Adoptee inheritance rights

Rucker Todd created a trust for the benefit of his two adult children in 1996. Neither of those children had children of their own, but the son, Dr. Todd, had formally adopted his step-daughters in the 1970s. Those were Rucker Todd's only grandchildren.

Rucker amended his trust five times. Dr. Todd originally had a testamentary power to direct the trust property to anyone through his will. In 2011, Rucker added an amendment that forbade the exercise of the power of appointment in favor of any person adopted by another person or their descendants or ancestors. The reasons for this change are unknown.

After Rucker died, Dr. Todd filed a lawsuit to seeking a judicial declaration that he could exercise the power of appointment in favor of his adopted daughters. The lower court ruled against him, holding that Rucker intentions were unambiguous with the amendment, and it is the intent of the person creating the trust that controls the outcome.

The appellate court of Kentucky unanimously reversed, holding that any attempt to disenfranchise an entire class of persons, such as all adoptees, their descendants, and their ancestors, is unenforceable and void as against public policy. The court noted that Rucker had the right to disinherit his granddaughters, but if that was the result he desired he should have done so by naming them.

Other portions of the trust were inconsistent with the idea that Rucker wanted to keep the trust away from the granddaughters, but the court did not need to rule on that argument. It may have been that he wanted to disinherit adoptees other than the granddaughters for some reason.

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