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Holographic Wills

Jeremy Butler was a sick and elderly man being cared for by a friend named Ed Blake. Jeremy was estranged from his family and thought of Ed as a brother. Upon Jeremy's death, a handwritten will was found, which said:

“Ed Blake has been like a brother to me all these years. I want him to know I appreciate all he has done. He is like a brother only better. He is taking care of me now and we live together like a family, which is more than I can say for my own family. I leave all my things to Ed but if he is gone then I suppose it should go to my brother since blood does matter. I ask Ed to make sure my pets are well cared for.”

Unfortunately for Ed, his sister had fallen ill, and he was visiting her in Detroit when Jeremy died. Ed argued the will meant Jeremy wanted everything to go to Ed so long as he was still alive, but Jeremy's estranged brother argued that Ed was “gone” when Jeremy died and should not get anything. Approximately \$100,000 and months later, the jury verdict gave everything to Ed.¹

Holographic wills, also called handwritten wills, are considered valid in the State of Tennessee. To have a valid holographic will in Tennessee, the testator (person writing the will) must be 18 years or older, the entire will must be handwritten, and the testator must sign the will. Normally, wills require at least two witnesses be present to watch the testator sign the will. Holographic wills do not require any witnesses to be present. Instead, two people must verify that the will was written in the testator's handwriting.

Attorneys caution against handwritten wills because of the problems that can arise. The wording can be ambiguous, the testator's true intent may not be understood, or questions of authenticity or competency may arise. Additionally, a handwritten will may be easier to lose and may have multiple versions, which makes it more difficult to determine what the testator of the will really wanted to happen to their estate. If a will is not thorough and clear in the eyes of the law, friends, family, and other benefactors of a will could end up spending hundreds of thousands of dollars to settle who gets what from an estate. This could result in the testator's wishes not being met and could even result in something the testator did not want at all.

It is important to have a will and plan for what will happen to your estate when you die. If you

choose to handwrite your will, it is important that you are clear and concise and explain in detail what you want to happen to all of your property when you die. If you are considering handwriting your will, be cautious of the many problems that can arise in determining what happens to your estate after you pass.

To best ensure that your wishes will be met after you pass, talk to a lawyer or your local Legal Services to draft a will.

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