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Case Number: 14-0215-CV

IN THE SUPERIOR COURT FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

ESTATE OF) CIVIL CASE NO. 14-0215
JULIA MARIE FLORES BOYER)
	ORDER FINDING THAT THE
Deceased.) HANDWRITTEN WILL IS INVALID
) PURSUANT TO 8 CMC §§ 2303, 2304
) AND 2307 BECAUSE (1) THE
) SIGNATURES OF THE TESTATOR AND
) WITNESSES ARE UNVERIFIED; (2) THE
) WILL FAILS AS A HOLOGRAPHIC
) WILL BECAUSE THE MATERIAL
) PROVISIONS OF THE WILL ARE NOT
) IN THE TESTATOR'S HANDWRITING;
) AND (3) AS A WILL EXECUTED
	OUTSIDE OF THE COMMONWEALTH,
) THE WILL FAILS TO COMPLY WITH
) CNMI LAWS OR THE LAWS OF THE
) FOREIGN JURISDICTION
)
)

I. INTRODUCTION

This Matter came before the Court on October 22, 2020 at 10:00 a.m. for an evidentiary hearing to determine the effect, if any, to be given to the purported will ("the Will"). Present for the Estate of Julia Marie Flores Boyer ("the Estate") was the administrator, Antonio Muna ("Muna"); the attorney for the Estate, George Lloyd Hasselback, Esq.; and Remasch M. Mongani ("Mongani"), a Palauan man who was in a long-term relationship with Julia Marie Flores Boyer and co-habited with her for eleven (11) years.

The Court heard sworn testimony from Muna, Mongani, and Guillerma Boyer Peters – decedent's sister. The Court only received one exhibited into evidence – the Will. The Court, in

1 considering the testimonies, the admitted exhibit, the arguments of counsel, and the applicable law, 2 hereby makes the following determinations.¹ 3 II. FINDINGS OF FACT 1. Julia Marie Flores Boyer ("Julia") was a resident of the Commonwealth of the Northern 4 5 Mariana Islands ("CNMI"). 6 2. Julia lived in a home with Mongani for eleven (11) years as an unmarried couple.² 7 3. Julia and Mongani were not married. 8 4. Julia traveled to Portland, Oregon for medical reasons. 9 5. Julia purportedly signed the Will on April 23, 2014, in Portland. 10 6. Julia died in Portland on May 3, 2014. 11 7. Mongani went to Portland after Julia died. 8. Upon Mongani's arrival in Portland, he was given a copy of the Will. 12 13 9. Mongani did not observe the drafting of the Will. 14 10. The Will states that Mongani should be allowed to continue to live in the home that he and 15 Julia shared until such time as Mongani remarries. 11. The Will also gave two of Julia's siblings, Leonardo and Bernadita, ownership of the house. 16 17 12. Mongani testified that the Will was handwritten but was not in Julia's handwriting. 18 13. The Will appears to have been signed but there was no testimony that Julia's alleged signature 19 was actually hers. 20 14. Two other individuals, named Breanne Cabrera and Ciara Dela Cruz, also appear to have 21 signed the bottom of the Will as witnesses. However, there was no testimony that the 22 23 Any inconsistency between this written Order and the oral pronouncement from the bench stated in open court will be

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resolved in favor of this written Order. ² "[C]ommon law marriage is not valid in the Commonwealth." Santos v. Commonwealth, 2017 MP 12 ¶ 18.

signatures of the two alleged witnesses were actually theirs or that the alleged witnesses observed Julia signing the Will.

- 15. The Will was not notarized.
- 16. There was no evidence, such as affidavits, presented at the hearing pertinent to the circumstances under which the Will was allegedly signed or witnessed.
- 17. The entire one-page Will is handwritten.

III. DISCUSSION

For the reasons stated below, the Court finds that there was insufficient evidence at the hearing to show that the drafting of the Will complied with the applicable Commonwealth probate statutes.

A. The Will Does Not Comply with 8 CMC § 2303 Because the Signatures Are Unverified

Under 8 CMC § 2303, unless there is an applicable exception, "every will shall be in writing signed by the testator or in the testator's name by some other person in the testator's presence and by his direction, and shall be signed by at least two persons each of whom witnessed either the signing or the testator's acknowledgment of the signature of the will."

Here, the Will is handwritten, purportedly signed by Julia, and two other individuals, Breanne Cabrera and Ciara Dela Cruz, who, on the onset, appear to be the witnesses of the signing of the Will. At first glance, the Will appears to comply with the requirements of 8 CMC § 2303. However, Mongani, who provided the only testimony pertinent to the drafting of the Will, did not testify that the signature that purports to be Julia's is actually hers; and the Court did not receive any other evidence regarding Julia's alleged signature. There was also no evidence presented to the Court concerning the alleged signatures of Breanne Cabrera and Ciara Dela Cruz. Because of the lack of testimonial evidence, signed affidavits, and/or notarized signatures, the Court cannot find that

Breanne Cabrera and Ciara Dela Cruz actually witnessed the signing of the Will or that they even signed the Will – as opposed to an unknown third party.

Because there is no credible evidence as to the signatures of the Will, the Court finds that the Will does not comply with the requirements of 8 CMC § 2303.

B. The Will is an Invalid Holographic Will because the Material Provisions are Not in the Testator's Handwriting

One of exceptions to 8 CMC § 2303 is the holographic will exception under 8 CMC § 2304. Holographic wills are wills that are handwritten by the testator. *See* Black's Law Dictionary (11th ed. 2019) (defining "holographic will" as "a will that is handwritten by the testator"); *see also Estate of Brenner*, 76 Cal. App. 4th 1298, 1301 (1999) (stating that "'Holographic' means simply a document wholly written by the hand of its author") (citation omitted). The purpose of the holographic will exception is to allow Commonwealth Courts to effectuate the intent of the testator when such intent is clear. Therefore, to ensure that Commonwealth Courts effectuate the intent of the testator, the Court will find that a holographic will is valid under Commonwealth law, "whether or not witnessed, if the *signature* and the *material provisions* are in the handwriting of the testator." 8 CMC § 2304 (emphasis added). The "material provisions' are those portions of a holographic will which express the testamentary and donative intent of the testator." *Bieber v. Bieber (In re Estate of Krueger)*, 529 N.W.2d 151, 153 (N.D. 1995).

Here, Mongani testified that the material provisions of the Will, the provisions that state (1) that Mongani should be allowed to continue to live in the home until such time as Mongani remarries and (2) that Julia's siblings – Leonardo and Bernadita – should be given ownership of the house, are not in Julia's handwriting. Because Julia and Mongani lived together as an unmarried couple for eleven (11) years, the Court finds Mongani's testimony concerning Julia's handwriting to be credible. Additionally, as discussed above, there was no testimony that "Julia's signature" is in fact Julia's.

Therefore, because the material provisions of the Will are not in Julia's handwriting and Julia's signature was never verified, the Court finds that the Will does not comply with the holographic will requirements of 8 CMC § 2304 and is not valid as a holographic will.

C. The Will is Invalid as it Fails to Comply with Requirements of Wills Drafted Outside of the Commonwealth of the Northern Marianas Islands

"A will is valid if executed outside the Commonwealth of the Northern Mariana Islands if its execution complies with Commonwealth law or the law at the time of execution of the place where the will is executed or where the testator is domiciled." 8 CMC § 2307. Here, as stated above, the Will did not comply with Commonwealth law concerning the execution of wills. Therefore, because the Will was drafted in Oregon, the Court looks to whether the Will complied with the laws of Oregon at the time of the Will's execution.

The relevant Oregon law is ORS § 112.235. ORS § 112.235 states that the testator, in the presence of at least two witnesses, must have either: (1) signed the will; (2) directed one of the witnesses or some other person to sign the name of the testator and the signer's own name on the will; or (3) acknowledge the signature previously made on the will by the testator or at the testator's direction.

Here, as stated above, there was no evidence at the hearing that shows whether Julia even signed the Will or that the purported witnesses, Breanne Cabrera and Ciara Dela Cruz, actually observed Julia signing the Will. There was also no evidence that Julia directed another individual to sign the Will on her behalf or that she acknowledged a signature she previously made on the Will. Furthermore, Oregon did not have a holographic will statute until 2016, two years after Julia died. ORS § 112.238; see also Estate of Whitlatch v. Richardson, 99 Or. App. 548, 553 (1989) ("Holographic wills are not recognized in Oregon."). Therefore, the Court finds that the drafting of

the Will did not comply with the Oregon law at the time of the Will's execution, and thus, the Will does not comply with the requirements of 8 CMC § 2307.

IV. CONCLUSION

Therefore, for the reasons stated above, the Court finds that the Will is not valid under the laws of the Commonwealth of the Northern Mariana Islands pursuant to 8 CMC §§ 2303, 2304 and 2307 because (1) the signatures of the testator and witnesses are unverified; (2) the Will fails as a holographic will because the material provisions of the Will are not in the testator's handwriting; and (3) as a will executed outside of the Commonwealth of the Northern Mariana Islands, the Will fails to comply with CNMI Laws or the Laws of the Foreign Jurisdiction

IT IS SO ORDERED this <u>23rd</u> day of November, 2020.

JOSEPH N. CAMACHO, Associate Judge