

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

ESTATE OF LARRY R. MCKOWN, DECEASED, SHARON CUMPTON, PUBLIC
ADMINISTRATOR PERSONAL REPRESENTATIVE; ELAINE F. MCKOWN,

Appellants

v.

LUTRICIA RAPUE.

Respondent

DOCKET NUMBER WD69360

DATE: November 25, 2008

Appeal From:

Circuit Court of Bates County, MO
The Honorable John Mackey O'Bannon, Judge

Appellate Judges:

Division Four: Thomas H. Newton, C.J., Joseph M. Ellis and James Edward Welsh, JJ.

Attorneys:

Dana K. Kaiser, Kansas City, MO

Counsel for Appellants,

Attorneys:

Jeremiah Kidwell, Kansas City, MO
John L. Pursley, Butler, MO

Counsel for Respondent
Co-Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

ESTATE OF LARRY R. MCKOWN, DECEASED, SHARON CUMPTON, PUBLIC ADMINISTRATOR PERSONAL REPRESENTATIVE; ELAINE F. MCKOWN, Appellants, v. LUTRICIA RAPUE, Respondent

WD69360

Bates County

Division Four Judges: Thomas H. Newton, C.J., Joseph M. Ellis and James Edward Welsh, JJ.

Elaine F. McKown appeals the circuit court's judgment denying her election of surviving spouse, application of surviving spouse for exempt property, and application of surviving spouse for homestead allowance against the estate of Larry R. McKown. Elaine McKown asserts that the circuit court erred in finding that a Kansas decree of separate maintenance barred her from claiming statutory allowances or from otherwise inheriting property in Larry McKown's estate.

REVERSED AND REMANDED.

Division Four Holds:

The circuit court erred in finding that the Kansas decree of separate maintenance barred Elaine McKown from claiming statutory allowances or from otherwise inheriting property in Larry McKown's estate. The Kansas decree did not specifically and clearly indicate an intent to terminate Elaine McKown's rights of inheritance in Larry McKown's estate. The Kansas decree of separate maintenance does not prohibit Elaine McKown's from asserting her rights to property acquired by Larry McKown between the date of the decree of separate maintenance and the date of his death.

Opinion by James Edward Welsh, J.

November 25, 2008

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.