with the length of time these items were in her possession, clearly negate the Exceptor's belief that the decedent was merely storing the disputed items. Consequently, the following items are to remain included in the estate inventory:

1. Oriental rug - Heriz
2. Corner cupboard
3. Antique chest with side rails
4. walnut towel stand
5. oriental dividing screen
6. mahogany overhang chest with mirror

7. teapot
8. apothecary

SO ORDERED.

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WAYNE F. WILKE, JUDGE

cc: Audrey A. Campbell  
John H. Roszmann