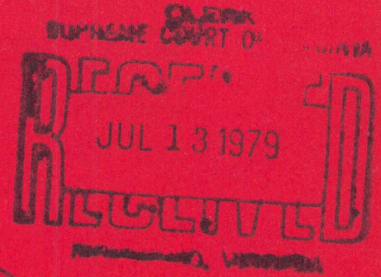


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IN THE SUPREME COURT OF VIRGINIA

At Richmond



SANDRA RHEA SUNDIN AND
MARTHA PEPPLER, EXECUTRICES
OF THE ESTATE OF MARCIA LANE
CROSS, DECEASED,

Appellants

v.

Record No. 790200

J. NICK KLEIN, III,
COMMITTEE FOR WALTER
DOUNTON CROSS,

Appellee

APPENDIX

J. NICK KLEIN, III,
Mapp & Mapp
Keller, Virginia 23401

Counsel for Appellee

AYRES, HARTNETT & CUSTIS
Court Green
Accomac, Virginia 23301

Counsel for Appellants

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MARTHA PEPPLER, EXECUTRICES
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Court Green
Accomac, Virginia 23301

Counsel for Appellants

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Virginia:

In the Circuit Court for the County of Accomack

Sandra Rhea Sundin and)
Martha Pepler, Executrices)
of the Estate of Marcia)
Lane Cross, deceased)

Complainants)

v.)

J. Nick Klein, III,)
Committee for Walter)
Downton Cross)
Keller, Virginia)

Respondent)

MOTION FOR DECLARATORY JUDGMENT

Take notice that the undersigned will move the Circuit Court for the County of Accomack for a declaratory judgment pursuant to Va. Code Ann. § 8.01-184 (Rep. Vol. 1977) for the purpose of determining the rights of the parties in a certain lot and dwelling thereon situate on Powellton Avenue, Pungoteague Magisterial District, Accomack County, Virginia.

An actual controversy exists between the parties hereto as set forth as follows:

(1) Marcia Lane Cross died testate on the 13th day of August, 1977.

(2) Sandra Rhea Sundin and Martha Pepler were appointed Executrices of the Estate of Marcia Lane Cross by will dated the 11th day of May, 1973, which will was probated in the Clerk's Office of the Circuit Court for the County of Accomack on the 14th day of September, 1977, copy of which is attached hereto marked Exhibit A and prayed to be made a part of this bill.

(3) Sandra Rhea Sundin and Martha Peppler qualified as Executrices of the Estate of Marcia Lane Cross on the 14th day of September, 1977, copy of said qualification is attached hereto marked Exhibit B and prayed to be made a part of this bill.

(4) That Marcia Lane Cross and Walter Dounton Cross owned the following described tract or parcel of land on Powellton Avenue, Wachapreague, Virginia, as tenants by the entireties with the right of survivorship as at common law by virtue of a certain deed of bargain and sale from Leland S. Corbin, widower, dated the 17th day of December, 1971, recorded in the Clerk's Office of the Circuit Court for the County of Accomack in Deed Book 313, at page 340:

All that lot or parcel of land situate in the Town of Wachapreague, Accomack County, Virginia, known as the "Levin L. Hopkins Homestead", containing One Acre (1 A.), more or less, and being bounded in general on the North, by a certain road known as the "Finney Road" and what is known as the J. W. Bell lot; on the East, by the lands formerly owned by James W. Bell and presently owned by Burleigh Ray Cutler; on the South, by Powellton Avenue; and on the West, by the land formerly owned by George W. Peppler and presently owned by Edith Withams.

(5) That by virtue of the aforesaid tenancy, the interest of Marcia Lane Cross passed to her husband, Walter Dounton Cross by operation of law upon her death.

(6) That Walter Dounton Cross was convicted of the murder of Marcia Lane Cross in this Court on the 4th day of November, 1977.

(7) That the undersigned here allege and believe that under Virginia law, the aforesaid interest that Walter Dounton Cross acquired by operation of law upon the death of Marcia Lane Cross

was divested upon the conviction of her murder.

(8) The undersigned further allege that said interest is a part of the estate of Marcia Lane Cross and should be disposed of pursuant to and according to the terms of her will.

WHEREFORE, the complainants pray that the Court adjudicate and determine the rights of the parties in and to the aforesaid described real estate and enter such order as is consonant with said determination.

SANDRA RHEA SUNDIN AND MARTHA PEPPLER,
EXECUTRICES OF THE ESTATE OF MARCIA
LANE CROSS

By Counsel

Last Will and Testament

I, MARCIA LANE CROSS, of Accomack County, Virginia, being of sound and disposing mind and memory, do hereby make, publish and declare this to be my last will and testament, hereby revoking all wills and codicils by me at anytime heretofore made.

ITEM I. I direct my executrices hereinafter named to pay as a cost of the administration of my estate (i) all my just debts, expenses of last illness and funeral expenses, and (ii) all estate and inheritance taxes upon or with respect to any property which is required to be included in my gross estate for such tax purposes. I also direct that my executrices shall not require that any part of such taxes be recovered from, paid by, or apportioned among the recipients of, or those interested in, such property.

ITEM II. It is my desire that my two children, Sheri Lynne Taylor and Timothy Dounton Cross, not be separated upon my death, and further that my sister, Sandra Rhea Sundin, be given custody of the aforesaid children.

ITEM III. I give and bequeath all my personal paraphernalia and any automobiles owned by me at the time of my death to my sister, Sandra Rhea Sundin, in absolute property.

ITEM IV. I give, devise and bequeath my home situated on Center Street, Wachapreague, Virginia, together with all the furnishings situated therein, to my sister, Sandra Rhea Sundin, outright, in fee simple and in absolute property.

ITEM V. I give, devise, and bequeath all the rest and residue of my estate, real and personal, tangible and intangible, of every kind, character, and description and wheresoever situate, to my sister, Sandra Rhea Sundin, and my friend, Martha Peppler, in trust for the health, education, maintenance and welfare of my two children, Sheri Lynne Taylor and Timothy Dounton Cross, upon the following terms and conditions and for the following purposes:

Martha Lane Cross

1. My trustees are hereby invested with total, sole, and absolute discretion in the administration of this trust solely for the purposes set forth above, such discretion to include but not be limited to expenditures from either corpus or income as they may deem fit, all powers contained in Va. Code Ann. § 64.1-57 (Repl. Vol. 1973) as in force as of the date of the execution of this instrument and hereby incorporated by reference in my last will and testament.

2. Such other powers as they in their sole discretion may deem necessary in the administration of this trust.

3. I direct my trustees to pay one-half of the then existing corpus and income to my daughter, Sheri Lynne Taylor, when she attains the age of twenty-five years.

4. I direct my trustees to pay the remaining corpus and income to my son, Timothy Dounton Cross, when he attains the age of twenty-five years.

5. Upon the completion of the final distribution as herein provided, this trust shall terminate.

ITEM VI. I hereby nominate and appoint Sandra Rhea Sundin and Martha Peppler as executrices of this my last will and testament and request that no surety be required on their official bond.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this my will, consisting of two typewritten pages, all this the

11 day of May, 1973.

Marcia Lane Cross (SEAL)
Marcia Lane Cross

The foregoing signature of the testatrix was made and the foregoing will was acknowledged by her to be her last will and testament in the presence of us, three competent witnesses, present at the same time; and we, the said witnesses, do hereunto subscribe the said will on the date last above written, in the presence of the said testatrix and of each other, at the request of the said testatrix, who was then of sound mind and over the age of twenty-one years.

Peterson A. Cairn

Deborah Virginia

Roger A. Cairn

Deborah Virginia

William L. Cairn

Deborah Virginia

Witnesses

Addresses

The Commonwealth of Virginia,

In the Clerk's Office of the Circuit Court of the County of Accomack

I, J. Fulton Ayres, Clerk of the Circuit

Court of the County of Accomack, in the State of Virginia, the same

being a Court of record, the said Court, and the Clerk thereof, having jurisdiction of the probate of wills
grant of administration, appointment of guardians, under the laws of Virginia,

DO HEREBY CERTIFY, That Sandra Rhea Sundin and Martha Peppler were

on the 14th day of September, 1977, by said Court (or Clerk) appointed

Executrices of the Last Will and Testament of Marcia Lane Cross, deceased

and that the said fiduciary duly qualified and gave bond as such in the penalty of

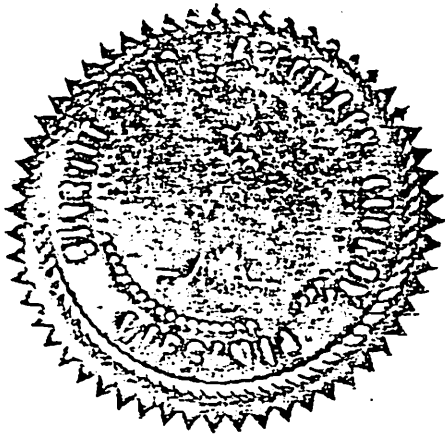
Forty Thousand (\$40,000.00) Dollars,

with no security, according to
law, and is fully authorized and empowered to act as such, and
that his acts are entitled to full faith and credit.I FURTHER CERTIFY, That the said appointment and qualifica-
tion has not been revoked or annulled, and is still in full force
and effect.

Given under my hand and the seal of said Court, this the

14th day of September, 1977.

J. Fulton Ayres, Clerk.

By Iris Underwood, Deputy Clerk.

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ACCOMACK

Sandra Rhea Sundin and)	
Martha Peppler, Executrices of)	
the Estate of Marcia Lane)	
Cross, deceased)	
Complainants)	
vs.)	No. 4697
J. Nick Klein, III)	
Committee for Walter Dounton Cross)	
Keller, Virginia)	
Respondent)	

DEMURRER

Now comes the Respondent and says that the Motion for Declaratory Judgment filed herein is not sufficient in law for the following reasons, to-wit: ..

(1) There is no actual controversy between the parties herein, as is evident from the Complainant's Motion, and accordingly this is not a proper case for a Declaratory Judgment under § 8.01-184 of the Code of Virginia of 1950, as amended. ...

(2) The said Walter Dounton Cross' conviction has not been affirmed on appeal and all avenues of appeal have not been foreclosed or exhausted. Accordingly, there is no controversy ripe for judicial adjustment and any action by this Court would be merely speculative and in the nature of an advisory opinion. ..

J. Nick Klein, III

Committee for Walter

Dounton Cross

Mapp & Mapp

By: J. Nicholas Klein, III
J. Nicholas Klein, III
Box 138
Keller, Va. 23401

CERTIFICATE

This is to certify that a true copy of this Demurrer was mailed to Henry P. Custis of Ayres, Hartnett & Custis, Attorney for the Complainants. on this the 14th day of May, 1978.

J. Nicholas Klein, III
J. Nicholas Klein, III

Virginia:

In the Circuit Court for the County of Accomack

Sandra Rhea Sundin and)
Martha Peppler, Executrices of)
the Estate of Marcia Lane Cross)
deceased)

Complainants)

v.)

J. Nick Klein, III)
Committee for Walter Dounton)
Cross)

Respondent)

ORDER

This day came J. Nick Klein, III, Committee for Walter Dounton Cross and Henry P. Custis, Jr., attorney for Sandra Rhea Sundin and Martha Peppler, Executrices of the Estate of Marcia Lane Cross upon the demurrer filed herein and was argued by counsel.

And it appearing to the Court that the demurrer should be overruled, it is accordingly,

ORDERED that the demurrer be and the same hereby is overruled.

I ask for this:

Counsel for the complainants

SEEN and OBJECTED TO:

Counsel for the respondent

Enter this order:

Judge

Date

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ACCOMACK

Sandra Rhea Sundin and)
Martha Peppler, Executrices of)
the Estate of Marcia Lane)
Cross, deceased)
Complainants)
vs.)
J. Nick Klein, III)
Committee for Walter Dounton Cross)
Keller, Virginia)
Respondent)

GROUND OF DEFENSE

Now comes J. Nick Klein, III, Committee for Walter Dounton Cross, and for grounds of defense to the motion for a declaratory judgment filed against him by Sandra Rhea Sundin and Martha Peppler, Executrices of the estate of Marcia Lane Cross, deceased, answers and says as follows:

1. That he admits the allegations set forth in Paragraph 1 of the Motion for Judgment.
2. That he admits the allegations set forth in Paragraph 2 of the Motion for Judgment.
3. That he admits the allegations set forth in Paragraph 3 of the Motion for Judgment.
4. That he admits the allegations set forth in Paragraph 4 of the Motion for Judgment.

5. That he neither admits nor denies the allegations set forth in Paragraph 5 of the Motion for Judgment, and calls for strict proof thereof, and further alleges that said interest referred to in Paragraph 5 was vested in the said Walter Dounton Cross at the time of the purchase of said property from Leland S. Corbin, widower.

6. That he admits the allegations set forth in Paragraph 6 of the Motion for Judgment.

7. That he denies the allegations set forth in Paragraph 7 of the Motion for Judgment, and calls for strict proof thereof.

8. That he denies the allegations set forth in Paragraph 8 of the Motion for Judgment, and calls for strict proof thereof.

J. NICK KLEIN, III, COMMITTEE
FOR WALTER DOUNTON CROSS

NAPP & NAPP

BY

J. Nick Klein, III p.d.

Box 438

Keller, Virginia 23401

CERTIFICATE

This is to certify that a true copy of the pleadings has been hand delivered this the 25th day of October, 1978, to Henry F. Custis, Jr., Esq., of Ayres, Hartnett & Custis, Attorney for the Complainants,

J. Nick Klein, III
Counsel for the respondent

Virginia:

In the Circuit Court for the County of Accomack

Sandra Rhea Sundin and)
Martha Peppler, Executrices)
of the Estate of Marcia Lane)
Cross, deceased)

Complainants)

v.)

No. 4697

J. Nick Klein, III)
Committee for Walter Dounton)
Cross,)

Respondent)

ORDER

This day came the complainants by their attorney, Henry P. Custis, Jr. and the respondent, J. Nick Klein, III, in his proper person upon the motion for declaratory judgment formerly filed herein and the grounds of defense of the respondent and was argued by counsel.

Upon consideration whereof, the Court being of the opinion that Walter Dounton Cross is the sole owner in fee simple of the following described property:

All that lot or parcel of land situate in the Town of Wachapreague, Accomack County, Virginia, known as the "Levin L. Hopkins Homestead", containing One Acres (1 A.), more or less, and being bounded in general on the North, by a certain road known as the "Finney Road" and what is known as the J. W. Bell lot; on the East, by the lands formerly owned by James W. Bell and presently owned by Burleigh Ray Cutler; on the South, by Powellton Avenue; and on the West, by the land formerly owned by George W. Peppler and presently owned by Edith Withams.

it is accordingly,

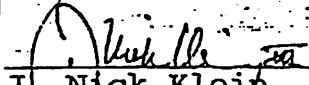
ADJUDGED, ORDERED and DECREED that fee simple title in the

entire above described tract or parcel of land be and it hereby is vested in Walter Dounton Cross.

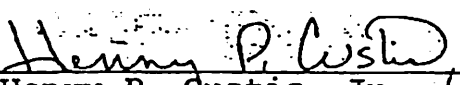
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AW
It is further ordered that the Clerk of this Court release the Memoranda of Lis Pendens recorded in his office at the commencement of the proceedings herein, said liens being recorded in Deed Book 390 at page 205 and Deed Book 394 at page 593 in the Clerk's Office of the Circuit Court of Accomack County.

And it is further adjudged, ordered and decreed that the transcript herein become part of the record although not yet transcribed in accordance with Va. Sup. Ct. R. 5:9.

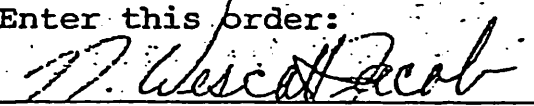
I ask for this:


J. Nick Klein, III,
Counsel and Committee for
Walter Dounton Cross

SEEN and OBJECTED to:


Henry P. Custis, Jr.
Counsel for the Complainants

Enter this order:


Judge

Date November 6, 1978

ASSIGNMENT OF ERROR

- I. The court erred in ruling that the murderer of the decedent acquired the interest of the decedent in property formerly held by them as tenants by the entirety with right of survivorship as at common law upon the death of the decedent.

1 VIRGINIA: IN THE CIRCUIT COURT OF ACCOMACK COUNTY.

2
3 SANDRA RHEA SUNDIN and)
4 MARTHA PEPPLER, Executrices)
5 of the Estate of Marcia Lane)
6 Cross, deceased,)
7 Complainants,)

8 v)

9 J. NICK KLEIN III,)
10 Committee for Walter Dounton)
11 Cross,)
12 Defendant.)

RECORD

CASE NO. 4697.

13 Stenographic transcript of proceedings had upon
14 the trial of the above-entitled cause in said court on
15 October 26, 1978, before the Honorable N. Wescott Jacob,
16 Judge of said court.

17 -----oOo-----

18
19
20 APPEARANCES: Messrs. Ayres, Hartnett and Custis
21 (Mr. Henry P. Custis, Jr.),
22 attorneys for the complainants.

23 Messrs. Mapp and Mapp (Mr. J. Nick
24 Klein III), attorneys for the
25 defendant.

1 THE COURT: You gentlemen brought me these papers
2 here. Do you want them?

3 MR. CUSTIS: No, sir.

4 THE COURT: All right, sir.

5 MR. CUSTIS: May it please the Court, this is a
6 declaratory action brought by the executrices of the estate
7 of Marcia Lane Cross, they being Sandra Rhea Sundin and
8 Martha Peppler, against J. Nick Klein, committee for Walter
9 Dounton Cross, to determine the rights of the parties in a
10 certain piece of property, Judge, located in the town of
11 Wachapreague. There was an answer and grounds of defense
12 filed on behalf of the respondent admitting the factual
13 allegations contained in the motion for declaratory judgment,
14 they being Marcia Lane Cross died on the 13th day of August,
15 1977, that Mrs. Sundin and Mrs. Peppler did qualify on the
16 estate, and that they did in fact own the -- the Crosses
17 owned property in the town of Wachapreague as tenants by the
18 entirety with right of survivorship. It was also admitted
19 that Walter Dounton Cross was convicted of the murder of
20 his wife, Marcia Lane Cross, in this court on the 4th day
21 of November, 1977. Mr. Cross, by his attorney, appealed --
22 petitioned the Supreme Court of Virginia for an appeal.
23 That appeal was denied by order entered in the Supreme
24 Court of Virginia on the 23rd day of August, 1978.

25 If Your Honor please, I would offer a copy teste

1 of that order as Plaintiff's Exhibit 1.

2 THE COURT: All right, sir. So marked.

3 (Plaintiffs' Exhibit Number 1 received in evidence
4 by the Court.)

5 MR. CUSTIS: If Your Honor please, as previously
6 stated, the sole issue before the Court this morning is to
7 determine the rights of the parties in the property they own
8 by survivorship in the town of Wachapreague. As the Court
9 is well aware, Virginia has a statute, Virginia Code Section
10 64.18, which applies to acquisition by descent or
11 distribution or by will when someone is murdered.

12 At the outset I'd like to say that we do not
13 contend that that statute applies to this factual situation.
14 Mr. Cross acquired his interest in the survivorship property
15 at the time of Mrs. Cross's death by operation of law.
16 He did not acquire it by descent, distribution or by will;
17 so we do not take -- contend in any way whatsoever that that
18 statute has any bearing on this case before the Court today.
19 To the contrary, we feel that we do have an interest in the
20 property -- in the property, survivorship property, based
21 upon equitable principles. There is no case on point that
22 I could find in Virginia. There are extensive cases
23 throughout the United States where this point has been
24 decided. I'm sure the Court is aware. There is extensive
25 annotation in 42 ALR 3 at Page 116. Again, as I say, we

1 feel we have this interest based on equitable principles.

2 THE COURT: All those cases are not in favor of
3 you.

4 MR. CUSTIS: No, sir. No, sir. Not at all. I
5 don't contend they are, but I contend this: That the
6 majority of those cases, Your Honor, by far and away are in
7 favor of the murderer's interest in the estate of the
8 decedent where it's held by the entirety to be limited.

9 Now, I think this Court can decide that we have an
10 interest in the estate one of three ways. The way that I
11 think has been espoused in these other cases most frequently
12 is the constructive trust theory. Of course, the
13 constructive trust as the Court well knows, is an equitable
14 principle to prevent someone from being unjustly enriched,
15 and it's just repugnant to equitable principles that a man
16 can kill someone and profit from that wrong. It's just --
17 It just goes against public policy and all -- and our system
18 of equity, and I would submit to the Court that this Court
19 should --

20 THE COURT: Well, basically what's the difference
21 between this situation and the situation in that Blanks case
22 where the son killed his father?

23 MR. CUSTIS: Are you talking about the Federal
24 case?

25 THE COURT: No. The Virginia case.

1 MR. CUSTIS: Blanks versus Jiggets. That case
2 comes under the Virginia statute. The argument in that
3 case was that he -- Well, in fact, he took under the will of
4 his mother -- the Court decided he took under the will of
5 his mother.

6 THE COURT: Yeah. But he killed -- He obtained
7 the property by killing the life tenant.

8 MR. CUSTIS: That's correct. We didn't have a
9 survivorship situation in that case at all. That case is
10 not on point as I see it at all.

11 THE COURT: He didn't have a survivorship?

12 MR. CUSTIS: No, sir. He was taking by will or
13 by descent.

14 THE COURT: Yeah. But I mean he actually came
15 into the property by murdering someone, did he not, in the
16 Blanks case? He inherited from his mother.

17 MR. CUSTIS: The Court decided in that instance
18 that he inherited that property from his mother.

19 THE COURT: No question about that. He got it in
20 a will from his mother, and he had a remainder interest, and
21 then he shot his father -- killed his father, who was life
22 tenant.

23 MR. CUSTIS: That's correct.

24 THE COURT: And my point is that ought to be
25 against public policy. Eliminated the life tenant in order
to get the fee.

1 MR. CUSTIS: All right.

2 THE COURT: Isn't that -- It's a very similar
3 situation to what we have here. A man murdered --

4 MR. CUSTIS: That situation was not survivorship
5 property. It was acquiring property by the will or through
6 the will -- under the will of his mother but not by descent,
7 distribution or the will of the decedent that he in fact
8 killed. He acquired the property not from the person killed
9 but from his mother.

10 THE COURT: Um-hum.

11 MR. CUSTIS: I don't think that case is on point,
12 Your Honor.

13 THE COURT: All right, sir.

14 MR. CUSTIS: As previously stated, the Court
15 imposed a constructive trust on one half of the property
16 that Mr. Cross acquired under the tenancy for the benefit
17 of the heirs of his wife, they being her two children by a
18 former marriage, and his child. One - Several of the
19 cases in that annotation, Your Honor, have taken a different
20 approach and have said that as a result of the conviction
21 that the tenancy was severed at the time of the conviction
22 and as a result they converted to a tenancy in common,
23 thereby reaching the same result of giving the estate of the
24 deceased their interest in the property. Of course, the
25 last way that this Court could do it is declare that in fact

1 it is against public policy in the State of Virginia.

2 THE COURT: Well, that's my point in the Blanks
3 case. There the court said that you couldn't -- the court
4 couldn't extend public policy to that -- to bring the scope
5 of that section into that case.

6 MR. CUSTIS: If Your Honor please, though, that --
7 The acquisition of the property in that instance -- and I
8 don't think it's on point -- was not through the person
9 killed.

10 THE COURT: I understand that. I understand
11 that.

12 MR. CUSTIS: And --

13 THE COURT: But didn't the son even -- the son
14 went so far as to admit he did it?

15 MR. CUSTIS: That's what the case stated. We
16 will fully agree with the Court; but again, it's just
17 repugnant for someone to be able to profit by his own wrong
18 and acquire property in that instance.

19 THE COURT: I agree. I agree with that. I
20 agree.

21 MR. CUSTIS: Admittedly, this is a case of first
22 impression. There might have been other cases in Virginia,
23 but they are all unreported; but I would respectfully ask
24 the Court to divest this interest that Mr. Cross has
25 acquired by one of the theories that I have put forth and

1 invest it in the heirs of Marcia Lane Cross and let them
2 have the benefit of that property.

3 THE COURT: This is a case as you say, as far as
4 we know, of first impression; but to me it's -- and I agree
5 with you wholeheartedly that a man should not be able to
6 profit from his own crime, but it seems to me that this
7 could happen many, many instances if it hasn't happened in
8 the past because there is so much property today, especially
9 of residences that are held by husband and wife as tenants
10 by the entireties with right of survivorship, so I think
11 it's a matter for the General Assembly to address. Of
12 course, they can't do anything about it in this case, but
13 in the future, and I think the General Assembly -- I don't
14 think that this Court can right a wrong. If new law is
15 going to be written, I think it should be written by the
16 Supreme Court and not the Circuit Court of Accomack County
17 so everybody in the state will know about it. If the
18 Supreme Court wants to write new law, they can do it in
19 Richmond. A good point.

20 MR. CUSTIS: Off the record.

21 (Discussion off the record)

22 THE COURT: All right, sir. Is that everything
23 you want in the record? I don't have anything else you
24 need?

25 MR. CUSTIS: No.

1 THE COURT: All the facts were admitted?

2 MR. CUSTIS: All facts were admitted. All right,

3 sir.

4 THE COURT: All right, sir.

5 (The hearing adjourned at 10:12 a.m.)

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VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday the 23rd day of August, 1978.

Walter D. Cross,

Appellant,

against

Record No. 780367
Circuit Court No. 1828

Commonwealth of Virginia,

Appellee.

From the Circuit Court of Accomack County

Finding no reversible error in the judgment complained of, the court refuses the petition for appeal filed in the above-styled case.

A Copy,

Teste:

Allen L. Lucy, Clerk

By: *Richard R. Boush*
Deputy Clerk

Entered In Criminal
Common-Law Order
Book No. 1, Page

494

Virginia:

In the Circuit Court for the County of Accomack

Sandra Rhea Sundin and)
Martha Peppler, Executrices)
of the Estate of Marcia Lane)
Cross, deceased)

Complainants)

v.)

No. 4697

J. Nick Klein, III)
Committee for Walter Dounton)
Cross,)
Respondent)

NOTICE OF APPEAL

To J. Fulton Ayres, Clerk of the Circuit Court for the County
of Accomack:

Counsel for Sandra Rhea Sundin and Martha Peppler, Executrices
of the Estate of Marcia Lane Cross, deceased, complainants in the
above styled matter in the Circuit Court for the County of Accomack,
hereby files notice of appeal from the order entered herein on the
6th day of November, 1978, said order having been entered in the
Circuit Court for the County of Accomack, Virginia.

The aforesaid order, dated the 6th day of November, 1978,
made a part of the record the transcript to be filed herein.

SANDRA RHEA SUNDIN AND MARTHA PEPPLER,
EXECUTRICES OF THE ESTATE OF MARCIA
LANE CROSS, DECEASED

By Counsel

AYRES, HARTNETT & CUSTIS

By Henry P. Custis

Court Green
Accomack, Virginia 23301

COUNSEL

CERTIFICATE

This is to certify that I have on this the 6th day of November 1978, mailed a true copy of the foregoing Notice of Appeal to J. Nick Klein, III, Esquire, Counsel of record for the respondent.

Henry P. Costello
Of Counsel

RTNETT
TIS
AT LAW
VA.

Supreme Court of Virginia

Sandra Rhea Sundin and Martha
Peppler, Executrices of the Estate
of Marcia Lane Cross, deceased,

Appellants,

against Record No. 790200
 Circuit Court No. 4697

J. Nick Klein, III, Committee
for Walter Dounton Cross,

Appellee.

From the Circuit Court of Accomack County

Certificate

Pursuant to Rule 5:30 of the Rules of the Supreme Court of Virginia, I, Allen L. Lucy, Clerk of the said Court, do hereby certify that on June 5, 1979, an appeal was awarded from a judgment rendered by the court below on November 6, 1978, in the suit therein depending under the short style of Sandra Rhea Sundin, et al., etc. v. J. Nick Klein, III, Committee, etc.

This certificate, constituting the summons on appeal, was this day mailed to the court below and to

Daniel Hartnett, Court Green, Accomac, Virginia 23301

Counsel for Appellants

J. Nicholas Klein, III, P.O. Box 138, Keller, Virginia 23401

Counsel for Appellee

Given under my hand this 6th day of June , 1979.

Allen L. Lucy

Clerk