

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

IN RE: ESTATE OF JOHN K. MANNO : OC-41-19-0341

:

: ORPHANS' COURT DIVISION

DECREE

AND NOW, this 21st day of September, following a hearing on the Petition to Interpret Conflicting Will Provisions and Determine Income Beneficiaries with Regard to the Residuary Estate Trust filed by Petitioner Cindy Cendoma, the Court hereby issues the following DECREE.

BACKGROUND

Decedent, Reverend John K. Manno, died testate on May 30, 2019.

Paragraphs I, II and III of his Will concerned the payment of debts and taxes and the distribution of certain personal effects. Paragraph IV of the Will reads as follows:

"IV. BYPASS PROVISION

In the event that any beneficiary named under this Will is a permanent resident of a skilled nursing facility or a nursing home, or is receiving Medicaid, Medical Assistance or other need-based benefits through the Pennsylvania Department of Human Services, (including the Waiver Program) or similar governmental agency in another jurisdiction, or Supplemental Security Income through the Social Security Administration, then I direct that his or her share of my estate shall go to an established Special Needs Trust for his or her benefit, if any. If there is no Special Needs Trust established for said beneficiary, then I direct that his or her share of my estate shall lapse and shall be added to my residuary estate."

Paragraph V of the Will made three specific monetary bequests to named beneficiaries, which are not at issue. Paragraph VI of the Will directed that Decedent's residuary estate be distributed as follows:¹

“VI. DISTRIBUTION OF ESTATE

I give, devise and bequeath all of the rest, residue and remainder of all property that I own at the time of my death, both real and personal, of every kind and description, (“my residuary estate”) and wherever situated, to my Trustees, IN TRUST, to be invested and used as follows:

a) All income shall be distributed on a quarterly or other convenient basis, IN EQUAL SHARES, to my sister, **DONA MANNO**,² my niece, **GENEVA M. SITLER**, my nephew, **KEANU F. BUNTING**, and my great-niece, **BRITTANY DRESSLER**. Upon the death of my sister, **DONA MANNO**, her share of the income shall be distributed, IN EQUAL SHARES, to my niece, **GENEVA M. SITLER**, my nephew, **KEANU F. BUNTING**, and my great-niece, **BRITTANY DRESSLER**. If my niece, **GENEVA M. SITLER**, or my nephew, **KEANU F. BUNTING**, or my great-niece, **BRITTANY DRESSLER**, should die during the trust administration, his/her share of the income shall be distributed to his or her children, IN EQUAL SHARES, or to their parent or guardian, if a minor. If my niece, **GENEVA M. SITLER**, my nephew, **KEANU F. BUNTING**, or my great-niece, **BRITTANY DRESSLER**, are not survived by any children, then his/her share of the income shall be distributed to the survivor of them.”

Paragraphs VII and VIII of the Will contained specific provisions regarding the Trust. Paragraph IX appointed Petitioner as Trustee, and named Mary Michele Rucinski (“Rucinski”) as successor Trustee. Paragraph X appointed Petitioner as the representative of Decedent's estate, and Paragraph XI waived any required bond.

¹ Paragraph VI(b) of Decedent's Will provides for the distribution of trust principle upon the death of the last of the four beneficiaries named in Paragraph VI(a). All four named beneficiaries are currently living, and thus Paragraph VI(b) is not at issue.

² The Petition stated that Dona Manno is now known as Dona Grayson. This Decree will refer to her as “Grayson” to avoid confusion with Decedent.

INSTANT PETITION

On February 18, 2022, Petitioner filed the instant Petition pursuant to 42 Pa. C.S. § 7532 and § 7533.³ Petitioner averred that three of the four named beneficiaries⁴ are presently receiving assistance subject to the Bypass Provision in Paragraph IV of the Will, but none of the named beneficiaries have an established special needs trust. Petitioner believes that Paragraphs IV and VI of the Will are potentially contradictory, and thus seeks a declaratory judgment regarding how the executor of Decedent's Will must distribute his residuary estate.

The Court held an evidentiary hearing on the Petition on April 29, 2022. Petitioner appeared, represented by counsel. Rucinski and each of the four named beneficiaries also appeared.

Petitioner testified first. She explained that she is Decedent's first cousin, and she was appointed the executor of his estate shortly after his death. She testified that she has completed all required notices and filings concerning the estate and its execution. Petitioner explained that she believed, but was not certain, that Grayson, Sitler, and Dressler were receiving benefits sufficient to invoke Paragraph IV's Bypass Provision. She believed that Bunting was not receiving such benefits. Petitioner testified that, although the Will names her as Trustee, she does not wish to serve in that role.

³ 42 Pa. C.S. § 7532 gives the courts the "power to declare rights, status, and other legal relations" via declaratory judgment. Section 7533 provides that "[a]ny person interested under a... will... may" seek a declaratory judgment to "have determined any question of construction or validity arising under the [will]..."

⁴ The remainder of this Decree refers to each named beneficiary by their surname.

Grayson testified next. She testified that on March 18, 2019, she was terminated from her employment and received twenty-six weeks of unemployment benefits. She stated that at the time of Decedent's death on May 30, 2019, she was not on any form of public assistance mentioned in Paragraph IV, though in October of 2019, approximately five months after Decedent's death, she sought Social Security Disability Insurance ("SSDI") payments. Grayson explained that she is currently receiving Medicaid, which began in 2020 or 2021, Medicare, Food Stamps, and SSDI. She affirmed that she does not have a special needs trust.

Next, Sitler testified. Sitler explained that at the time of Decedent's death on May 30, 2019, she was receiving food stamps and Medicare, and still receives them today. She noted that she also presently receives cash assistance, and affirmed that she has no special needs trust.

Dressler testified next. She explained that following her high school graduation in 2018, she began receiving food stamps. She testified that she continues to receive them today, though in a small amount. She explained that she receives medical insurance through the Geisinger Family Plan, which she procures through an assistance office and is subject to annual review for income requirements. She affirmed that she has no special needs trust.

Following Dressler, Bunting testified. He explained that he has not received any assistance described in Paragraph IV between the date of Decedent's death and the date of the hearing. Bunting stated that he does receive VA benefits and disability payments due to his service in the United States Army. He clarified that these benefits are not needs-based or tied to his income.

Finally, Rucinski testified, stating that she did not wish to serve as Trustee.

ANALYSIS

The general rules guiding courts in the interpretation of wills were well settled over 50 years ago:

“It is now hornbook law (1) that the testator’s intent is the polestar and must prevail; and (2) that his intent must be gathered from a consideration of (a) all the language contained in the four corners of his will and (b) his scheme of distribution and (c) the circumstances surrounding him at the time he made his will and (d) the existing facts; and (3) that technical rules or canons of construction should be resorted to only if the language of the will is ambiguous or conflicting or the testator’s intent is for any reason uncertain.”⁵

In following these rules:

“[T]he primary goal of the construing court is to effectuate the intent of the testator. In order to ascertain testamentary intent, a court must focus first and foremost on the precise wording of the will, and if ambiguity exists, on the circumstances under which the will was executed. The words of a will are not to be viewed in a vacuum, and specific words or phrases will be rejected when they subvert or defeat the testator’s whole testamentary scheme and divest the bounty from those whom he obviously intended to benefit.”⁶

A court must scrupulously avoid rewriting a will if the testator’s intent is clear and lawful: “it is not what the Court thinks he might or would or should have said in the existing circumstances, or even what the Court thinks he meant to say, but what is the meaning of his words” that controls.⁷ A court is required to “give effect to word and clause where reasonably possible so as not to render any provision nugatory or mere surplusage. Further, technical words must ordinarily be given their common legal effect as it is presumed these words were intentionally and intelligently

⁵ *In re Houston’s Estate*, 201 A.2d 592, 595 (Pa. 1964).

⁶ *Murphy v. Karnek*, 160 A.3d 850, 861 (Pa. Super. 2017) (internal citations omitted).

⁷ *Houston*, 201 A.2d at 595.

employed....”⁸ The “technical rules or canons of construction” available to courts “should be resorted to only if the language of the will is ambiguous or conflicting or the testator’s intent is for any reason uncertain.”⁹ In this regard, the Supreme Court of Pennsylvania has stated:

“[T]he Courts will uphold, carry out and require enforcement of every valid will and every provision thereof, in compliance with testator’s intent as therein expressed, unless the will or a challenged provision thereof is unlawful or unconstitutional or against public policy. The fact that a testator makes a gift or gives powers or rights or provides duties or obligations or conditions or limitations which a disappointed heir or even a Court believes were and/or are inequitable or unwise or unjust or foolish, is no justification for invalidating or changing or shackling [the] testator’s clearly expressed wishes and intent, or rewriting his will or any part or provision thereof... One possessed of testamentary capacity, who makes a will in Pennsylvania, may die with the justifiable conviction that the courts will see to it that his dispositions, legally made, are not departed from or improperly defeated.”¹⁰

The specific provisions at issue deal with the interaction between the receipt of “need-based benefits,” the Will’s lapse provision, and the distribution of trust income. In Pennsylvania, “the principal of [a] testamentary trust” may in certain circumstances constitute “an ‘available resource’” of a beneficiary for the purpose of determining eligibility for benefits.¹¹ Under the Probate, Estates and Fiduciaries Code, an explicit provision of a will causing a share to lapse will be given full effect.¹²

⁸ *In re Estate of Rider*, 711 A.2d 1018, 1021 (Pa. Super. 1998).

⁹ *In re Estate of Tscherneff*, 203 A.3d 1020, 1024 (Pa. Super. 2019) (emphasis in original).

¹⁰ *In re Meyers’ Estate*, 206 A.2d 37, 38-39 (Pa. 1965).

¹¹ *Estate of Rosenberg v. Department of Public Welfare*, 644 A.2d 215, 216 (Pa. Cmwlth. 1994). In *Rosenberg*, the Commonwealth Court affirmed the denial of medical assistance to a beneficiary of a testamentary trust because the testator authorized the use of the trust principal to pay for the beneficiary’s “medical and surgical expenses or her other unusual needs,” and thus the trust principal was “an ‘available resource’” exceeding the threshold for medical assistance eligibility.

¹² 20 Pa. C.S. § 2514(9)-(11) states that wills should be generally construed to avoid lapse, but only “[i]n the absence of a contrary intent appearing” in the will. Thus, a lapse provision is no different than any other expression of a testator’s intent, which must be given full effect unless illegal or impossible.

Here, the Court does not believe that there is an ambiguity, either express or latent, in the Will's language. This conclusion is reinforced by the Will's structure. Paragraphs I through III deal with all distributions to be made from Decedent's Estate prior to reaching specific bequests to beneficiaries named in the Will.¹³ Paragraph IV provides that all specific bequests in Paragraph V and thereafter are subject to the provision that the share of any beneficiary who is receiving need-based benefits and does not have a Special Needs Trust "shall lapse and shall be added to [the Decedent's] residuary estate."¹⁴ Paragraph V makes three specific bequests to named beneficiaries not presently at issue. Paragraph VI takes "all of the rest, residue and remainder" of the estate following the distributions in Paragraphs I, II, III and V – that is, the residuary estate – and directs it to be placed in a trust and invested, with income distributed to Grayson, Sitler, Dressler, and Bunting in equal shares.

Thus, absent the lapse provision in Paragraph IV, Grayson, Sitler, Dressler and Bunting would each receive a one-quarter share of the residuary estate, held in trust, with distributions of trust income made equally according to the specific provisions of Paragraph VI. Paragraph IV, however, clearly expresses an intent for the share of whichever Grayson, Sitler, Dressler and Bunting is receiving "need-

¹³ Paragraph I concerns funeral expenses, Paragraph II concerns payment of taxes, and Paragraph III concerns the distribution of "certain items of personal property... in accordance with a [separate] Memorandum" kept with the Will.

¹⁴ The Will does not specify the reason for the inclusion of Paragraph IV, and the Court does not need one to enforce the clear language of the lapse provision. It is possible to imagine, however, that a testator would include such a provision to ensure that what he intended as a posthumous gift to certain family members does not become a burden by increasing their income or assets above a certain threshold, rendering them ineligible for the assistance they need.

based benefits” to lapse and “be added to [the] residuary estate.” No evidence was presented that suggests this intent is either unclear or illegal under Pennsylvania law. According to the unchallenged testimony given at the hearing, at the time of Decedent’s death Grayson and Bunting were not receiving any “need-based benefits,” whereas Sitler and Dressler were.¹⁵ Therefore, under the plain language of Paragraph IV, Sitler’s share and Dressler’s share of the residuary estate lapsed, and were added back to the residuary estate to be placed in trust. Because Grayson and Bunting are the only beneficiaries with shares in the residuary estate held in trust, they are to receive the trust income in equal (that is, one-half) shares, subject to the conditions of Paragraph VI.¹⁶

DECREE

For the foregoing reasons, the Court DECREES that under Paragraphs IV and VI of the Will, the shares of Decedent’s residuary estate¹⁷ bequeathed to Geneva M. Sitler and Brittany Dressler lapse. Pursuant to Paragraph VI of the Will, the residuary estate shall be held in trust, with all income “distributed on a quarterly or other convenient basis, IN EQUAL SHARES,” to Dona [Manno] Grayson and Keanu F.

¹⁵ Sitler testified that she was receiving food stamps and Medicare at the time of Decedent’s death, and Dressler testified that she was receiving food stamps at the time of Decedent’s death. Both Pennsylvania’s Supplemental Nutrition Assistance Program (“SNAP,” commonly referred to as “food stamps”) and Medicare constitute need-based assistance.

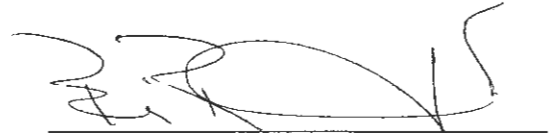
¹⁶ The Court notes that Grayson testified she began receiving need-based benefits months approximately five months after Decedent’s death. The Will does not suggest that “not receiving need-based benefits” is a condition subsequent to distribution, the violation of which will result in a retroactive failure of the bequest. It is well established that “[t]he law regards with disfavor conditions subsequently divesting a vested estate.” *McKinley v. Martin*, 75 A. 734 (Pa. 1910).

¹⁷ That is, the property remaining in Decedent’s Estate following all distributions made pursuant to Paragraphs I, II, III and V of the Will.

Bunting, subject to the provisions of Paragraph VI discussing the disposition of trust income and trust assets following the death of one or both of Grayson and Bunting.

IT IS SO DECREED this 21st day of September 2022.

By the Court,



Eric R. Linhardt, Judge

ERL/jcr

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