

2. **The Property Identified Remains Dewey's Separate Property Because the Value Was Not Enhanced During Coverture by the Non-Ownning Spouse**

Recognition of separate ownership of property acquired during marriage is dependent upon the original source of all property. Longmire at 275. Separate property which *does not enhance* in value during coverture by money or efforts of the non-owning spouse retains its character as separate property and is restored to the owner. As stated in Longmire:

Jointly acquired property within the meaning of said statute [12 O.S. § 1278, now 43 O.S. § 121] is that accumulated by the joint industry of the husband and wife during marriage. In the present case the separate funds of plaintiff were only *converted* into the now involved property.

Id. at 275. (Emphasis added.)

The case of Templeton v. Templeton further refines the protections placed on pre-marital separate property. In that case, Mrs. Templeton owned an apartment complex with her brother prior to her marriage to Mr. Templeton. Her share of the apartment had been purchased with funds she inherited from her parents and none of her husband's funds were expended on the apartment complex. Ultimately, Mrs. Templeton purchased her brother's share of the apartment and the apartment dramatically increased in value during coverture. Mr. Templeton was intermittently employed and made only minimal financial contributions to the marital estate. Mrs. Templeton worked as a school teacher and her earnings, along with the rental from the apartment complex, supported the couple. Although Mr. Templeton did some minor repairs on the apartment complex, and he worked for a brief time as manager, most of the time the property was managed by an independent, full-time employee. Mr. Templeton was paid a salary during the time he

managed the apartment complex. The court found the apartment complex retained its character as Mrs. Templeton's separate property. The court explained:

If one spouse brings separate property to the marriage, increased or enhanced value of the property will not constitute jointly acquired property during coverture unless the enhancement value was the result of joint efforts, skill, or funds of both spouses. In order for a spouse to successfully prove that enhanced value is the result of joint endeavors, it must be shown that the net worth of the property increased during the marriage as the direct result of substantial contribution by the spouse of effort, skill, or funds. Enhancement in the value of a spouse's separate property which is caused by appreciation, inflation, changing economic conditions, or circumstances beyond the parties' control is *not* jointly acquired property unless the non-owning spouse can prove his/her contributions were also a causal factor.

Id. at 251. (Emphasis added.)

In summary, Templeton holds *even if* separate property enhances in value during coverture by appreciation, inflation, changing economic conditions, or other circumstances outside the parties' control, it will remain the separate property of the owning spouse unless the non-owning spouse contributed to the enhanced value by effort, skill, or funds. The court concluded that even though Mr. Templeton had performed some menial labor and contributed some managerial skills, "he was more than adequately compensated for any contribution he made because he was paid a salary for these, and during much of the marriage, he was almost totally dependent." *Id.* at 252.

Any household effort contributed by Susan to the marriage was more than adequately compensated by her receipt of \$2,000 each month for her personal use. During the entire marriage, Dewey's inheritance was kept in separate accounts or properties subject to his control alone.

character as separate property because it was commingled with his earnings from his medical practice and used to obtain and improve the marital residence. The court stated:

If separate property is confused, blended, or commingled with community property that its identity is lost, the entire mass ordinarily becomes community property, unless the community component is comparatively small.

Id. at 866.

The legal theory of "commingling" addressed in Agent is not relevant to Dewey's situation. Unlike Mrs. Agent, Susan did not work during her marriage to Dewey, nor did she support the family while Dewey obtained a professional degree. Any commingling of the Sophian condo asset is comparatively small, as shown by Ex. B. Unlike Dr. Agent, Dewey's income was derivative of his inheritance, while Dr. Agent's income was derivative of a profession he was able to pursue because of Mrs. Agent's financial support while he attended medical school. Agent clearly illustrated marital joint effort, industry, and funds, commingled with assets inherited and infused into marital estate.

Meason v. Meason, 717 P.2d 1165 (Okla. App. 1986), presents another textbook case of commingling and again illustrates the distinction from Dewey's circumstance. The Measons were married for 36 years. During the marriage, the majority of the couple's income and property came from the husband's salary as a geologist, wife's salary as a school teacher, inheritance and lifetime gifts from wife's parents, and income from rental property. During the marriage, Mr. Meason established an oil and gas consulting business, Oil Ventures. Mrs. Meason made a capital infusion of \$40,000 into the business by loaning the business the funds from her separate inheritance. After the

Draft dated August 22, 2002

FURNITURE THAT I OWNED PRIOR TO MY MARRIAGE
As of January 1, 2002

LIVING ROOM

1. Large Oriental style rug with red shield in middle - purchased prior to marriage
2. Painting by Bill Rabon of raccoon - purchased prior to marriage
3. Antique glass door drop leaf desk owned by Edgar Poe family - purchased prior to marriage
4. Large number of books - purchased prior to marriage
5. 2 table lamps - art deco style - chrome and black - purchased prior to marriage
6. Tiffany style lamp with glass shade - purchased prior to marriage
7. Register style wall clock - given to me by my father
8. 2 Curtis photographs of Indians - purchased prior to marriage
9. Bill Rabon painting of red flowers and green leaves. - purchased prior to marriage
10. McIntosh Power Amplifier - purchased prior to marriage
11. Number of compact disks. - purchased prior to marriage
12. 2 large brass candle sticks - from the estate of David Bartlett
13. Various Indian rugs - property of Ann Burke third floor.
14. Painted Chinese table in dining room - from estate of David Bartlett
15. Number of books - mostly from Grand Lake house

KITCHEN

1. Ceiling light fixture - purchased prior to marriage
2. China and silver sets from my grandmother and great aunt
3. Dining table with matching chairs in breakfast room
4. Various crystal wine and water glasses - Baccarat and Tiffany- from estate of David Bartlett

DINING ROOM

1. Sideboard chest - gift from Ann Burke prior to marriage
2. 8 dining chairs from Marietta Chair factory - from Aunt Harriet Follett - gift from Ann Burke prior to marriage.
3. Low coffee table - Grandmother Noll - gift from Ann Burke prior to marriage
4. Bill Rabon painting of one story building. - purchased prior to marriage
5. Split top table - purchased prior to marriage
6. Bill Rabon painting of tree limbs in front of moon - purchased prior to marriage

DOWNSTAIRS HALL ENTRY

1. Wall clock with painted glass front - Aunt Harriet Follett - gift from Ann Burke prior to marriage
2. Hall tree - property of Keener Oil Co.
3. 2 large clear glass vases - from the estate of David Bartlett
4. Round mirror with candle holders - from estate of David Bartlett

STAIR WELL

1. Large chandelier over stairs - from the estate of David Bartlett
2. Wall mirror with painted frame - from Grandmother Noll - from the estate of David Bartlett

MASTER BED ROOM

1. Leather chair with ottoman - purchased prior to marriage
2. Books and heirlooms from my mother's and father's family - eg-my father's banks.
3. Bill Rabon painting of woman playing violin - purchased prior to marriage.
4. Woman's dressing table with matching mirror and cane bench property of my mother.
Might be from Grandmother Noll

MASTER BATH ROOM

1. Various items of clothing

GUEST BED ROOM

THIRD FLOOR

1. Various books-mostly photographic - purchased prior to marriage
2. Wood book shelf - property of Keener Oil Company
3. Old camera - gift from Connie Smith-belonged to her father, my grandfather.
4. Various photographic negatives shot by me.
5. Computer and printer - property of Keener Oil Co
6. 2 wood framed office chairs - property of Keener Oil Company
7. Various Indian rugs - property of Ann Burke
8. Pine top desk on third floor - from Grand Lake house - property of Ann Burke

BASEMENT

1. Record albums - purchased prior to marriage
2. Several pencil drawings by Bill Rabon - purchased prior to marriage
3. Metal electric fan - purchased prior to marriage

GARAGE APARTMENT

1. Some furniture property of Keener Oil & Gas Company
2. 3 legged chair - from the estate of David Bartlett
3. Various Indian rugs - property of Ann Burke

PATIO

2. Metal patio furniture - from estate of David Bartlett

DEWEY & SUSAN BARTLETT
HISTORICAL STATEMENTS OF NET WORTH

ASSETS	Pre D.A. Bartlett Trust Distribution				Post D.A. Bartlett Trust Distribution				Post Liquidation of Keener Dr Co				Post Sale of Delaware City Property				Current Position			
	June 1987 - (1)		December 1987 - (2)		December 1994 - (3)		December 2005 - (4)		December 2005 - (4)		December 2005 - (4)		December 2005 - (4)							
	Dewey Separate	Susan Separate	Marital	Total	Dewey Separate	Susan Separate	Marital	Total	Dewey Separate	Susan Separate	Marital	Total	Dewey Separate	Susan Separate	Marital	Total				
Cash and equivalents			13,000	13,000			13,000	13,000			7,800	7,800			8,000	8,000				
Residence - 1500 S. Fiske			128,000	128,000			128,000	128,000			128,000	128,000			128,000	128,000				
Interest in 80 acres, Delaware City			30,000	30,000			30,000	30,000			30,000	30,000			30,000	30,000				
Sage Properties, Ltd	100,000		100,000	100,000	100,000		100,000	100,000			85,000	85,000			48,500	48,500				
Charles Wells Properties	36,000		36,000	36,000	36,000		36,000	36,000			15,000	15,000			48,500	48,500				
IRA - regular			25,000	25,000			25,000	25,000			36,000	36,000			80,000	80,000				
Life insurance - with surrender value			8,500	8,500			8,500	8,500			80,000	80,000			181,000	181,000				
1978 Porsche	12,500		12,500	12,500	12,000		12,000	12,000												
D.A. Bartlett Trust distribution																				
SOX Investor Fund					675,000		675,000	675,000												
Certificates of deposit																				
Treasury notes																				
Marketable securities						25,000	25,000	300,000	28,000	328,000	380,000	28,000	408,000	181,000	27,500	208,500				
Interest in 780 acres, Delaware City					495,792		495,792	495,792			380,000	28,000	408,000	181,000	27,500	208,500				
Residence (1208 E. 29th)							255,000	255,000			350,000	380,000			300,000	380,000				
Keener Dr Co - original	258,000		258,000	258,000	258,000		258,000	258,000							300,000	300,000				
Keener Dr Co - D.A. Bartlett Trust					1,500,000		1,500,000	1,500,000												
Keener Dr Co, liquidation																				
Oil and gas interests								10,000		10,000	10,000		10,000	18,000		18,000				
Personal overfunding								380,000		380,000	380,000		380,000	1,000,000		1,000,000				
Bonds								580,000		580,000	100,000		100,000							
Real estate notes									20,000	20,000			20,000	20,000	20,000	20,000				
Lumen Energy								64,000		64,000	48,500		48,500	48,500	48,500	48,500				
Keener Dr & Gas Co (100%)								1,500,000		1,500,000	2,000,000		2,000,000	1,900,000		1,900,000				
Interest in 4 lots, Dover, DE								66,000		66,000	100,000		100,000	100,000	100,000	100,000				
IRA - rollover								152,000		152,000			306,500	306,500	183,000	183,000				
Interest in 580 acres, Delaware City	148,400		148,400	148,400	185,295		185,295	333,533		333,533										
Sale of Delaware City Property											380,000		380,000							
Cash											370,000		370,000			370,000				
Real estate, Delaware City											38,500		38,500			100,000				
Farm equipment															191,000	191,000				
Condominium (50 E. Woodward)											20,000		20,000		20,000	20,000				
Notes receivable - Sage Properties, Ltd													41,000	41,000	28,000	28,000				
401K													2,100	2,100	2,000	2,000				
Bank/IRA stock option plan																				
TOTAL ASSETS	554,900	196,500	751,400	751,400	3,262,067	25,000	451,500	3,738,567	3,643,325	28,000	680,500	4,551,825	3,345,000	57,000	1,104,100	4,506,100	2,830,500	27,500	288,000	3,111,000
LIABILITIES																				
Credit card debt			(1,577)	(1,577)			(1,577)	(1,577)												
Mortgage - 1500 S. Fiske			(77,300)	(77,300)			(76,300)	(76,300)												
Mortgage - Delaware City			(15,100)	(15,100)			(14,100)	(14,100)												
Unsecured - SOX	(81,256)		(81,256)	(81,256)	(81,256)		(81,256)	(81,256)												
Mortgage - 1208 E. 29th							(204,000)	(204,000)												
TOTAL LIABILITIES	(81,256)	-	(93,977)	(93,977)	(81,256)	-	(295,977)	(295,977)	(81,256)	-	(204,000)	(295,977)	(295,977)	(81,256)	-	(295,977)	(81,256)	-	(204,000)	(295,977)
NET WORTH	473,644	196,500	657,423	657,423	3,180,811	25,000	155,523	3,442,590	3,643,325	28,000	480,500	4,255,848	3,345,000	57,000	899,100	4,211,100	2,749,244	27,500	88,000	2,830,000

Exhibit "B"

17. I used the BOK Investor Fund for reinvestment and management of my separate investments acquired through the use of separate funds which I had received through inheritance.

18. Susan Bartlett and I never had a joint checking or a joint savings account.

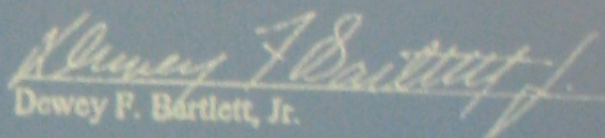
19. The source of all property acquired during the marriage was from my inherited assets. Susan Bartlett contributed no property to the marriage.

20. The value of my inherited estate significantly declined during coverture, through depletion or depreciation.

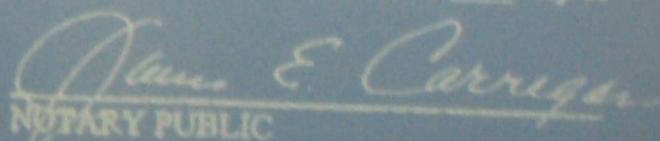
21. The spreadsheet attached as Exhibit B to the Motion for Partial Summary Judgment accurately details the historical statements of net worth and shows a tracking of the funds from my separate property into either the marital estate or maintained as my separate property from June 1987 through October 2002.

22. The personal property identified in Exhibit A to the Motion for Partial Summary Judgment was owned by me prior to marriage and is my separate property.

FURTHER, Affiant saith not.


Dewey F. Bartlett, Jr.

SUBSCRIBED AND SWORN before me by Dewey F. Bartlett, Jr. on this 6th day of May, 2003.


NOTARY PUBLIC

My Commission Expires:

Nov 12, 2003

[SEAL]

Commission No.:



DEWEY F. BARTLETT, JR. - SALARY 1982 - 2002

Year	Salary	Company
1982	\$0 00	Keener Oil
1983	\$28,933 00	Keener Oil
1984	\$45,613 00	Keener Oil
1985	\$51,082 00	Keener Oil
1986	\$47,260 00	Keener Oil
1987	\$59,792 00	Keener Oil
1988	\$63,652 00	Keener Oil
1989	\$76,657 00	Keener Oil
1990	\$91,889 00	Keener Oil
1991	\$12,000 00	City of Tulsa
1992	\$12,000 00	City of Tulsa
1993	\$12,000 00	City of Tulsa
1994	\$3,130 00	City of Tulsa
1995	\$16,550 00	Keener Oil
1996	\$92,300 00	Keener Oil
1997	\$93,020 00	Keener Oil
1998	\$96,220 00	Keener Oil
1999	\$76,320 00	Keener Oil
2000	\$95,200 00	Keener Oil
2001	\$95,200 00	Keener Oil
2002	\$95,200 00	Keener Oil