

1975 WL 28984 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 3, 1975

*1 Final decree of adoption completely severs all ties between adopted child and natural parents, and effectively bars any right of child to inherit from them.

Probate Judge
Greenville County

QUESTION PRESENTED:

What is the effect of an adoption decree upon the rights of the adopted child to inherit from its natural parent(s)?

STATUTES AND CASES INVOLVED:

S.C. Code 1962 § 10-2587.13(a) and (b), 1974 Cum. Supp., § 19-236, § 19-237.

[Cox v. Cox](#), 262 S.C. 8, 202 S.E. 2d 6 (1974).

DISCUSSION OF ISSUES:

On January 8, 1974, in the case of [Cox v. Cox](#), 262 S.C. 8, 202 S.E. 2d 6 (1974), Justice Lewis, speaking for a unanimous court, dealt exhaustively with this question.

Interpreting Section 10-2587.13(a) and (b), Justice Lewis stated:

‘We are convinced that, under the above section a final decree of adoption completely severs all ties between the adopted child and the natural parents and effectively bars any right of the child to inherit from them. The statute provides that the final decree of adoption establishes the relation of parent and child with ‘all the rights, duties and other legal consequences of the natural relation of child and parent’. The legislative intent to completely terminate all relationship between the adopted child and the natural parent is conclusively shown by the provision that, from the date of the final decree, ‘the adopted child shall be considered a natural child of the adopting parents for all inheritance purposes, both by and from such child, to the exclusion of the natural or blood parents or kin of such child’. (Emphasis added.)

‘The statute ends an adopted child's legal relationship with its natural parents and it becomes the child of the adopting parents for all inheritance purposes, as fully as if born to them in lawful wedlock, ‘to the exclusion of the natural or blood parents.’ As such children of the adopting parents, the grandchildren here were no longer issue with the meaning of Section 19-237, supra, and could not inherit from the natural parents.’ 262 S.C. 8, pp. 13 and 14.

Construing § 10-2587.13(a) and (b), together with § 19-236 and § 19-237. Judge Lewis concluded that the adoption decree severs the right of the adopted child to inherit from its natural parent(s).

CONCLUSION:

In the opinion of this Office, based upon the cited authorities, a final decree of adoption completely severs all ties between the adopted child and its natural parents and effectively bars any right of the child to inherit from them.

It should be noted, however, that the adoption decree has no effect upon those interests which may have vested in the child under its parent's will, or by operation of law if the parent died intestate, prior to the adoption decree. In other words, an adoption decree will not divest an adopted child of any interest it has acquired prior to the adoption decree.

Raymond G. Halford

*2 Assistant Attorney General

1975 WL 28984 (S.C.A.G.)

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.