

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2011 CA 1487

IN THE MATTER OF  
THE SUCCESSION OF  
IRA DUNAWAY, JR., DECEASED

**CONSOLIDATED WITH**

NUMBER 2011 CA 1488

IN THE MATTER OF  
THE SUCCESSION OF  
WILDA CARTER DUNAWAY, DECEASED

Judgment Rendered: May 2, 2012

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Appealed from the  
22<sup>nd</sup> Judicial District Court  
In and for the Parish of Washington, Louisiana  
Trial Court Numbers 14,682 c/w 14,683

Honorable William J. Crain, Judge

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Bogalusa, LA

Attorney for  
Plaintiff – Appellant  
Jessica Vampran

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Attorney for  
Defendant – Appellee  
Rob Richmond Dunaway

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BEFORE: PETTIGREW, McCLENDON AND WELCH, JJ.

**WELCH, J.**

Jessica Vampran appeals a declaratory judgment of the trial court declaring that the children of Ira Dunaway, Jr. and Wilda Carter Dunaway who survived them would inherit the entirety of the estates of Ira and Wilda Carter. Because we find that the issues raised in this appeal are moot based on our decision rendered this date in the companion case to this appeal, **Succession of Dunaway**, 2011-1747 c/w 2011-1748 (La. App. 1<sup>st</sup> Cir. --/--/--), we vacate the judgment of the trial court in compliance with Uniform Rules-Courts of Appeal, Rule 2-16.1(B) and remand for further proceedings.

Ira and Wilda Dunaway were married on April 8, 1950, and had four children during their marriage: Rob Dunaway, Tim Dunaway, Dannie Gaye Dunaway Tassin and Ira Lynn Dunaway Vampran. Ira Lynn Vampran died on November 23, 2009, and was survived by one child, Jessica Vampran.

Ira Dunaway died on June 7, 2010, and less than sixty days later, on August 3, 2010, Wilda Dunaway died. On August 24, 2010, Rob Dunaway filed, in separate proceedings, petitions seeking to probate the notarial testaments of his parents that were dated February 18, 1999, and to be designated as the executor of the estates of his parents in accordance with those testaments. That same date, the trial court ordered that the testaments of Ira and Wilda Dunaway be given the effect of probate and executed in accordance with law, granted the administration of the estate, and confirmed Rob Dunaway as the executor of the succession of both Ira and Wilda Dunaway.

On September 8, 2010, Rob Dunaway filed, in both succession proceedings, a petition for declaratory judgment seeking a determination of the status of certain bank accounts, an interpretation of certain clauses used in the dispositive portion of

both February 18, 1999 testaments, and the consolidation of the two suits.<sup>1</sup> The clauses at issue in both testaments provided: “I give all my estate to my [wife/husband]. In the event my said [wife/husband] shall predecease me or fails to survive me for sixty (60) days, I give all my estate to my children, if any, who survive me in equal shares, per stirpes. If I am survived by neither my [wife/husband], nor children, then I give my estate to:...” Following a hearing, the trial court rendered declaratory judgment that the children of Ira and Wilda Dunaway who survived them (*i.e.*, Dannie Tassin, Rob Dunaway, and Tim Dunaway) would inherit the entirety of the estates of Ira and Wilda in equal shares. A written judgment in conformity with the trial court’s ruling was signed on November 23, 2010, and it is from this judgment that Jessica Vampran has appealed.

However, after taking the appeal, Jessica Vampran subsequently filed a petition to annul the February 18, 1999 testaments of both Ira and Wilda Dunaway on the basis that the testaments were not valid under Louisiana law because the attestation clauses of the testaments failed to satisfy the requirements of La. C.C. art. 1577. She also sought to have earlier testaments of Ira and Wilda Dunaway dated October 19, 1992, and of Wilda Dunaway dated June 14, 1993, declared null on the same basis. On May 3, 2011, the trial court rendered and signed a judgment declaring that the testaments of Ira and Wilda Dunaway dated October 19, 1992, and February 18, 1999, and the testament of Wilda Dunaway dated June 14, 1993, were null based on the inadequacy of the attestation clauses. Rob Dunaway appealed that judgment in the companion case, **Succession of Dunaway**, 2011-1747 c/w 2011-1748 (La. App. 1<sup>st</sup> Cir. --/--/--). We affirmed the trial court’s judgment declaring that the testaments were null because the attestation clauses failed to meet the requirements of La. C.C. art. 1577. Accordingly, because the

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<sup>1</sup> During a hearing on October 18, 2010, the trial court ordered the two succession proceedings consolidated. The October 18, 2010 minute entry reflects the trial court’s order, but there is no written order of consolidation in the record.

notarial testaments that are the subject of the declaratory judgment in this appeal are null, the issues raised by this appeal, *i.e.*, the proper interpretation of the dispositive clauses of those testaments, are now moot. Therefore, we vacate the judgment of the trial court and remand for further proceedings. All costs of this appeal are assessed to Rob Dunaway.

**VACATED AND REMANDED.**