

Fifth Circuit Court of Appeal
State of Louisiana

No. 25-C-600

SUCCESSION OF JOYCE HYMEL GETTYS

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE TWENTY-FOURTH JUDICIAL
DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 825-250, DIVISION "N"
HONORABLE STEPHEN D. ENRIGHT, JR., JUDGE PRESIDING

May 11, 2026

JUDE G. GRAVOIS
JUDGE

Panel composed of Judges Jude G. Gravois,
Marc E. Johnson, and Scott U. Schlegel

WRIT GRANTED; JUDGMENT OF POSSESSION VACATED;
MATTER REMANDED

JGG

MEJ

SUS

TRUE COPY



MORGAN NAQUIN
DEPUTY CLERK

COUNSEL FOR PLAINTIFF/RESPONDENT,
CLAYTUS JOSEPH PLAISANCE, III, LYNN G. PLAISANCE, AND
ROBERT M. GETTYS

Charles G. Justice, III
Christopher M. Gaffney
Michael G. Gaffney

COUNSEL FOR DEFENDANT/RELATOR,
JOY GETTYS NAQUIN AND THE SUCCESSION OF JOYCE
HYMEL GETTYS

Charlton B. Ogden, III
Perry R. Staub, Jr.
Donald J. Miester, Jr.

GRAVOIS, J.

In this succession proceeding, relator, Joy Gettys Naquin, seeks this Court's supervisory review of the trial court's November 5, 2025 judgment of possession which granted the "Contradictory Verified Petition for Possession by Two General Legatees" filed by respondents, Claytus Plaisance, III, Lynn Gettys Plaisance, and Robert Gettys. For the following reasons, we grant this writ application, vacate the judgment of possession, and remand the matter to the trial court for further proceedings.

FACTS AND PROCEDURAL BACKGROUND

Joyce Hymel Gettys died testate on December 15, 2020. In her will, she left Joy (her daughter) 50% of her estate; Robert (her son) 25% of her estate; and Lynn (another daughter) 25% of her estate. On February 14, 2022, Joy and Claytus (Lynn's husband) filed a petition for probate of notarial testament, independent administration, and appointment of testamentary independent co-executors. Joy and Claytus were thereafter named as testamentary independent co-executors of the succession. A preliminary detailed descriptive list of property was filed into the record. Thereafter, over the following years, multiple judgments of partial possession were signed distributing parts of the estate as follows:

- November 15, 2022: placed Joy, Lynn, and Robert into possession of the succession's Treasury Savings Bonds, in accord with the percentages of their general legacies.
- November 15, 2022: placed Joy, Lynn, and Robert into possession of some of the stocks and bonds in a Charles Schwab & Co. account, in accord with the percentages of their general legacies.
- May 14, 2024: placed Lynn into possession of fourteen pieces of estate jewelry. According to Joy, eleven of the fourteen pieces lacked mutually agreed fair market valuations, and this Judgment claimed it was a "Judgment of Possession of Particular Legacies," even though the decedent's will did not contain particular legacies.
- July 24, 2024: memorialized a compromise reached by all parties, which set a methodology for distributing many estate assets. According to Joy, nowhere in this Judgment is there

any reference to any such distribution being a particular legacy or extra portion.

- October 29, 2024: placed Robert into possession of a piece of estate furniture and another item of estate movable property. According to Joy, neither of these items had a mutually agreed fair market valuation. Further, the Judgment purported to grant a petition for delivery of a “Particular Legacy.”
- November 4, 2024: placed Robert into possession of an “equalizing payment” due to a prior agreement on the methodology for distributing certain pieces of estate jewelry to Lynn and Joy. Further, the Judgment purported to recognize Robert as a “particular legatee of the decedent.”
- November 18, 2024: placed Lynn into possession of estate furniture and household items. According to Joy, none of these items had a mutually agreed fair market valuation. Further, the Judgment referred to these items as part of “particular legacies.”

In 2025, Claytus, as testamentary independent co-executor, and Robert and Lynn, as general legatees under the decedent’s will, filed a “Contradictory Verified Petition for Possession by Two General Legatees.” The petition sought to have Robert and Lynn each placed into possession of their undivided fractional (25%) interests in the “remaining property” of the estate. Importantly, the petition stated that the “remaining property” of the estate *did not include* that which was previously distributed in previous judgments of partial possession. An amended verified sworn descriptive list of assets and liabilities of the estate was also filed into the record by respondents.

Joy filed an opposition to both the petition for possession and the amended verified sworn descriptive list. She argued that there is no final agreed-to accounting of the estate’s assets and liabilities, and some figures on the amended descriptive list are premature and/or wrong. Further, she argued that Louisiana law does not allow a legatee in a testate succession to be placed into possession absent the consent of all legatees and the concurrence of the executors, citing La. C.C.P. art. 3372. Finally, she argued that the petition should be denied because it proposes to give Robert and Lynn each an undivided 25% of the “remaining property” of the estate, thereby treating the succession

property that they already received as extra shares of the estate for them, contrary to the plain language of the will.

Following a contradictory hearing, the trial court signed a written judgment on November 5, 2025, granting the petition for possession. The judgment recognizes Robert and Lynn as two of the three general legatees of the estate, and places each of them into possession of an undivided 25% of all of the “remaining property” belonging to the estate, including, but not limited to, those assets fully set out in the amended verified sworn descriptive list of assets and liabilities, except as modified in the “Contradictory Verified Petition for Possession by Two General Legatees.” In written reasons for judgment, the trial court cited to *Succession of Passafume*, 24-339 (La. App. 4 Cir. 12/12/24), 407 So.3d 671, and *Succession of Crow*, 55,608 (La. App. 2 Cir. 5/22/24), 386 So.3d 1275, 1281 in support of finding that all of the legatees did not need to join into the petition for possession. Further, citing to *Succession of Fanz*, 19-503 (La. App. 4 Cir. 1/29/20), 364 So.3d 119, *writ denied*, 20-738 (La. 9/23/20), 301 So.3d 1154, the trial court found that a disagreement as to the valuation of succession assets does not prohibit the court from placing a legatee into possession.

Joy makes the same arguments in this writ application as she made in the trial court, *i.e.*, that: 1) Article 3372 does not permit placing a general legatee into possession without the consent of *all general legatees* and executors; and 2) giving Robert and Lynn each an undivided 25% of the “remaining property” of the estate fails to account for the property they already received and places them in possession of “extra shares” of the estate.

ANALYSIS

In *Boudreaux v. Louisiana Dep’t of Pub. Safety & Corr.*, 12-239 (La. 10/16/12), 101 So.3d 22, 26, the Louisiana Supreme Court set forth the rules of statutory interpretation in Louisiana:

In all cases of statutory interpretation, legislative intent is the fundamental question, and the well-established rules of statutory construction are designed to ascertain and enforce the intent of the statute. *State*

v. Campbell, 03-3035, p. 7 (La. 7/6/04), 877 So.2d 112, 117. The interpretation of any statutory provision starts with the language of the statute itself. *Oubre v. Louisiana Citizens Fair Plan*, 11-0097, p. 11 (La. 12/16/11), 79 So.3d 987, 997. When the provision is clear and unambiguous and its application does not lead to absurd consequences, its language must be given effect, and its provisions must be construed so as to give effect to the purpose indicated by a fair interpretation of the language used. La. Civ. Code art. 9; La. Rev. Stat. § 1:4; *In re Clegg*, 10-0323, p. 20 (La. 7/6/10), 41 So.3d 1141, 1154. Unequivocal provisions are not subject to judicial construction and should be applied by giving words their generally understood meaning. La. Civ. Code art. 11; La. Rev. Stat. § 1:3; *see also Snowton v. Sewerage and Water Bd.*, 08-0399, pp. 5–6 (La. 3/17/09), 6 So.3d 164, 168.

Words and phrases must be read with their context and construed according to the common and approved usage of the language. La. Rev. Stat. § 1:3. Every word, sentence, or provision in a law is presumed to be intended to serve some useful purpose, that some effect is given to each such provision, and that no unnecessary words or provisions were employed. *Colvin v. Louisiana Patient's Compensation Fund Oversight Bd.*, 06-1104, p. 6 (La. 1/17/07), 947 So.2d 15, 19; *Moss v. State*, 05-1963, p. 15 (La. 4/4/06), 925 So.2d 1185, 1196. Consequently, courts are bound, if possible, to give effect to all parts of a statute and to construe no sentence, clause, or word as meaningless and surplusage if a construction giving force to and preserving all words can legitimately be found. *Oubre*, 11-0097 at 12, 79 So.3d at 997.

Louisiana Code of Civil Procedure article 3372 provides:

At any time prior to the homologation of the final tableau of distribution, *the legatees* in a testate succession may be sent into possession of all or part of their respective legacies upon filing a petition for possession *as provided in Articles 3031 through 3035*, except that the proceeding shall be contradictory with the executor. Upon the filing of such a petition, the court shall order the executor to show cause why the legatees should not be sent into possession. If the legatees are sent into possession of a part of their respective legacies, the executor shall continue to administer the remainder. (Emphasis added.)

In interpreting Article 3372, which applies to testate successions, we begin by focusing on the “as provided” language therein, which specifically states, in pertinent part, that “upon filing

a petition for possession *as provided in Articles 3031 through 3035*” (emphasis added), “the legatees” in a testate succession may be sent into possession of all or part of their respective legacies. We must then look to Article 3031(A), which states in pertinent part that the court may send “all of the legatees” into possession of their respective legacies without an administration of the succession on the *ex parte* petition of “all of the general and universal legatees,” if certain conditions apply.¹ Therefore, the “as provided” language contained in Article 3372 is clear and unambiguous and can only be read to mean that “all of the general and universal legatees” must petition the court “as provided” in Article 3031 if they, “the legatees,” desire to be sent into possession of all or part of their legacies in a testate succession prior to the homologation of the final tableau of distribution. This interpretation of Article 3372 is supported by the fact that the procedure to be placed into possession “as provided” in Article 3031 was modified by Article 3372 in only one respect: Article 3372 requires that the petition for possession in a testate succession shall be by contradictory hearing with the executor. Article 3031 does not require a contradictory hearing with the executor before the judgment of possession can be rendered. Accordingly, we conclude that, pursuant to the plain language of Articles 3031 and 3372, read together, at any time prior to the homologation of the final tableau of distribution, the general and universal legatees in a testate succession may be sent into possession of all or part of their respective legacies upon the filing of a petition for possession by all of the general and universal legatees, except that the proceeding shall be contradictory with the executor. Here, only Robert and Lynn, not all of the general and universal legatees, petitioned the court to be placed into possession. Thus, because all

¹ La. C.C.P. art. 3031(A) provides fully:

When a testament has been probated or given the effect of probate, and subject to the provisions of Article 3033, the court may send all of the legatees into possession of their respective legacies without an administration of the succession, *on the ex parte petition of all of the general and universal legatees*, if each of them is either competent or is acting through a qualified legal representative, and each of them accepts the succession, and none of the creditors of the succession has demanded its administration. (Emphasis added.)

of the general and universal legatees did not join in the petition for possession, we conclude the trial court erred in rendering the judgment of possession.²

In any event, Joy also argues herein that by placing Robert and Lynn each into possession of an undivided 25% of the “remaining property” of the estate, they will, in effect, each receive more than the 25% of the entire estate bequeathed to each of them in the decedent’s will. In particular, Joy argues that to comply with the decedent’s intent which is clearly expressed in her will—that Joy, Robert, and Lynn would receive an undivided 50%, 25%, and 25%, respectively, of the decedent’s *entire* estate—the trial court had to: 1) first arrive at a fair market value of the “remaining property” of the estate, less expenses; 2) then deduct therefrom the fair market value of the various estate assets previously received by each of the legatees, including Joy; and 3) then provide each legatee with their percentages of the remainder of the estate, less the fair market value of the assets previously received by them. We agree with Joy’s argument that the November 5, 2025 judgment did not do this. Instead, the judgment carved out assets previously received by the legatees and placed each of the petitioning general legatees into possession of an undivided 25% of the “remaining property” of the estate. As Joy correctly argues, this has the effect of giving the other two general legatees (Robert and Lynn) the equivalent of the particular properties they already received as *extra portions* of the estate and then additionally giving each of them an undivided 25% of the “remaining property” of the estate as their general legacies.

Accordingly, in light of the foregoing, including our above interpretation of Article 3372, and under the particular facts and circumstances of this case, specifically including the parties’ continuing dispute over the distribution and valuation of certain assets included in the judgment of possession under review and in the previous

² Respectfully, we decline to follow the other appellate courts’ interpretation of Article 3372 in *Passafume* and *Crow*, *supra*, which was followed by the trial court herein, that less than all of the general and universal legatees in a testate succession are allowed to be sent into possession of all or part of their respective legacies upon filing a petition for possession as provided in Articles 3031 through 3035.

judgments rendered in this proceeding, we find that the trial court erred in rendering the judgment of possession under review.

CONCLUSION AND DECREE

For the foregoing reasons, this writ application is granted, the judgment of possession under review is vacated, and the matter is remanded to the trial court for further proceedings.

**WRIT GRANTED; JUDGMENT
OF POSSESSION VACATED;
MATTER REMANDED**

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **MAY 11, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-C-600

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE STEPHEN D. ENRIGHT, JR. (DISTRICT JUDGE)

CHARLES G. JUSTICE, III (RESPONDENT)

DONALD J. MIESTER, JR. (RELATOR)

CHRISTOPHER M. GAFFNEY (RESPONDENT)

PERRY R. STAUB, JR. (RELATOR)

MICHAEL G. GAFFNEY (RESPONDENT)

CHARLTON B. OGDEN, III (RELATOR)

MAILED

NO ATTORNEYS WERE MAILED