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IN THE SEVENTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
(PROBATE DIVISION) FILED

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RICHARD R. ROOKER, CLERK

In Re:

ESTATE OF ELLA MAE COCKRILL, NO. 08P-801

Deceased.

O R D E R OF PROBATE
OF LOST WILL OF ELLA MAE COCKRILL

This cause came on to be heard before the Honorable Randy Kennedy, Probate Judge, on the 4th day of March, 2010, upon the Petition of Wilson Cockrill to probate the lost Will of Ella Mae Cockrill. At the outset of the hearing, Nancy Cockrill, *pro se*, submitted a motion to the Court to continue the hearing to a later date on the basis that she had insufficient notice and inadequate time to prepare for the hearing. The Motion to Continue was overruled, and the Court proceeded with the hearing.

Proof offered by the proponent of the lost Will included testimony from Joseph L. Lackey, Jr., Esq.; Robert Fitzpatrick, Deputy Clerk in the Office of the Metropolitan Trustee; Bertha Harris, Clerk in the Office of the Metropolitan Assessor of Property; and Ora Starks, daughter of the Petitioner, Wilson Cockrill. In behalf of the Respondent Heirs, testimony was given by Maxine Bradley and by Nancy Cockrill, *pro se*.

From the testimony and Exhibits presented to the Court, it appears to the Court as follows:

1. On September 17, 1992, Ella Mae Cockrill executed a Last Will and Testament at the Bank of Mt. Juliet, witnessed by Sandra Cox and Dean Jackson as

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attesting witnesses, leaving her entire Estate in equal shares to her two living children, Cora McClain and Wilson Cockrill.

2. On May 17, 1993, Ella Mae Cockrill died in Davidson County, Tennessee.

3. Following the death of Ella Mae Cockrill, the Will was taken by Cora McClain and Ora Starks to the Offices of the Davidson County Trustee and the Metropolitan Tax Assessor, where it was photocopied, with the original Will returned to the possession of Cora McClain.

4. Thereafter, realty at 612 Tulip Grove Road, Hermitage, Davidson County, Tennessee, identified as Parcel 001, Property Map 75-8, which had been the home of Ella Mae Cockrill, was assessed in the names of Cora McClain and Wilson Cockrill, the beneficiaries under the Will, who continued to reside on the premises.

5. On August 27, 1999, Cora L. McClain, a widow who had no children, died intestate, survived by her brother, Wilson Cockrill, by the heirs of her deceased brother, Ira Cockrill, and by the heirs of her deceased sister, Lena Cockrill Bradley.

6. After the death of Cora McClain, the property was assessed in the name of Wilson Cockrill as owner, and he continued to reside on the premises.

7. On or about May 6, 2006, Ora Starks took the original Will of Ella Mae Cockrill to attorney Joseph L. Lackey, Jr., for examination and advice retarding its probate. On that occasion, Joseph L Lackey, Jr. examined the Will in detail, noting all signatures affixed to the Will, the signatures of the attesting witnesses attached thereto, and observing the signature and seal of the notary before whom the affidavits were executed.

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8. Upon that examination, Mr. Lackey reached the conclusion that the Will was an original document, properly executed, and entitled to probate. Upon his examination of the Will, Mr. Lackey made notes regarding the children of Ella Mae Cockrill, identifying both the children who had predeceased her and the two who had survived her and were named as beneficiaries in the Will. Said notes corresponded to the wording in the Will.

9. On May 20, 2006, Mr. Lackey wrote a letter to Ora Starks, quoting his fee for providing legal services for the probate of the Will. However, the Will was not offered for probate at that time.

10. On September 26, 2007, certain heirs of Ella Mae Cockrill executed an Heirship Affidavit, and recorded it in the Office of the Register for Davidson County, averring that Ella Mae Cockrill had died intestate, and identifying the heirs who would inherit by intestacy.

11. On May 15, 2008, the original Will of Ella Mae Cockrill had been lost or misplaced, and Wilson Cockrill filed a petition for the probate of the lost will of Ella Mae Cockrill without administration.

12. On June 16, 2008, heirs of Ella Mae Cockrill filed a petition for the issuance of letters of administration on her Estate.

13. On July 2, 2008, Wilson Cockrill filed an amended petition for the probate of the lost will in solemn form.

14. On July 14, 2008, heirs of Ella Mae Cockrill filed an answer to the amended petition for the probate of the lost will in solemn form.

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15. In late-September, 2008, both Joseph L. Lackey, Jr. and Ora Starks made a diligent search to find the original Will of Ella Mae Cockrill, but the document still could not be found. Thereupon, Ora Starks obtained from the office of the Davidson County Tax Assessor a copy of the Will which had been made in that office, and took it to attorney Joseph L. Lackey, Jr. Upon examination of the photostatic copy, Mr. Lackey determined, based on the notes of his earlier review of the original Will, that it was a true copy of the original Will which he had examined in 2006.

16. On October 23, 2008, Joseph L. Lackey, Jr. wrote a letter to Ora Starks, suggesting probate of the lost original Will of Ella Mae Cockrill, using the photostatic copy as proof of its contents.

17. At the hearing on March 4, 2010, the photocopy obtained by Ora Starks from the Office of the Metropolitan Tax Assessor was offered as proof of the contents of the lost Will of Ella Mae Cockrill.

From the testimony and exhibits offered at the hearing of this case in open Court, in consideration of all pleadings heretofore filed, and in consideration of the trial briefs filed on February 25, 2010, and March 2, 2010, by counsel for the proponent of the Will and the Respondent Heirs, respectively, the trial brief entitled *Facts of Case* filed by Nancy Cockrill on March 3, 2010, the arguments of counsel for the parties and of Nancy Cockrill, *pro se*, the Court is of the opinion that the lost Will of Ella Mae Cockrill dated September 17, 1992, should be admitted to probate. The Court hereby determines that the photocopy thereof, consisting of the three pages of the Will itself and the two attached

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pages being affidavits of the attesting witnesses, represents a true and accurate copy of the original Will as executed by Ella Mae Cockrill on September 17, 1992.

With the probate of the lost Will, which is effective as of May 17, 1993, followed by the subsequent intestate death of Cora McClain, the Court determines that ownership of the realty known as 612 Tulip Grove Road, Hermitage, Davidson County, Tennessee, resides as follows: a two-thirds (2/3^{rds}) undivided interest in Wilson Cockrill (1/2 as the devisee of Ella Mae Cockrill, and 1/6th as the intestate heir of Cora McClain); a one-sixth (1/6th) undivided interest in the heirs by representation of Ira Richard Cockrill, Deceased; and a one-sixth (1/6th) undivided interest in the heirs by representation of Lena Cockrill Bradley, Deceased.

There being no identified personal property of Ella Mae Cockrill 16 years following her death, there appears to be no reason for the appointment of a personal representative of the Estate, and this decision by the Court shall stand as a determination of title to the realty which had been the home of Ella Mae Cockrill at her death. This decision by the Court represents a final, appealable judgment with respect to all issues raised by the pleadings heretofore filed.

IT IS ACCORDINGLY SO ORDERED, ADJUDGED and DECREED, with Court costs assessed to the Respondent Heirs of Ella Mae Cockrill.

ENTERED this 1st day of ~~March,~~ May **2010.**

/

RANDY KENNEDY, ***Probate Judge***

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APPROVED AS TO ENTRY:

George H. Cate, Jr.

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Attorney for Wilson Cockrill

Brian O. Bowhan
By: George H. Cate, Jr. (SIGNED WITH PERMISSION)

Brian O. Bowhan (BPR #14760)
1132 Blue Willow Court
Antioch, TN 37013
(615) 445-8669 (Telephone)
Attorney for Respondent Heirs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order of Probate of Lost Will of Ella Mae Cockrill was served on the following persons on this the 11th day of **March, 2010**, by U.S. First Class, postage prepaid mail:

Bowhan, Brian O. Esq.
1132 Blue Willow Court
Antioch, TN 37013-1602

Bradley, Odell Jr.
703 Tulip Grove Rd.
Hermitage, TN 37076

Cockrill, Ivey
305 Leesa Ann Ct.
Hermitage, TN 37076

Cockrill, Nancy
632 Tulip Grove Rd.
Hermitage, TN 37076

Cockrill, Pascall
4701 Lebanon Pk., #N229
Hermitage, TN 37076

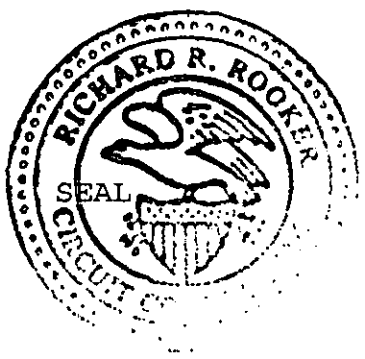
George H. Cate, Jr.
GEORGE H. CATE, JR.

STATE OF TENNESSEE

I, **RICHARD R. ROOKER,** Clerk of the Circuit Court for Davidson County, in the State aforesaid, do hereby certify that the foregoing is a true and correct copy of the ORDER heretofore entered in the SEVENTH Circuit Court for Davidson County, Tennessee, on the 01 day of APRIL , 2010 , in Case Number 08P801 between COCKRILL, WILSON Petitioner, and COCKRILL, ELLA ET.AL Respondent, as same remains in the records of said Court.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, the 21 day of SEPTEMBER 2012

RICHARD R. ROOKER, Clerk,



By _____

Deputy Clerk