

**Summary of SC93606, *In the Matter of Lonnie Brockmire, Deceased***

Appeal from the Cape Girardeau County circuit court, Judge Scott A. Lipke  
Argued and submitted January 8, 2014; opinion issued March 11, 2014

**Attorneys:** Brockmire’s brother was represented by Adam E. Hanna and Kristi N. Hoff of Bradshaw, Steele, Cochran & Berens LC in Cape Girardeau, (573) 334-0555; and the biological daughter and granddaughter were represented by John Loesel and John P. Lichtenegger of Lichtenegger, Weiss & Fetterhoff LLC in Jackson, (573) 243-8463.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** After a man died without a will, the circuit court distributed part of his estate to the man’s biological granddaughter despite the fact that the granddaughter’s mother – the man’s biological daughter – was adopted by her stepfather before the man died. In a unanimous decision written by Judge Paul C. Wilson, the Supreme Court of Missouri reverses the circuit court’s judgment because the granddaughter had no right to inherit her biological grandfather’s estate. State statutes provide that a grandchild has no right of inheritance in the absence of a will unless the child’s parent dies before the grandparent and the parent would have been entitled to inherit had the parent not predeceased the grandparent. They further provide that an adopted child is the “child” of the adoptive parent – not the biological parent – for purposes of determining inheritance in the absence of a will.

**Facts:** Lonnie Brockmire died in July 2011 without a will. He was survived only by his brother Ronald; his only biological child, Sherri; and Sherri’s daughter, Bella. After Sherri became an adult – but before Brockmire died – she was adopted by her stepfather; Bella was about eight weeks old at the time. After Brockmire died, Sherri – as custodian of Bella’s assets – sought a partial distribution of Brockmire’s estate to Bella. The circuit court granted the distribution over Ronald’s objection. Ronald appeals.

**REVERSED.**

**Court en banc holds:** Bella is not entitled to inherit from Brockmire’s estate because her mother, Sherri – Brockmire’s biological daughter – was adopted before Brockmire died. When a person dies intestate (without a will), the person’s estate is distributed according to sections 474.010 to 474.060, RSMo, which do not give grandchildren their own inheritance rights. Instead, under section 474.010(2)(a), a grandchild is entitled to a share of the decedent’s (dead person’s) estate only if the grandchild is a descendant of the decedent’s “child” and the “child” would have been entitled to inherit had the child not died before the decedent. As such, Bella cannot inherit because Sherri is still alive and, even if Sherri were not, Sherri was not Brockmire’s “child” at the time he died.

Under section 453.090, RSMo, when Sherri was adopted by her stepfather, she legally ceased to be Brockmire’s “child” and instead became her stepfather’s “child,” allowing her to inherit from her adoptive father. Under section 474.060, for the purposes of intestate succession (determining

inheritance in the absence of a will), an adopted person is the child of the adopting parent and not of the biological parent. Together, these sections provide that neither Sherri – nor, by extension, Bella – has any legal relationship to Brockmire for purposes of intestate succession, and neither is entitled to inherit his estate under section 474.010 or any of its subdivisions.

Even though the phrases “children, or their descendants” in subdivision (2) and “surviving issue” in subdivision (1) are used for different purposes, both describe the same group of heirs and, therefore, there is no conflict between these two phrases – neither of which includes Bella. Like the phrase “or their descendants” in subdivision (2)(a), the term “issue” – as defined in subdivision (16) – excludes descendants of living lineal descendants of the decedent. As such, Bella cannot be “issue” of anyone as long as Sherri is alive, and Bella can be “surviving issue” only of Sherri’s adoptive father, not of Brockmire. Further, subdivision (22) defines “lineal descendant” to include “adopted children and their descendants.” Under these subdivisions, an adopted child and that child’s descendants leave the natural bloodline completely and join the adoptive bloodline for purposes of intestate succession.

Further, Bella had no “vested right” to inherit from Brockmire, and Sherri’s adoption deprived Bella of no “right,” with or without notice. This Court long has held that no person is an heir to the living and that, in a legal sense, the living have no heirs. As a result, expectant heirs of a living person have no fixed or vested interest in the living person’s property; only when the property owner dies does the property become subject to the laws of descent or distribution and the persons designated as heirs obtain interest in the property. Accordingly, neither Sherri’s adoption nor its effect on the application of the laws governing estates deprived Bella of any legal right or interest. To the extent Sherri offers policy arguments to allow Bella to inherit from Brockmire, this Court is not authorized to second-guess the policy decisions reflected in sections 474.010(2)(a) and 474.060.1, let alone manipulate the effect of those statutes by ignoring their plain language.