

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

In the Estate of MARTHA LUTISHA QUALLS;

DEBRA M. KIRCHHOF,

Appellant,

v.

BONNIE WILLIAMS,

Respondent.

DOCKET NUMBER WD76962

Date: July 29, 2014

Appeal from:
Callaway County Circuit Court
The Honorable Carol A. England, Judge

Appellate Judges:
Division One: Mark D. Pfeiffer, Presiding Judge, Lisa White Hardwick and Karen King Mitchell, Judges

Attorneys:
Timothy C. Brady, Fulton, MO, for appellant.
Stephen J. Stark, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

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Before Division One: Mark D. Pfeiffer, Presiding Judge,
Lisa White Hardwick and Karen King Mitchell, Judges

Debra Kirchhof appeals from a probate order that reversed her deposit of funds, as attorney-in-fact for the decedent, into a bank account on which Kirchhof herself was listed as a pay-on-death beneficiary. The circuit court found that Kirchhof exceeded her authority as attorney-in-fact by depositing the funds into the account and, thus, ordered the funds to be turned over to the decedent's estate.

AFFIRMED.

Division One Holds:

An attorney in fact is prohibited from making a gift of the principal's property to herself, unless she is expressly authorized to do so in the Power of Attorney. Here, the Power of Attorney expressly authorized Kirchhof, as attorney-in-fact, to gift the decedent's property to herself, so long as the gift respected the terms of the decedent's

Will. Kirchhof's deposit of assets into a bank account on which Kirchhof herself was listed as a beneficiary entitled to fifty percent of the account proceeds upon the decedent's death, frustrated the decedent's intent as expressed in her Will to have the bulk of her estate distributed in three equal shares among the decedent's son, the decedent's step-granddaughter, and Kirchhof. Accordingly, the circuit court did not err in ordering the subject funds to be turned over to the decedent's estate.

Opinion by: Lisa White Hardwick, Judge

July 29, 2014

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