

**BOISE, THURSDAY, NOVEMBER 14, 2024, AT 9:00 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 51461**

**In the Matter of the Estates of:** )  
**Lowell Herman Frauenholz and** )  
**Carol Ann Frauenholz, Deceased.** )  
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**DIANE CAROL FRAUENHOLZ,** )  
**Personal Representative,** )  
  
**Petitioner-Respondent,** )  
 )  
**v.** )  
 )  
**LISA YOUNG,** )  
**aka LISA FRAUENHOLZ,** )  
 )  
**Respondent-Appellant.** )  
\_\_\_\_\_ )

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Custer County. Hon. Stevan H. Thompson, District Judge. Hon. James Howard Barrett, Jr., Magistrate.

Idaho Legal Estates & Probate; Jesse R. Thomas, Boise, for appellant.

Wright Law Offices, PLLC; Steven J. Wright, Idaho Falls, for respondent.

Lowell Herman Frauenholz (decedent) passed away testate on August 31, 2020. Diane Frauenholz was eventually appointed as personal representative of the decedent’s estate (Estate). The decedent’s will did not dispose of the entire estate, leaving behind residuary. He was survived by three adult children. One of the children, Lisa Young (Young), is contesting the will and distribution of the residual estate.

Young appeals from the district court’s decision, on intermediate appeal, from the magistrate court’s order denying Young’s petition to determine heirs, construe will and for distribution. Young argues that the district court erred as a matter of law in affirming the magistrate court’s order denying her petition, because both lower courts misinterpreted the statutory requirements for distribution of a residual estate. Specifically, Young asserts that according to Idaho Probate Code section 15-2-603, a will that is silent regarding a lawful heir does not express a testator’s intent to disinherit that heir. Young also argues that even if omitting her

from the will was sufficient to express intent to disinherit her from the will, such intent did not extend to the residuary estate. Therefore, it is Young's view that she was entitled to the distribution of the residual estate in accordance with the laws of intestacy. In response, the Estate argues that the decedent's intent controlled the distribution of all his property, including the residuary. Further, the Estate asserts that the intent to disinherit Young was clear from the language of the will, and express statements to effectuate the decedent's will were not required by the Idaho Probate Code. Finally, the Estate argues that Young, as decedent's nonmarital child, was required to prove that the decedent "openly and notoriously" treated her as his own, in accordance with Idaho Code section 15-2-611. Young responds that the Estate is reading this section of the Idaho Probate Code in isolation and misconstrues its purpose to mean imposition of additional restrictions for an heir to take under the laws of intestacy. The Estate seeks attorney fees on appeal.