

IN THE SUPREME COURT OF THE STATE OF NORTH DAKOTA

STATE OF NORTH DAKOTA, APPELLEE RENVILLE COUNTY NO.38-2012-CR-00108  
(&PROBATE NO38-09-P-0C5)

V SUPREME COURT 20150036, 2014317, 20130358 & 20200154

JOAN LESLIE GATES, APPELLANT BRIEF

TABLE OF CONTENTS

TABLE OF CITATIONS - PG. 1

STATEMENT OF THE ISSUES - PG 2

STATEMENT OF THE FACTS - PG 3

ARGUMENT - PG 4

CONCLUSION - PG 5

PROOF OF SERVICE

TABLE OF CITATIONS

NDCC12-1-32-08(1)

STATE V BINGAMAN (2002ND210,655NW2d57)

STATE V KLEPPE (2011ND141, 800NW2d311)

SUPREME COURT CASE 20150036, 2014317 & 20130358 (STATE OF ND V GATES)

WILL OF LELA SYLVIA GATES (RENVILLE COUNTY PROBATE NO 38-09-P-00005)

STATEMENT OF THE ISSUES

The ND Renville County Court failed to wait for the final ND Supreme Court Decision (State v Gates ND177, 865 ND2d816). The Probate of the Lela Gates Estate (pg 17, appendix) was closed out in ND Renville Court before the final Supreme Court Decision. Appellant Gates objected many times (pg 8, 11 & 12, Appellant Appendix). All of the estate attorneys and Estate Personal Representative Westereng should be fined \$100,000. each for their negligent actions. Those are the following: Estate paid Attorney John Steinberger, Jr., Box 566, Kenmare, ND58746; Estate Attorney Paul Temanson, 1111 31st Ave SW Ste C, Minot, ND 58701; Estate PR Mark Westereng, 315 3rd St SE, Minot, ND 58701 and ND Renville County Court, PO Box 68, Mohall, ND 58761.

At the Appellant's restitution hearing the probate attorneys, the estate pr and the Renville Court state attorney Madson insisted that the Appellant pay one and a half Million dollars in restitution. The Appellant was charged with NDCC12-1-32-08(1) which states that the amount of theft and restitution be between \$10,000. and \$50,000.; therefore the Appellant requests the Supreme Court to remove the felony charge from the Appellant record. Page 15, Appellant's appendix is the criminal charge and the amount of theft was never stated.

As per the Lela Gates Will ( pg 17, Appendix) the Appellant is to have an equal share. So as per the ND Renville County Court registered will the Appellant should be paid an additional \$30,849.77, plus interest and readjusted inheritance. If the ND Renville Court had properly waited for the final Supreme Court Decision the Appellant would have gotten her equal share at that time.

Case State v Bingaman and Case State v Kleppe state that District courts abuse standard discretion in acting in an arbitrary and unreasonable manner and then misapply the law. This happened in this case State v Gates.

#### STATEMENT OF TE FACTS

The appellant was charged with NDCC12-1-32-08(1). This is a crime she didn't commit because the amount of the charged theft and restitution was not between \$10,000. and \$50,000 (pg 15, appendix). The felony charge should be removed from her record,

The will of Lela Gates was properly witnessed and filed by ND Attorney Brenda Zent in the ND Renville County Court; therefore the ND Renville County Court is responsible for the closing probate actions.

ND Supreme Court case 20150036 states the final decision to be applied in State v Gates (855NW2d816). This decision should be applied.

#### ARGUMENT

Why make ND laws the the ND Renville County Court doesn't follow?? This entire criminal case should have been presented in Renville County probate. The inheritors could never agree on anything and some inheritors felt that there was more money than there ever was. Appellant's Mother Lela Gates was land poor and she lived on very little monthly cash. But her lease land payments did keep her solvent. Most of the Appellant's siblings spend more than they earn. Bob and Lela Gates spent a life time accumulating land only to have it sold to greedy relatives. Appellant is requesting the court allow her the inheritance stated in the Lela Gates will (pg 17, appendix).

#### CONCLUSION

The Appellant requests that the \$30,849.77, plus interest and any amount in inheritance calculations be issued to her by the ND Renville County Court.

Judge Benson attempts to separate the closing out of the Probate because he signed the final close out papers. He attempts to use the length of time for the probate; but the Criminal Case No. 38-2012-cr-108 is a direct result of Renville Probate case 38-09-p-00005. One can not be separated from the other. The Probate was never completely adjudicated when the Appellant didn't sign the final papers (appellant appendix, pg 16) and when Judge Benson failed to wait for all of the appeals to be addressed.

#### PROOF OF SERVICE

Appellant Gates certifies that she emailed the Appellant Brief to the following at their last known addresses

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