

IN THE COURT OF APPEALS OF TENNESSEE

EASTERN SECTION

**FILED**

February 29, 1996

Cecil Crowson, Jr.  
Appellate Court Clerk

TERESA J. WCKS, et al.,	)	C/ A NO. 03A01-9510-CV00363
	)	
Appellant,	)	ROANE LAW
	)	
v.	)	HON. RUSSELL SIMMONS, JR.,
	)	JUDGE
VETERANS' STEEL ERECTION CO.,	)	
INC., et al.,	)	AFFIRMED
	)	AND
Appellees.	)	REMANDED

GERALD LARGEN, Kingston, for Appellant.

CHARLES W BURSEN, Attorney General and Reporter, and  
DI ANNE STAMEY DYCUS, Senior Counsel, Attorney General's  
Office, Nashville, for Appellee, Attorney General Charles  
Burson.

O P I N I O N

Franks. J.

In this wrongful death action, the Trial court ruled  
against appellant, and appellant has appealed and well states  
the issue:

[a]s to whether the adoption of a three-year old  
infant on July 25, 1975, cuts off all claims of the

child to inherit from the natural parent, or to participate in the proceeds of a recovery in a wrongful death action, occasioned by the natural parent's death.

Appellant was adopted at age three by her stepfather. As a part of this 1975 adoption proceeding, her natural father, the deceased, signed forms consenting to the adoption and relinquishing his parental rights.

In 1992, the natural father was killed in an accident on the Oak Ridge Reservation. His widow filed a wrongful death claim on behalf of herself and their three children. Appellant sought to intervene in the wrongful death action and share in the recovery.

The Adoption Statute has undergone several amendments. The version of the statute in force at the time of the death of the deceased is applicable. *Black v. Washam*, 421 S.W2d 647 (Tenn. App. 1967). The adoption statute as it existed in 1992 reads in pertinent part:

**Effect of adoption on relationship** - (a) The signing of a final order of adoption establishes from that date the relationship of parent and child . . . as if the adopted child had been born to the adoptive parents . . . for all legal consequences and incidents of the natural relation of parents and children . . . (e) An adopted child shall not inherit real or personal property from a natural parent or relative thereof when the relationship between them has been terminated by adoption, nor shall such natural parent or relative thereof inherit from the adopted child.

T. C. A. § 36-1-126<sup>1</sup> (emphasis added).

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<sup>1</sup> The 1995 amendments do not significantly change this section of the statute. They move the section to T. C. A. § 36-1-121 and add the following sentence to part (e): "Notwithstanding the provisions of subsection (a), if a parent of a child dies without the relationship of parent and child having been previously terminated and any other person thereafter adopts the child, the child's right of inheritance from or through the deceased biological parent of any relative thereof shall be unaffected by the adoption." This additional language is not applicable in this situation, where the adoption took place before the natural

The severance of the right of inheritance between a natural parent and adopted child is in harmony with the statute governing descent and distribution:

**Parent-child relationship** - (a) If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person: (1) An adopted person is the child of the adopting parent and not of the natural parents except that adoption of a child by the spouse of a natural parent has no effect on the relationship between the child and that natural parent.

T. C. A. § 31-2-105 (emphasis added).

This section maintains the right of inheritance for the custodial natural parent, but like the adoption statute, terminates the right of inheritance between the child and the parent who chooses to give up those rights. Appellant's brief cites a version of the statute that was changed in 1986. That version reads: "adoption . . . has no effect on the relationship between the child and either natural parent.?" By changing the language to ?that natural parent?, the General Assembly consciously terminated the inheritance rights of the parent who has relinquished their rights. Accordingly, by the terms of both the adoption and descent laws, an adopted child cannot inherit from a natural parent who has consented to his/her child's adoption.

In a wrongful death action, the action allowed is that the deceased would have had against the person who caused the injury and passes ?to the person's surviving spouse and, if there is no surviving spouse, to the person's children and

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father's death. However, it again emphasizes that the act of terminating the parent-child relationship would affirmatively sever the right of inheritance.

next-of-kin . . . .? T. C. A. § 20-5-106(a); *Harmon v. Wolfe*, 253 F. Supp. 577 (E. D. Tenn. 1965)(adoptive mother is legal beneficiary of adopted child in a wrongful death action). As the laws of adoption and of descent and distribution mandate that adopted children do not inherit from the natural parents who consented to the adoption, neither do children adopted by a third party succeed to the wrongful death rights of a natural parent. The Trial Court correctly dismissed the appellant's petition to intervene.

We affirm the judgment of the Trial Court and remand at appellant's cost.

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Herschel P. Franks, J.

CONCUR:

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Houston M. Goddard, P. J.

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Charles D. Susano, Jr., J.