IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

CASE NO. 1D10-3110

LAURIE BASILE and LEANNE KRAJEWSKI,

Appellants,

v.

JAMES MICHAEL ALDRICH, IN RE: Estate of Ann Dunn Aldrich,

Appellee.

_____/

Opinion filed April 21, 2011.

An appeal from the Circuit Court for Clay County.
John H. Skinner, Judge.

Jonathan D. Kaney III of Kaney & Olivari, P.L., Ormond Beach, for Appellants.

James J. Taylor Jr. of Taylor & Taylor P.A., Keystone Heights, for Appellee.

WEBSTER, J.

Appellants, nieces of the late Ann Dunn Aldrich ("the decedent") and the daughters of a pre-deceased brother of the decedent, seek review of the summary final judgment entered in favor of appellee, James Michael Aldrich, the decedent's

sole surviving sibling and the personal representative of her estate, in which the trial court held that section 732.6005(2), Florida Statutes (2004), requires that all of the property the decedent acquired after she had executed her will in 2004 passes under the will to appellee, the sole remaining beneficiary named in the will. Because we conclude that the trial court correctly interpreted and applied section 732.6005(2), we affirm.

On April 5, 2004, the decedent prepared an "E-Z Legal Forms" will. Under Article III of the form, entitled "Bequests," just after the form's pre-printed language "direct[ing] that after payment of all my just debts, my property be bequeathed in the manner following," the decedent hand-printed instructions that her body be cremated and her pets be "humanely destroyed by a licensed veterinarian," and that all of the following "possessions listed" be bequeathed to her sister, Mary Jane Eaton:

> -- House, contents, lot at 150 SW Garden Street, Keystone Heights FL 32656
> -- Fidelity Rollover IRA 162-583405 (800-544-6565)
> -- United Defense Life Insurance (800-247-2196)
> -- Automobile Chevy Tracker, 2CNBE 13c 916952909
> -- All bank accounts at M & S Bank 2226448, 264679, 0900020314 (352-473-7275).

The decedent went on to provide that "[i]f Mary Jane Eaton dies before I do, I leave all listed to James Michael Aldrich, 2250 S Palmetto 114 S Daytona FL 32119." The will was signed and witnessed, and contains no other distributive

provisions or a residuary clause. The decedent was unmarried and had no children. At the time of the drafting of her will, Ms. Eaton and appellee were the decedent's only living siblings. Appellants are not mentioned in the will.

Three years after the drafting of the will, Ms. Eaton died and left her entire estate to the decedent, which consisted of real property in Putnam County and cash that the decedent deposited in an account she opened with Fidelity Investment. On October 9, 2009, the decedent passed away without having revised her will to include the cash and the property. Appellee was appointed personal representative of his sister's estate and her will was admitted to probate. In order to facilitate the payment of administrative expenses and claims, appellee was authorized by court order to sell the Putnam County property. Thereafter, he filed a petition for construction of the will and commenced an adversary proceeding in the probate case to construe the decedent's will as it concerned the disposition of the proceeds of the sale of the property and the cash the decedent had inherited from their sister.

In his petition, appellee alleged that there were "two possible constructions . . . of the will as it concerns the after-acquired property." According to the petition, "the most reasonable and appropriate construction is that decedent intended her entire estate, including the acquired property, to pass to [appellee]." Appellee alleged that this construction was supported by a number of considerations, the most pertinent to the resolution of this appeal being (1) "[t]he will itself, which

names only decedent's predeceased sister, Ms. Eaton, and [appellee] as beneficiaries, and which devised all of the property then owned by decedent"; (2) "[s]ection 732.6005(2), [Florida Statutes], which provide[s] that a will is to be construed to pass all property that a testator owns at death, including property acquired after the execution of the will"; and (3) "[t]he legal presumption that in making a will a testator intended to dispose of his or her entire estate, as well as the legal presumption against a construction that results in partial intestacy." The alternative construction suggested in the petition was that "by her will decedent intended to dispose of only the property specifically listed in the will, and not property that she may subsequently have acquired." Under this latter scenario, the petition alleged, the trial court would be required "to treat decedent as having died intestate as to the after-acquired property" and that "[u]nder Florida's intestate succession law, that after-acquired property would pass one-half to [appellee], as decedent's sole surviving sibling, and one-quarter to each of [appellants], who are decedent's nieces[.]"

All parties submitted motions for summary judgment at the hearing. Appellee's motion sought a ruling as a matter of law that the will had been properly executed. Appellants' motion sought a summary judgment on the issue of whether the property the decedent had inherited from her sister passes under her will or by the rules of intestacy. At the commencement of the hearing on the

motions, appellants conceded the will had been properly executed and, accordingly, the trial court granted appellee's motion. On the remaining issue framed by appellants' motion, the trial court rejected appellants' argument that due to the lack of any general devises reflecting the decedent's intent, and in the absence of a residuary clause, the will contains no mechanism by which to dispose of the "residue" of the estate, that being the after-acquired property, and, consequently, the property should pass by intestacy. Instead, the trial court denied appellants' motion for summary judgment on the ground that in light of the decedent's unambiguous intent as expressed in her will, which negated the necessity of resorting to extrinsic evidence, section 732.6005(2) mandated that all of the after-acquired property passes to appellee under the will. By acquiescence of the parties in order to facilitate appellate review of this issue, the trial court entered summary final judgment in favor of appellee.

Section 732.6005 falls under Part VI of the Florida Probate Code, entitled "Rules of Construction." In its entirety, it reads as follows:

> **732.6005 Rules of construction and intention.—**
> (1) The intention of the testator as expressed in the will controls the legal effect of the testator's dispositions. The rules of construction expressed in this part shall apply unless a contrary intention is indicated by the will.
> (2) Subject to the foregoing, a will is construed to pass all property which the testator owns at death, including property acquired after the execution of the will.

The crux of appellants' argument is that section 732.6005 does not apply to wills that do not contain general devises or a residuary clause. Appellants urge that this theory was embodied in the language of former section 731.05(2), Florida Statutes (1973), and remains the law today under section 732.6005(2), because the historical sources from which section 732.6005(2) was derived did not purport to create an exception to the "rule" that in order for property, after-acquired or not, to pass under a will, the will must dispose of it in some manner. However, the unambiguous language of section 732.6005 does not support appellants' theory.

Former section 731.05, Florida Statutes (1973), evolved from the Florida Legislature's desire to remedy the common-law rule that after-acquired property did not pass by will. See DePass v. Kansas Masonic Home, 181 So. 410, 412-13 (Fla. 1938). The remedy was included in the Revised Statutes of 1892, and, by the time of DePass, was expressed in section 5477(2), Florida Statutes (Supp. 1934), which stated:

> [A] will becomes effective at the time of the death of the testator and all property, real or personal, acquired by the testator after making his will is transmissible under general expressions in the will showing such to be the intention of the testator. Every will containing a residuary clause shall transmit after-acquired property, unless the testator expressly states in his will that such is not his intention.

Id. at 413 (emphasis added). This portion of DePass was later cited in In re Vail's Estate, 67 So. 2d 665 (Fla. 1953), in which, in dicta "for clarity," the supreme court quoted the second passage of section 5477(2) regarding after-acquired property

and noted that "this language is identical with the last sentence of present F.S.A. § 731.05(2)." Id. at 670. It also observed that the "primary purpose" of section 5477(2) "was to permit transmissal [sic] of after-acquired property by will rather than by intestacy, and the expression of contrary intention [of the testator] contemplated by the statute is therefore an expression that after-acquired property shall not pass under the will." Id. (emphasis in original).

As enunciated by this court in In re Estate of McGahee, 550 So. 2d 83 (Fla. 1st DCA 1989): "The primary goal of the law of wills, and the polestar guiding the rules of will construction, is to effectuate the manifest intention of the testator." Id. at 85 (citing Marshall v. Hewett, 24 So. 2d 1 (1945), and In re Estate of Lenahan, 511 So. 2d 365 (Fla. 1st DCA 1987)). As earlier emphasized by the supreme court, "[t]he law of wills is calculated to avoid speculation as to the testator's intent and to concentrate upon what he said rather than what he might, or should, have wanted to say." In re Pratt's Estate, 88 So. 2d 499, 504 (Fla. 1955). Unquestionably, both section 732.6005 and its predecessor statutes embody this salutary purpose.

Furthermore, former section 731.05(2) and present section 732.6005(2) share an additional goal in will construction directed toward effectuating the intent of the testator, that being "a presumption against partial intestacy and allow[ing] a will to pass after-acquired property, absent a contrary intent." Henry A. Fenn & Edward F. Koren, The 1974 Florida Probate Code – A Marriage of Convenience,

27 U. Fla. L. Rev. 1, 32 (1974) (footnote omitted). Accord In re Vail's Estate, 67 So. 2d at 670; Dutcher v. Estate of Dutcher, 437 So. 2d 788, 789 (Fla. 2d DCA 1983) (observing that disposition under a will is favored over intestacy). In their article reviewing the expansive revision of the Florida Probate Code in 1974, the commentators were referring to then section 732.602, Florida Statutes (1974) – the precursor to section 732.6005 – that they described as "simply provid[ing]" that "'[a] will is construed to pass all property that the testator owns at his death including property acquired after the execution of the will.'" Fenn & Koren, 27 U. Fla. L. Rev. at 32 (quoting section 732.602, Florida Statutes (1974)). But, critical to the point raised on appeal, it was specifically noted in the article that while section 731.05(2), Florida Statutes (1973), was similar to section 732.602, Florida Statutes (1974), it "appli[ed] only to wills containing a residuary clause." Id. at 32 n. 212 (emphasis added). In the newly created section 732.602, the legislature omitted the "residuary clause" language, and it is also absent in section 732.6005(2). As other recent commentators have observed of section 732.6005(2):

> A will is construed to pass all property a testator owns at death, including property acquired after the execution of the will.[n. 1]
>
> Disposition under a will is favored over intestacy.[n. 2]
>
> Accordingly, if a will contains no residuary clause, or if a doubt exists about whether a will is intended to dispose of all assets the testator owned at the time of death, the will will be construed to make such disposition.

See 12 Abraham M. Mora, Shelly Wald, & Lorna J. Scharlacken, Florida Estate Planning § 18:41 (2010-11 ed.) (bracketed footnotes citing, respectively, section 732.6005(2), Florida Statutes, and Dutcher v. Estate of Dutcher, 437 So. 2d 788 (Fla. 2d DCA 1983)). Appellants' argument that section 732.6005(2) requires a residuary clause to pass after-acquired property under a will is nothing more than an attempt to reinsert through implication language that was expressly omitted by the legislature in 1974.

It is a cardinal rule of statutory construction that when an amendment to a statute omits words, courts must presume that the legislature intended the statute to have a different meaning than before the amendment. See Capella v. City of Gainesville, 377 So. 2d 658, 660 (Fla. 1979). More importantly, "when the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation and construction; the statute must be given its plain and obvious meaning." Knowles v. Beverly Enterprises-Fla., Inc., 898 So. 2d 1, 5 (Fla. 2004) (citing Holly v. Auld, 450 So. 2d 217, 219 (Fla. 1984)). By its clear and unambiguous terms, "unless a contrary intention is indicated in the will," section 732.6005(2) is "subject to" only the limitations expressed in subsection (1), those being "the intention of the testator as expressed in the will," and the "rules of construction" contained in Part VI of chapter 732 (i.e., section 732.601 ("Simultaneous Death

Law"), section 732.603 ("Antilapse"), section 732.604 ("Failure of testamentary provision"), section 732.605 ("Change in securities"), section 732.606 ("Nonademption of specific devises"), section 732.607 ("Exercise of power of appointment"), section 732.608 ("Construction of generic terms") and section 732.609 ("Ademption by satisfaction")). Otherwise, section 732.6005(2) mandates that after-acquired property passes under the will, notwithstanding the absence of a residuary clause. Because none of the "rules of construction" expressed in Part VI applies in this case, the sole consideration relevant to resolving the issue at hand is the decedent's intent as expressed in her will.

Appellants rely on the only case that has directly addressed section 732.6005(2), In re Estate of Barker, 448 So. 2d 28 (Fla. 1st DCA 1984). However, Barker involved two wills, the second of which expressly revoked all prior wills made by the testatrix, and also omitted the residuary clause that was contained in the first will. The existing residual estate was worth approximately $50,000 in real estate and $37,000 in personalty, and one of the former beneficiaries of that residual estate petitioned to have established the first will to prevent the distribution of the residual estate under the second will by intestacy to eleven heirs. The trial court found that the second will effectively revoked the first one and that no legal theory operated to revive the residuary clause of the first will. In affirming, this court recognized the presumption that the testatrix understood and

approved her will, and ruled that "[n]othing in the law precludes a testator from disposing of only a portion of his estate by will and allowing the balance to be distributed according to the law of intestate succession." Id. at 31. Significantly, however, this court also held, "[f]urther, appellant's reliance upon Section 732.6005(2), Florida Statutes, dealing with testamentary intent regarding after-acquired property is misplaced. That section has no application to the case at bar." Id. at 32.

Appellants also argue that the trial court's interpretation of section 732.6005(2) is contrary to this court's holdings in In re Reid's Estate, 399 So. 2d 1032 (Fla. 1st DCA 1981), and In re Estate of Scott, 659 So. 2d 361 (Fla. 1st DCA 1995). However, both cases are inapposite. Reid, like Barker, did not involve after-acquired property or section 732.6005(2). Instead, the will's devises lapsed due to the deaths of both the beneficiary and the contingent beneficiary prior to the death of the testator, and the entire estate passed by intestacy. Reid, 399 So. 2d at 1033. Scott, too, involved the question of whether a devise to a predeceased beneficiary had lapsed. Scott, 659 So. 2d at 362. Neither involved after-acquired property.

Here, the trial court was asked to interpret a will that devised to the decedent's sister specific items with instructions that, should the sister predecease her, all of the items listed should pass to her brother. Although there is nothing on

the face of the will indicating that the items so devised consisted of the decedent's entire estate, there is also nothing on the face of the will indicating the decedent's intent that anyone other than either the decedent's sister or her brother receive anything under the will. In short, there was no "expression of contrary intention" by the decedent that the after-acquired property "shall not pass under the will." In re Vail's Estate, 67 So. 2d at 670 (emphasis in original). Given that clear intent, and in the absence of the application of any of the other rules of construction contained in Part VI of chapter 732, the property acquired by the decedent following the death of her sister would, by virtue of section 732.6005(2), pass under the will to appellee, and not according to the rules of intestacy to be divided between appellants and appellee.

The trial court's construction of the decedent's will is consistent with the meaning and intent of section 732.6005. Accordingly, the property acquired by the decedent from her sister following the execution of the decedent's will passed by the decedent's will according to the decedent's intent as expressed in her will. This interpretation of section 732.6005 does not lead to "absurd results" as appellants argue. Section 732.6005(2) is wholly dependent on the testator's intent as expressed in the will, and this case presents no circumstances that cannot be resolved by an application of the plain language of the statute to the decedent's intent. The summary final judgment is affirmed.

VAN NORTWICK, J., CONCURS; BENTON, C.J., DISSENTS WITH OPINION.

BENTON, C.J., dissenting.

Unable to agree to the judicial rewriting of Ann Dunn Aldrich's will, I must respectfully dissent. One lesson this case should teach is that it is a good idea to include a residuary clause in every will. But this prerogative is the testatrix's, not the court's. It is her property. The trial court had no business supplying a residuary clause where none exists, and today's decision compounds the error. We should practice what we preach, viz., that "the court may not attempt to improve upon the will of a testator and may not alter or reconstruct a will according to the court's notion of what the testator would or should have done." In re Estate of Scott, 659 So. 2d 361, 362 (Fla. 1st DCA 1995) (citing In re Estate of Barker, 448 So. 2d 28, 31-32 (Fla. 1st DCA 1984)).

The language of Ann Dunn Aldrich's will is clear and unambiguous. By her will, she devised her house and lot in Keystone Heights, and bequeathed its contents, together with other personal property that the will identifies with painstaking specificity. "A specific legacy is a gift by will of property which is particularly designated and which is to be satisfied only by the receipt of the particular property described." In re Estate of Udell, 482 So. 2d 458, 460 (Fla. 4th DCA 1986) (quoting In re Estate of Parker, 110 So. 2d 498, 500 (Fla. 1st DCA 1959)). See also In re Estate of Gilbert, 585 So. 2d 970, 972 (Fla. 2d DCA 1991) (quoting Park Lake Presbyterian Church v. Henry's Estate, 106 So. 2d 215, 217

(Fla. 2d DCA 1958) (a specific bequest or devise "'is a gift of a particular thing or of a specified part of the testator's estate so described as to be capable of distinguishment from all others of the same kind.'")). Her will could hardly be clearer. It plainly evinces an intent to dispose of each particular item of property the will names.

Equally plainly, Ann Dunn Aldrich's will is wholly devoid of any expression of an intent to dispose of the disputed property, property the will does not allude to in any way. Among such property not so much as hinted at in the will is real property in Putnam County. Nor does the will, which lists three bank accounts by account numbers, and Ms. Aldrich's "Fidelity Rollover IRA 162-583405," make mention of cash in some other Fidelity Investments account. Insofar as it delimits the parts of her estate on which it operates, the will is fairly susceptible of only one interpretation.

The "intention of the testator, as expressed in his will, shall prevail over all other considerations, if consistent with the principles of law." Lines v. Darden, 5 Fla. 51, 68 (1853) (emphasis supplied). "To the greatest extent possible, courts and personal representatives are obligated to honor the testator's intent in conformity with the contents of the will." Espinosa v. Sparber, Shevin, Shapo, Rosen & Heilbronner, 612 So. 2d 1378, 1380 (Fla. 1993) (emphasis supplied) (citing In re Blocks' Estate, 196 So. 410 (Fla. 1940)). See also Diana v. Bentsen,

677 So. 2d 1374, 1376 (Fla. 1st DCA 1996) ("The purpose of construing a will is to give effect to the decedent's intention as expressed in the will.") (emphasis supplied).

"The intention of the testator as expressed in the will controls the legal effect of the testator's dispositions." § 732.6005(1), Fla. Stat. (2009) (emphasis supplied). If discernible from the will, the testator's intent must be enforced unless to do so would be illegal or otherwise contrary to public policy. See In re Estate of Tolin, 622 So. 2d 988, 990 (Fla. 1993); First Union Nat'l Bank of Fla., N.A. v. Frumkin, 659 So. 2d 463, 464 (Fla. 3d DCA 1995); Rogers v. Atl. Nat'l Bank of Jacksonville, 371 So. 2d 174, 176 (Fla. 1st DCA 1979). The rule is, indeed, "that in order for property, after-acquired or not, to pass under a will, the will must dispose of it in some manner." Ante p. 6.

Whether acquired before, after, or at the time a will is executed, assets covered by no provision of the will are not disposed of under the will. Ms. Aldrich's will does not say the first thing about real property in Putnam County or a non-IRA account at Fidelity Investments. The will cannot, therefore, dispose of these items, not because they are after-acquired, but because no provision of the will covers them.

While the will does not dispose of all the property Ann Dunn Aldrich owned at her death, this circumstance is hardly unique to her or her estate and does not

contravene any rule of law or public policy. A testator is free to dispose of only a portion of his or her estate by will, allowing the balance to descend under the laws of intestate succession. See In re Estate of Barker, 448 So. 2d 28, 31 (Fla. 1st DCA 1984). "Any part of the estate of a decedent not effectively disposed of by will passes to the decedent's heirs as prescribed in the following sections of this code." § 732.101(1), Fla. Stat. (2009). See also § 733.805, Fla. Stat. (2009) (setting forth the order in which funds or property designated by the will abate, beginning with property passing by intestacy). "A testator may be intestate as to all of his estate or as to a part thereof. The statute of descents applies to any property of a decedent not lawfully disposed of by will or otherwise as provided by law." In re Stephan's Estate, 194 So. 343, 344 (Fla. 1940).

The presumption against partial intestacy is designed to resolve ambiguities where they exist, and should not be applied to create ambiguities where none would otherwise exist. Section 732.6005(2) is, after all, a rule of construction. Rules of construction are to be resorted to only if the testator's intent cannot be ascertained from the will itself. See, e.g., Barley v. Barcus, 877 So. 2d 42, 44 (Fla. 5th DCA 2004); First Nat'l Bank of Fla. v. Moffett, 479 So. 2d 312, 313 (Fla. 5th DCA 1985); In re Estate of Lesher, 365 So. 2d 815, 817 (Fla. 1st DCA 1979).

Here the will makes the testator's intent crystal clear. "There are simply no conflicting provisions of the . . . will [concerning the disputed property] which

require construction." Barker, 448 So. 2d at 31. "'If the terms of a will are such as to permit two constructions, one of which results in intestacy and the other of which leads to a valid testamentary disposition, the construction is preferred which will prevent intestacy.' In re Gregory's Estate, 70 So 2d 903, 907 (Fla. 1954) (quoting Redfern on Wills and Administration of Estate in Florida, 2d ed., p 192)." In re Estate of McGahee, 550 So. 2d 83, 87 (Fla. 1st DCA 1989). But the terms of Ms. Aldrich's will do not dispose of any property other than the property the will specifically identifies.

The majority opinion makes much of the fact that the property the will does not dispose of was acquired after Ms. Aldrich executed her will. Given the contents of her will, however, the fact that she acquired the disputed property after she executed the will is the purest of red herrings. It would not have mattered whether she owned real property in Putnam County or held cash in a non-IRA account at Fidelity Investments at the time she executed her will. In that event, too, the will as written would have failed to dispose of those unmentioned assets.

The majority opinion misapprehends the governing statutory provisions, which state simply:

> (1) The intention of the testator as expressed in the will controls the legal effect of the testator's dispositions. The rules of construction expressed in this part shall apply unless a contrary intention is indicated by the will.
>
> (2) Subject to the foregoing, a will is construed to pass all property which the testator owns at death,

> including property acquired after the execution of the will.

§ 732.6005 Fla. Stat. (2009) (emphasis supplied). The majority opinion reads out the crucial qualifying phrase, italicized above.

Properly applied, these statutes require that the specific bequest of the contents of the Keystone Heights house be "construed to pass all" such contents which Ms. Aldrich owned at the time of her death "including property acquired after the execution of the will." § 732.6005(2), Fla. Stat. (2009). Similarly, the will should be "construed to pass all" the money in (at the time of her death) each of the bank accounts the will specifies, including money deposited in those accounts "after the execution of the will." Id. But there is no residuary clause nor any other "intention of the testator as expressed in the will" concerning the Putnam County realty, or any personalty aside from the subjects of the specific bequests. § 732.6005(1), Fla. Stat. (2009). The will contains no provision that would "necessarily indicate that she did not wish her residuary estate to be distributed to her legal heirs as intestate property." Barker, 448 So. 2d at 31.

The will admitted to probate in Barker ("the second will") lacked a residuary clause, as Ms. Aldrich's will does. The result in Barker was that the residual portion of the estate went by intestacy. Judge Nimmons wrote:

> Nothing in the law precludes a testator from disposing of only a portion of his estate by will and allowing the balance to be distributed according to the

> laws of intestate succession. In Re Stephan's Estate, 142 Fla. 88, 194 So. 343 (1940); Pelton v. First Savings & Trust Co., 98 Fla. 748, 124 So. 169 (1929); 18 Fla.Jur. 2nd Decedent's Property § 383; Annot. 80 A.L.R. 140. Frankenberg [who took under other provisions of the will] is not benefitted in this case by the principle that the law favors any reasonable construction of a will that disposes of all of the testator's property over an interpretation that results in partial intestacy. See In Re Smith, 49 So. 2d 337 (Fla. 1950); In Re Gregory's Estate, 70 So. 2d 903 (Fla. 1954). There are simply no conflicting provisions of the second will which require construction.

Barker, 448 So. 2d at 31. The same result should obtain in the present case, and for the same reasons. No residuary clause nor any other provision of the will disposed of the disputed property.

Those opposing partial intestacy argued in Barker that the testatrix had evinced her intent to exclude certain of her heirs from taking anything more than the nominal (one-dollar) bequests she had made to them. (Ms. Aldrich's will reflects nothing of the kind regarding any of her heirs.) The Barker court's answer was: "'In order to cut off an heir's right to succession a testator must do more than merely evince an intention that the heir shall not share in the estate—he must make a valid disposition of his property.'" Id. at 31 (quoting In re Estate of Levy, 196 So. 2d 225, 229 (Fla. 3d DCA 1967)). Ms. Aldrich's will made no "valid disposition" of the Putnam County realty or of any personalty not specifically bequeathed in her will.

A will is not subject to judicial revision merely because it does not dispose of all of the testator's property. Given the specificity of the devise and bequests in Ann Dunn Aldrich's will, including the house address, account numbers and a vehicle identification number, invocation of section 732.6005(2) as a basis for construing the will to dispose of the Putnam County property and an account not identified in the will is unwarranted, even whimsical. Synecdoche is a rhetorical device, not a judicial doctrine. "[I]f a will disposes of only one small specific item out of a large and valuable estate, it would be absurd to hold that the devisee of that one small item is entitled to the remainder of the estate." Matter of Estate of Allen, 388 N.W.2d 705, 707 (Mich. Ct. App. 1986). While the same logic surely holds for two specific items—or even five—I do not suggest that the opinion of learned colleagues is absurd. But I have to say I think I hear Dean Fenn turning over in his grave. Or was that Judge Nimmons?

The order granting summary judgment should be reversed.