

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-7739
(Summary Calendar)

HERMINIA C. VELA,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
(CA-L-91-111)

(November 16, 1994)

Before KING, DAVIS and WIENER, Circuit Judges.

PER CURIAM:*

In this federal estate tax case, Petitioner-Appellant Herminia C. Vela, independent executrix (the Executrix) of the estate of Antonio M. Vela (the Decedent) appeals the district court's holding that the phrase "adjusted gross estate," as used in the marital

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

deduction bequest in paragraph VIII. of Decedent's Last Will and Testament (the Will) takes on the definition contained in § 2056(c) of the Internal Revenue Code (the I.R.C.) that was in effect on November 11, 1981, the date the Will was signed. That holding resulted in the exclusion from the marital deduction formula in the Will the value of Decedent's interest in community property. Although we recognize that the issue of law here presents a nice and somewhat difficult question of testamentary interpretation, we ultimately conclude in our de novo review of the district court's summary judgment that we agree with that court's determination and therefore affirm. Additionally, we are convinced that we could add nothing of value by writing separately, and therefore adopt in toto the recitation of facts and cogent legal reasoning contained in the district court's Memorandum and Order entered September 25, 1992, and incorporate it herein by reference.