STATE OF TENNESSEE

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Karen Johnson Davidson County
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IN RE: ***LIZZIE MAE FRANK***

Docket No: ***24P2108***

I, JOSEPH P. DAY, 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 above styled case on March 28, 2026 in the Seventh Circuit Court for Davidson County, Tennessee, as same remains of record in the Minutes of said Court.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of said Court, at office, in Nashville, on May 15, 2026.

JOSEPH P. DAY CIRCUIT COURT CLERK

JOSEPH P. DAY, Clerk,

By: Meachelle Conner
Deputy Clerk

EFILED 03/28/26 09:53 AM CASE NO. 24P2108 Joseph P. Day, Clerk

IN THE PROBATE COURT FOR DAVIDSON COUNTY, TENNESSEE

IN RE: ESTATE OF LIZZIE MAE FRANK

DOCKET NO.: 24P2108

ORDER CONSTRUING LAST WILL AND TESTAMENT

Comes now this matter came to be heard on the 12th day of March 2026 upon the Estate of Lizzie Mae Frank A and Daisa Frank's Petition for Declaratory Judgment and Petition to Construe the Last Will and Testament of Lizzie Mae Frank, dated March 23, 1995 before The Honorable Andra Hedricks, Judge for Seventh Circuit Court for Davidson County, Tennessee. Present were the attorney for the Estate of Lizzie Mae Frank, the attorney for Dasia Frank and Dasia Frank who appeared via videoconference.

The Court considered the pleadings, the arguments of counsel, the entire record, and the applicable law. After careful consideration, the Court makes the following findings of fact and conclusions of law.

I. FINDINGS REGARDING THE WILL

1. The decedent, Lizzie Mae Frank, executed a Last Will and Testament on March 23, 1995.
2. The Will contains the following relevant provisions:

- Article III, which provides that if the testator's husband predeceased her, the estate would pass to her children Clarence W. Frank Jr., Ronald C. Frank, and Paul A. Frank, "per stirpes in equal shares… if they survive me."
- Article IV, which provides that if any child does not survive the testator, the property shall pass "to my surviving children alive on the date of my death."

3. At the time of the decedent's death:

- Her Husband, Clarence W. Frank Sr, predeceased the decedent.
- Her son, Clarence W. Frank Jr. had predeceased the decedent.
- Her son, Ronald C. Frank had predeceased the decedent.
- Her son, Paul A. Frank was the only child alive on the date of death.

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II. GOVERNING LAW

The Court applies well-established Tennessee principles governing will construction. The cardinal rule is that the Court must ascertain and give effect to the intent of the testator as expressed within the four corners of the will. See *Stickley v. Carmichael*, 850 S.W.2d 127 (Tenn. 1992).

Tennessee courts also recognize that a testator has the absolute right to direct the disposition of property, and courts must enforce those directions unless contrary to law. See *In re Estate of Clifton*, 633 S.W.3d 557 (Tenn. Ct. App. 2021). Every clause of a will should be given effect if possible. When provisions conflict, courts attempt to harmonize them. If irreconcilable, the later and more specific provision controls. These principles guide the Court's analysis. *In the Matter of George W. Walls E2024-01751-COA-R3-CV (Tn Ct. App. Jan. 13, 2026).*

III. AMBIGUITY IN THE WILL

The Court finds that the Will contains a patent ambiguity appearing within the four corners of the document. Specifically, Article III includes both the phrase "per stirpes" and the survivorship condition "if they survive me." These phrases create tension because traditional per stirpes distribution allows descendants of a deceased child to inherit, while survivorship language requires the named beneficiaries themselves to survive. Additionally, the Will contains two clauses governing the residuary estate, Articles III and IV, which do not perfectly align. Because the ambiguity arises from the language of the will itself, it is a patent ambiguity and must be resolved using the rules of will construction.

IV. APPLICATION OF RULES OF CONSTRUCTION

In determining the testator's intent, the Court considered several rules of construction.

A. Technical Terms

The phrase "per stirpes" is a technical legal term. Normally, such terms are presumed to carry their legal meaning when used in a lawyer-drafted will. However, the Court finds that the presence of survivorship language suggests the phrase may not have been used in its technical sense.

B. Giving Effect to the Entire Will

The Court must give effect to all portions of the Will where possible. Adopting a strict per stirpes interpretation would effectively render Article IV meaningless, because descendants would inherit regardless of whether the children survived the testator.

C. Later Clause Controls

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Article IV appears after Article III and specifically addresses the contingency that a child predeceases the testator. Under Tennessee law, when provisions are inconsistent, the later clause is presumed to represent the testator's final intent.

D. Overall Testamentary Scheme

Reading the Will as a whole, the Court finds that, Article III provides the distribution if all children survive, and Article IV provides the contingency plan if one or more children predecease the testator. Because two children predeceased the testator, Article IV governs.

V. ANTI-LAPSE STATUTE

The Court further finds that the Tennessee anti-lapse statute, Tenn. Code Ann. § 32-3-105, does not apply. Although two children predeceased the decedent, the Will expressly provides a contingency plan for that situation by directing the estate to the surviving children alive on the date of death. Where a will provides such survivorship language, it constitutes a contrary intent sufficient to defeat the anti-lapse statute.

VI. 120-HOUR SURVIVAL STATUTE

The Court also finds that the Uniform Simultaneous Death Act, Tenn. Code Ann. § 31-3-120, does not affect the analysis. The evidence establishes that Ronald C. Frank predeceased the decedent, and there is no dispute as to the order of deaths. Therefore, the statute does not alter the construction of the Will.

VII. CONCLUSION

After considering the language of the Will and applying Tennessee rules of will construction, the Court concludes that the testator intended that, the gift to the three children in Article III applies only if they survive the testator, and If one or more children do not survive, Article IV governs and the estate passes to the surviving children alive at the date of death. Because Paul A. Frank was the only surviving child, he is the sole beneficiary under the Will.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The Last Will and Testament of Lizzie Mae Frank is hereby construed to provide that the residuary estate passes to the surviving children alive on the date of the testator's death.
2. The Court finds that Paul A. Frank is the only surviving child of the decedent.

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3. Accordingly, Paul A. Frank is the sole beneficiary of the Estate of Lizzie Mae Frank.
4. Dasia Frank shall take nothing under the Will of Lizzie Mae Frank and has no interest in the Estate.
5. The Tennessee anti-lapse statute does not apply to this Will.
6. The Tennessee 120-hour survival statute does not apply in this matter.
7. The Estate shall be administered consistent with this ruling.

SO ORDERED.

ENTERED this ____ day of _____, 2026.

JUDGE ANDRA HEDRICKS
Seventh Circuit Probate Court for Davidson County, Tennessee

APPROVED FOR ENTRY:

Lorraine Wade (BPR #22331)
Wade Law, LLC
199 Enon Springs Road W., Suite 100
Smyrna, TN 37167
Attorney for Estate of Lizzie Mae Frank

Certificate of Service

I certify that a copy of the foregoing was sent to:

1. Shanone Emmack
   219 Third Ave North
   Franklin, Tennessee 37064
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Via U.S. Mail , the Davidson County e-filing system and email on the 24th day Of March 2026

s/Lorraine Wade

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Case Title: FRANK V FRANK
Case Number: 24P2108
Type: ORDER

The foregoing is hereby ORDERED, ADJUDGED AND DECREED:

Judge Andra Hedrick, Seventh Circuit