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T-727 P.002/005 F-898

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
08 CVS 018831

LINDA LEE FISHER, EXECUTRIX OF  
THE ESTATE OF MICHELLE MARIE  
FISHER YOUNG,

Plaintiff,

v.

JASON LYNN YOUNG,

Defendant.

JUDGMENT

BN

FILED IN THE  
SUPERIOR COURT OF N.C.

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This matter comes before the undersigned on Plaintiff's Motion, pursuant to Rules 54 and 55 of the Rules of Civil Procedure, for a Default Judgment, in the form of a final judgment, that the Defendant was the slayer of Michelle Marie Fisher Young under North Carolina General Statute § 31A-3(3)d; that Defendant is barred from recovery of insurance on the life of Michelle Marie Fisher Young under General Statute § 31A-11; and that Defendant is barred from testate or intestate succession from the Estate of Michelle Marie Fisher Young under G.S. § 31A-4. Having considered the Plaintiff's Complaint, Motion for Default Judgment, affidavits submitted by Plaintiff in support of her Motion and the applicable law, the Court makes the following findings:

- (1) Default was entered against the Defendant in this matter on December 2, 2008 by N. Lorrin Freeman, the Clerk of this Court.
- (2) The default was entered under Rule 55 on the basis of the Defendant's failure to answer the Complaint or otherwise appear in this matter within 30 days after the service of the Summons and Complaint on Defendant on October 30, 2008 through personal service on his mother at Defendant's residence in Brevard, North Carolina.
- (3) Although in default, the Defendant has been provided with notice of this hearing and a copy of Plaintiff's Motion for Default Judgment by Plaintiff's counsel through hand and facsimile delivery of same to attorney Roger Smith, Jr. Further, the undersigned

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provided Mr. Smith with a copy of the Order setting this hearing. In providing these documents to Mr. Smith, the Court is not assuming or finding that Mr. Smith represents the Defendant in this civil action. The Court simply took judicial notice of the public fact that Mr. Smith has at times represented the Defendant with regard to the criminal investigation of the death of Michelle Young and, therefore, believed that the best way to give the Defendant notice of Plaintiff's Motion and this hearing was through Mr. Smith.

- (4) Plaintiff contends that due to his default the allegations of Plaintiff's Complaint are deemed admitted by the Defendant under the Rules of Civil Procedure. Due to the gravity of the Complaint's most material allegation, Plaintiff has submitted affidavits to support the truth of her allegation that Jason Young slayed Michelle Young.
- (5) Plaintiff's Complaint alleges that "[i]n the early morning hours of November 3, 2006, Jason Young brutally murdered Michelle Young at their residence."
- (6) Plaintiff has submitted the Affidavit of R.C. Spivey III in support of her Motion and contention that the above-quoted allegation from her Complaint is true. Submitted with Investigator Spivey's Affidavit as Exhibits A and B are two lengthy affidavits which he previously made on February 13, 2008 and November 6, 2008 in support of search warrants issued in the investigation of Michelle Young's murder. Investigator Spivey's earlier affidavits detail a significant amount of the evidence gathered during the investigation of Michelle Young's murder. He has worked almost exclusively on the investigation for over a year and a half, and, as he also states in his current Affidavit, is familiar with the evidence gathered during the investigation, including evidence that is not in the public record. Based upon his knowledge of the evidence gathered in the investigation of the death of Michelle Young and his experience in law enforcement, Investigator Spivey is of the opinion that Jason Young murdered Michelle Young on November 3, 2006.
- (7) Plaintiff's counsel, John Michaels and Paul Michaels, have also submitted Affidavits to the same effect. Their Affidavits are based upon their review of narrative reports on the investigation prepared by law enforcement personnel over two years.
- (8) Based on the affidavits submitted by the Plaintiff in support of her Motion, particularly Investigator Spivey's three affidavits, the Court finds that the allegation

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- that "[i]n the early morning hours of November 3, 2006, Jason Young brutally murdered Michelle Young at their residence", is an admitted fact in this civil action.
- (9) Based on the foregoing, Plaintiff is entitled to a determination by this Court that Jason Lynn Young willfully and unlawfully killed Michelle Marie Fisher Young within the meaning of General Statute § 31A-3(3)d.
  - (10) Based upon the foregoing findings, Plaintiff is entitled to a determination by this Court that under General Statute § 31A-11 that Jason Lynn Young is barred from collecting the proceeds of any insurance on the life of Michelle Marie Fisher Young and that any insurance payable to Jason Lynn Young by virtue of his surviving Michelle Marie Fisher Young shall be paid to the person or persons who would have been entitled thereto as if Jason Lynn Young had predeceased Michelle Marie Fisher Young or to the Estate of Michelle Marie Fisher Young if no alternate beneficiary is named.
  - (11) Jason Lynn Young is barred from testate or intestate succession from the Estate of Michelle Marie Fisher Young under G.S. § 31A-4 and is deemed to have died immediately prior to Michelle Marie Fisher Young.
  - (12) Based on the reasons set forth in Plaintiff's Motion that this default judgment be entered as a final judgment, the Court finds that there is no just reason for delay.

It is, therefore, ORDERED, ADJUDGED AND DECREED that the Defendant, Jason Lynn Young, willfully and unlawfully killed Plaintiff's decedent, Michelle Marie Fisher Young, within the definition of "slayer" under General Statute § 31A-3(3)d; that under General Statute § 31A-11 the Defendant, Jason Lynn Young, is barred from collecting the proceeds of any insurance on the life of Michelle Marie Fisher Young and that any insurance payable to Defendant, Jason Lynn Young, by virtue of his surviving Michelle Marie Fisher Young shall be paid to the person or persons who would have been entitled thereto as if Jason Lynn Young had predeceased Michelle Marie Fisher Young or to the Estate of Michelle Marie Fisher Young if no alternate beneficiary is named, and that the Defendant, Jason Lynn Young, is barred from testate or intestate succession from the Estate of Michelle Marie Fisher Young under G.S. § 31A-4 and is deemed to have died immediately prior to Michelle Marie Fisher Young.

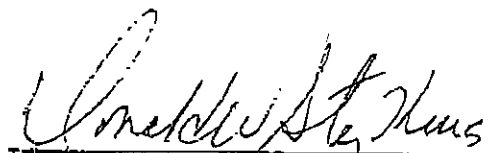
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It is further ORDERED, ADJUDGED AND DECREED that there is no just reason for delaying the entry of this Judgment as a final judgment, and under Rule 54(b) this Judgment is hereby entered as a final judgment.

The Court acknowledges that Plaintiff's remaining claims against the Defendant beyond those adjudicated herein remain pending.

This the 5 day of December, 2008.

  
Donald W. Stephens, Senior Resident Judge