Decedent Estate Law–Penal Law–Right of Person Civilly Dead to Inherit Property (Matter of Shaffer, 184 Misc. 855 (1945))

St. John's Law Review
Decedent Estate Law — Penal Law — Right of Person Civilly Dead to Inherit Property.—George A. Shaffer died intestate on or about January 1, 1944, leaving a daughter, the administratrix of the estate herein, and a son. Under the Decedent Estate Law, the son and daughter would be the sole distributees. The son was serving a sentence of life imprisonment as a fourth offender, and was, therefore, deemed civilly dead. The question presented to the court was: Did the fact that the son was civilly dead preclude him from sharing in his father’s estate? Held, the son was entitled to one-half of the estate, and a committee was authorized by the court to administer the son’s share. Matter of Shaffer, 184 Misc. 855, 56 N. Y. S. (2d) 568 (1945).

This is a novel question which heretofore has not been directly decided in New York. Cases submitted from other jurisdictions shed no light; none has been found that holds that a man may be divested of his right to inherit property from his own father in intestacy.

It has been decided that the loss of civil rights does not work a forfeiture of a convict’s property nor divest him of his right to leave property by will. Furthermore, the statutes relating to the transfer and devolution of property on the death of a convict owner contemplate the natural death of the convict rather than his civil death. In distinguishing between natural and civil death, the courts have refused to grant letters of administration upon the estate of a person found civilly dead. The court also took notice of the fact that a person serving a life sentence for various crimes may be released after serving the maximum sentence for one of the particular crimes and that a convict may be pardoned by the governor.

The Penal Law provides: “A conviction of a person for any crime does not work a forfeiture of any property, real or personal, or any right or interest therein. . . .” The court concluded that in the absence of any further legislation on the subject, the fact that a person is civilly dead does not defeat his right to inherit.

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