



ELDER LAW AND ESTATE PLANNING

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Angry granddaughter denied inheritance because of husband's religion

Question: I live in Florida. My grandmother lived in another state, and she died a month ago leaving an estate in the seven figures. My two sisters and I just learned that her trust splits her estate equally among us, but we only get an inheritance if we are married to someone who shares my grandmother's religion! My sisters' husbands do, but I am happily married to – and have two children with – someone of a different religion. I always respected my grandmother's devotion to her faith, but now all I can say is that I'm just shocked and angry. My sisters are angry for me, too. Do I have any grounds for legal action? The bank that is the trustee has already told me its hands are tied.

Answer: Your late grandmother was exercising "dead hand control," attempting to shape her loved ones' behavior from the grave based on what she thought was best for them. Does she have the legal right to do that? The answer is not clear-cut.

In general, courts tend to allow people to pass along their money with strings attached, provided that those strings do not foster behavior that is illegal or against public policy. In an Illinois case a few years ago, a man made his grandchildren's inheritance contingent on their marrying Jewish

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spouses. Although the lower court struck it down; it was subsequently upheld by the state's Supreme Court.

If you have the financial resources, consider talking to a probate litigation lawyer to see if you might have a case. It is possible you could prevail.

Readers considering putting conditions on their bequests should carefully weigh the impact those conditions could have on their loved ones. This grandmother's intentions were probably benevolent, but are now causing her family pain. Conditional bequests related to religion or anything else should always be thoroughly discussed with your estate planning lawyer.

Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.