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TO BE PUBLISHED

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2025-CA-1444-MR

ROBIN PERRINE; LLOYD PERRINE;  
MICHAL PERRINE ADAMS; ROBIN  
PERRINE, TRUSTEE OF THE  
MICHAL PERRINE ADAMS  
SUPPLEMENTAL NEEDS TRUST;  
AND WILLIAM C. PERRINE

APPELLANTS

v. APPEAL FROM FAYETTE CIRCUIT COURT  
HONORABLE JULIE M. GOODMAN, JUDGE  
ACTION NO. 24-CI-01610

NANCY BOBO PERRINE AND  
RUSSELL CAPITAL  
MANAGEMENT, LLC

APPELLEES

OPINION  
AFFIRMING

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BEFORE: COMBS, ECKERLE, AND TAYLOR, JUDGES.

COMBS, JUDGE: This case involves the estate of William E. Perrine (Bill), who died intestate on February 6, 2024. The appeal was filed by his adult children:

Robin Perrine, William C. Perrine, Lloyd Perrine, Michal Perrine Adams, and Robin Perrine as trustee of the Michal Perrine Adams Supplemental Needs Trust. They challenge the partial summary judgment of the Fayette Circuit Court entered on October 28, 2025, in favor of Bill’s widow, Nancy Bobo Perrine (“Nancy”).

The circuit court determined that Nancy had a dower interest in assets held by Bill upon his death totalling approximately \$2,330,000.00. At issue were the provisions of KRS<sup>1</sup> 392.020 in effect at the time of Bill’s death. That statute creates a presumption of fraud when assets are improperly diverted from the dower interest of a spouse.

The court concluded that Bill’s children failed to overcome a presumption that Bill intended to defeat Nancy’s dower interest by designating his children alone as the beneficiaries of two substantial investment accounts and by making sizeable *inter vivos* gifts from those accounts to them. After reviewing the record and applicable law, we agree that the Fayette Circuit Court correctly applied controlling statutory law and precedent. Consequently, after our review, we affirm the judgment.

Bill and Nancy met in Atlanta in 1952 when Bill was a student at the Georgia Institute of Technology. They dated casually, but at the end of the academic year, Bill returned to Kentucky. Ultimately, they went their separate

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<sup>1</sup> Kentucky Revised Statutes.

ways and lived separate lives for the next 50 years. Bill married, raised four children, and divorced. Nancy married John Bobo in 1955 and had three children. John Bobo died in 2002.

Bill and Nancy renewed their friendship in 2007 while he lived in Lexington and she in Chattanooga. Some years later, Bill proposed marriage, and Nancy accepted his proposal. They married in October 2015, and Nancy moved to Lexington. The couple did not discuss their personal finances -- nor did they enter into a prenuptial or a postnuptial agreement.

Bill suffered a severe fall in December 2022. He spent months in the hospital and required extensive after-care and rehabilitation. He died intestate on February 6, 2024, and Nancy was appointed administratrix of the estate.

At his death, Bill owned no real property. His tangible personal property was valued at \$18,826. However, he also owned an IRA account managed by Schwab and a separate Schwab investment account. The combined value of these accounts was \$2,331,762.92. Both Schwab accounts (referred to collectively as “the TOD accounts”) bore transfer-on-death beneficiary designations in favor of Bill’s children. Bill had regularly withdrawn sums from the predecessors of these accounts to meet the couple’s expenses.

As of May 31, 2022, Bill also owned an account with Baird Private Wealth Management with a balance of \$409,395. The Baird account did not have

a transfer-on-death beneficiary designation until 2023, when Robin, acting under the authority as Bill's power of attorney, executed a transfer-on-death beneficiary designation naming Bill's children as beneficiaries. Robin eventually closed the Baird account and transferred its funds into what would become the Schwab investment account. At this time, Robin executed a beneficiary designation form on Bill's behalf which revoked and replaced all prior beneficiary designations. This form now designated Robin, William C., Lloyd, and a supplemental needs trust for the benefit of Michal as the beneficiaries of the transfer-on-death accounts. Finally, Bill owned two paid-up, whole-life insurance policies valued at a total of two million dollars. His children were also the sole beneficiaries of these policies. On January 30, 2024, a week before Bill's death, Robin caused to be issued from the Schwab investment account seven checks in the amount of \$18,000 -- each payable to Bill's children and grandchildren.

Based on her understanding of Kentucky law, Nancy did not claim an interest in the life insurance proceeds. *See Bays v. Kiphart*, 486 S.W.3d 283, 289–90 (Ky. 2016) (Even where a decedent had acted intentionally to exclude her spouse from receiving any portion of her life insurance proceeds, “such conduct would not be fraud on [her surviving spouse’s] statutory interest because that interest could never attach to those proceeds.”).

However, Nancy claimed a portion of Bill's TOD accounts based upon her statutory dower interest. Nancy maintained that she had not consented either to the beneficiary designations of the accounts or to the *inter vivos* gifts from the accounts, which totalled \$126,000.00 -- nor had she waived her dower rights in any property. Counsel for Bill's children corresponded with Nancy and denied that she had any claim to the accounts.

On April 29, 2024, Nancy filed a civil action in Fayette Circuit Court asserting claims for declaratory relief, fraud on dower, and conversion. She requested that a constructive trust be established for her benefit. Bill's children answered and denied the allegations.

After a period of discovery, Nancy filed a motion for partial summary judgment; Bill's children filed a cross-motion for summary judgment. On October 28, 2025, the circuit court entered its judgment.

The circuit court determined that as defined by the provisions of KRS 392.020, Nancy's dower rights vested **at the time of her marriage** to Bill and encompassed the assets held in the TOD accounts. Relying upon case law, the court concluded that Bill's decision to exclude Nancy as a beneficiary of the TOD accounts deprived her of 99% of the value of his personalty and triggered a presumption of fraud upon her dower interest. The court rejected the children's contention that this presumption had been adequately rebutted. One-half of the

value of the TOD accounts and the value of the *inter vivos* gifts were awarded to Nancy as her statutory share. This appeal followed.

The Kentucky Rules of Civil Procedure (CR) define our task in reviewing a summary judgment. CR 56.03. We must decide whether the court was correct in concluding that no genuine issue exists as to any fact material to the legal analysis and that the moving party was entitled to judgment as a matter of law. CR 56.03; *Scifres v. Kraft*, 916 S.W.2d 779, 781 (Ky. App. 1996). Because we consider only legal questions and determine whether there were material facts genuinely at issue, our review is characterized as *de novo*. *Lewis v. B & R Corp.*, 56 S.W.3d 432, 436 (Ky. App. 2001). We do not defer to the circuit court's legal conclusions. *Frear v. P.T.A. Industries, Inc.*, 103 S.W.3d 99, 105 (Ky. 2003) (citing *First Commonwealth Bank of Prestonsburg v. West*, 55 S.W.3d 829, 835 (Ky. App. 2000)).

On appeal, Bill's children argue that the circuit court erred by concluding that Nancy had a dower interest in the TOD accounts. They contend that the accounts' beneficiary designations caused them to be paid over to the named beneficiaries *outside of probate* -- effectively removing them from any personalty to which Nancy's dower rights could attach. We disagree.

The applicable version of KRS 392.020(1)(b) provided in unambiguous language that after the death of an intestate spouse, the survivor

“shall also have an absolute estate in one-half (½) of the surplus personalty left by the decedent.” In *Harris v. Rock*, 799 S.W.2d 10, 11 (Ky. 1990), our Supreme Court clarified exactly what constitutes the property subject to dower interest:

Surplus personalty as used in the statute [KRS 392.020] means the personalty remaining after the payment of the debts, funeral expenses, charges of administration, and widows’ exemptions have been deducted from the gross personalty possessed by the decedent at the time of his death.

There is nothing in the text of the statutory provision to cause this court to believe that the value of the “surplus personalty” can be derived only from the decedent’s *probate estate* so as to allow Bill’s TOD accounts to pass to his children free of Nancy’s claim to a statutory share. The disputed TOD accounts are not akin to an irrevocable trust instrument whereby Bill’s interest in the disputed assets was relinquished before the parties ever married or contemplated marriage. Nor are the accounts like the proceeds of a life insurance policy which are not owned by the decedent but are instead created only upon the death of the insured. See *Bays*, 486 S.W.3d at 290 (citing *Farley v. First Nat’l Bank*, 250 Ky. 150, 61 S.W.2d 1059, 1061 (1933)). By definition, the disputed accounts remained Bill’s property and were to be transferred to the beneficiaries only upon his death.

Until Bill’s death, the disposition of the disputed assets remained entirely within his control. Nothing had been transferred to the designated

beneficiaries of the TOD accounts; the children had no more than a mere expectancy interest in them. Bill spent from these accounts freely and without accounting to the designated beneficiaries. He controlled the investments, enjoyed dividends from the accounts, and revoked and changed beneficiary designations at will. He could have closed the accounts without the beneficiaries' knowledge or permission. Finally, the provisions of KRS 292.6506 clearly reinforce that the designation of a TOD beneficiary on a beneficiary form "has no effect on ownership until the owner's death." Thus, the accounts were *possessed by the decedent at the time of his death*. Consequently, they were subject to Nancy's absolute dower interest.

Pertinent to the issue is *Keith v. Cross*, 636 S.W.3d 842, 851 (Ky. App. 2021), in which we considered whether a husband could defeat his widow's dower claim by designating only his adult children as beneficiaries of three substantial retirement and investment accounts. In *Keith*, we held that retirement accounts with beneficiary designations -- and other TOD accounts which typically fall outside the decedent's probate estate -- are nonetheless subject to a fraud-on-the-dower claim. We observed that a designation or selection of beneficiaries transferred the ownership of the disputed assets only at death. Thus, we concluded that where the surviving spouse was intentionally omitted from a substantial portion of the decedent's personalty, we could indeed presume an intention to

defeat a dower claim. Consequently, the circuit court did not err by determining that the disputed TOD accounts were included in Bill's surplus personalty and, therefore, subject to his widow's dower claim.

Next, the children argue that although Bill's designation of beneficiaries of the TOD accounts excluded Nancy, he did not intend to defraud her. The children explain that Bill decided to make them the beneficiaries of the TOD accounts *years before Nancy agreed to marry him*. They reason that Bill's original beneficiary designations were made long before he became reacquainted with Nancy. Thus, they contend that it was his intention to create an estate plan benefiting his children -- and not an attempt to deprive Nancy of any dower interest. In support, they provide this maxim: "[a] pre-agreement-to-marry property transfer . . . cannot be deemed a fraud on an unidentified possible future spouse's dower." However, the rationale underlying this argument is fatally flawed for the simple reason that Bill **did not transfer** any of the disputed property **before** Nancy agreed to marry him. Again, we note that the TOD accounts transferred only upon his death.

The Appellants do acknowledge that fraud on the dower occurs where property is transferred during a marriage without a spouse's consent in such a manner as to remove the transferred property from being included in the decedent's surplus personalty. They recognize that any fraudulent transfer may be

undone to the extent necessary to fund the surviving spouse's lawful share of surplus personalty. However, they dispute whether Bill's use of the accounts to transfer nearly all of his estate to his children *after* Nancy agreed to marry him defeated her vested dower interest in such a manner as to constitute a fraud upon that interest.

A survey of our caselaw indicates that Bill's intentional decision to exclude Nancy from the beneficiary designation on the TOD accounts **after** she agreed to marry him would generally trigger a presumption that the financial decision amounts to fraud. *See Benge v. Barnett*, 309 Ky. 354, 217 S.W.2d 782, 783 (1949); *Mathias v. Martin*, 87 S.W.3d 859, 863–64 (Ky. 2002) (the transfer of substantial amounts of cash or its equivalent by married persons to persons other than their spouses, usually children by a previous union, creates an inference that fraud upon the spouse was intended).

There is understandably a desire to protect one's children from a previous marriage from losing their inheritance upon the remarriage of a parent. Nevertheless, Kentucky has long held that a "husband owes a wife the legal obligation to support and maintain her according to her station in life and the moral obligation to provide as well as he may for her support and maintenance after his death." *Benge*, 217 S.W.2d at 784 (citing *Martin v. Martin*, 282 Ky. 411, 138 S.W.2d 509, 514 (1940)). That moral obligation is now a statutory requirement.

In his dissent to the decision rendered by the Supreme Court of Kentucky in *Harris v. Rock, supra*, Justice Leibson summed up this statutory reality as follows: “a married person cannot [now] dispose of his or her own money unless his spouse joins in the transaction.” *Harris*, 799 S.W.2d at 15 (Liebson, J., dissenting). This is precisely the law in Kentucky.

In the case before us, there was no indication that Nancy consented to the disposition of nearly all of Bill’s surplus personalty to the children. There is no indication that any of the beneficiaries were dependent upon him for support. There is no question that he had made substantial *inter vivos* financial gifts to his children and grandchildren. Furthermore, acting through his agent (POA) shortly before his death, Bill effectively renewed his decision to exclude Nancy from the TOD accounts. The cash necessary to fund the substantial *inter vivos* gifts was drawn on the account by Robin only a few days before Bill’s death.

As we noted in *Benge, supra*, one’s intent and purpose may be established not only through express testimony, but also through a review of one’s actions. A decedent is deemed to have intended the natural consequences of his actions. *Anderson v. Anderson*, 583 S.W.2d 504, 505 (Ky. App. 1979). The natural consequence of Bill’s decision to exclude Nancy from the beneficiary designations was that she was deprived of her dower share.

The circuit court did not err by concluding that Bill intended to deprive Nancy of nearly all interest in the personalty he owned at the time of his death. The circumstances demonstrate that Bill acted with deliberate purpose and intention to deprive Nancy of her statutory share of the assets. Despite their contentions that they had defeated Nancy's claim of fraud on her dower interest, Appellants have failed to rebut the statutory presumption in her favor.

Consequently, the court did not err by concluding, as a matter of law, that Nancy adequately proved her claim of fraud on the dower and that she was entitled to receive from the children one-half of the value of the TOD accounts and the value of one-half of the amount of the *inter vivos* gifts made to each of the recipients of those gifts.

The judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

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