Court of Appeals
of the State of Georgia

ATLANTA, September 25, 2017

The Court of Appeals hereby passes the following order:

A18D0077. IN RE: ROBERT ELLSWORTH JONES, JR., DECEASED.

Jacob C. Swygert filed this application for discretionary appeal from multiple orders of the Probate Court of Fulton County, including the denial of his petition to intervene and set aside the order admitting a 2013 will of the above deceased to probate. Under OCGA § 15-9-123 (a), a party in a civil case in probate court shall have the right of appeal to an appellate court without first seeking review in superior court. See *Ellis v. Johnson*, 291 Ga. 127, 128 n.1 (728 SE2d 200) (2012). A probate court is defined as "a probate court of a county having a population of more than 90,000 persons according to the United States decennial census of 2010 or any future such census." OCGA § 15-9-120 (2). According to the 2010 census, Fulton County had a population of 920,581. Because the Probate Court of Fulton County meets the statutory definition of a probate court, Swygert has a right of direct appeal to this Court, and no application was required. See *O'Regan v. Brennan*, 204 Ga. App. 50, 50 (418 SE2d 389) (1992).

Accordingly, the application for discretionary appeal is hereby GRANTED pursuant to OCGA § 5-6-35 (j). Swygert shall have ten days from the date of this order to file a notice of appeal in the probate court, if he has not already done so. OCGA § 5-6-35 (g). The clerk of the probate court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 09/25/2017

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen , *Clerk.*