

Question MEE 4 – February 2026 – Selected Answer 1

ISSUE #1 - Does Husband's car pass to the adopted son of his brother by Anti-lapse?

RULE - If a state has an anti-lapse clause, a bequest to a close relation who dies before the will is enacted will be passed on to the deceased person's heir (usually a child or grandchild)

HERE - Husband's car was specified as a bequest to Brother as a future unrelated incident by saying "Any automobile I own at the time of my death". Husband wasn't specifying a particular car, just whatever car he had, if he happened to have one at the time of his death.

Unfortunately Brother died before he could claim H's car, but if the state has an anti-lapse statute, the car goes to Brother's adopted son. (there is no legal difference between blood sons or adopted sons inheritance rights).

If the state does not have an anti-lapse statute, the bequest will lapse and return to the estate.

THUS - It depends whether the state has an anti-lapse statute or not.

ISSUE #2 - Does Mother get the property at 500 South St as an Ademption by Extinction?

RULE - If the Testator adeemed a property specifically bequeathed to someone in his will, but replaced it using the proceeds from that property to buy a property of a similar type and purpose, the replacement property may be bequeathed to the devisee instead.

HERE - Husband left Mother a property at 211 Pearson Dr, which was a rental property used for investment purposes, and never lived in by Husband or wife. Husband sold 211 Pearson and used the proceeds to purchase 500 South st, another investment property that Husband and wife never lived in. Because the proceeds of the first property were used to purchase another property of similar type and purpose, the court may decide to pass 500 South st along to Mother in substitute for the 211 Pearson house.

THUS - Mother may get the property at 500 South St.

ISSUE #3 - To whom should the residuary estate be distributed to?

RULE - Residuary estate should be given as specified in the will, unless there are exceptions, such as a pretermitted child who wasn't mentioned in the will.

HERE - Wife was the named beneficiary of the res in Husband's will, so she is entitled to take on behalf of herself and her son Sam. (it is presumed Wife will take care of son and leave him an inheritance when she passes). As a pretermitted illegitimate child, Doris should also take a share of the res at this time.

THUS - Wife and Doris should share the res, 3/4 to 1/4 respectively.

ISSUE #4 - Is Doris entitled to take as an omitted child?

RULE - An out of wedlock child is entitled to take as an omitted child, because they have the same inheritance rights as a legitimate child, but it is unlikely the legitimate spouse will deal fairly with the illegitimate child, so the child should take a non-testamentary share at this time.

HERE - Doris should take a non-testamentary share at this time, because as an illegitimate child, Doris will likely not be dealt with fairly by Wife and Wife's son Sam. Doris should be entitled to 1/4 of the res, with Wife getting 3/4 of the res for herself and Sam.

THUS - Yes Doris should take as an omitted child.

ISSUE #5 - Is Sam entitled to take as an omitted child?

RULE - A spouse who survives an is also the parent of a pretermitted child may take the child's share as well, as it is presumed the surviving parent will use the money to raise the child, and then pass along whatever is left to the child when they themselves die.

HERE - Sam has no need to take as an omitted child, as his mother will take Husband's estate and use the money to raise Sam and then pass money along to Sam as his inheritance when she dies.

THUS - Sam does not need to take as an omitted child.

Question MEE 4 – February 2026 – Selected Answer 2

1)

At issue is whether the Husband's bequest to the brother is covered by an anti-lapse statute.

First, it is important to note that a will provision will be valid even though the gift is for an item that the testator does not presently have at the time of creating the will. What matters is what property the testator has at the time of death. The property at the time of death will be distributed according to the will. Generally, if the testator bequests a gift to a person who predeceases the testator, that gift typically is found to have lapsed. At that point, instead of going to the intended party, the gift passes through the testator's residuary clause (if present) or passes through intestate laws. However, the Uniform Probate Code ("UPC") typically allows for anti-lapse provisions which means that instead of a gift lapsing if the beneficiary predeceases the testator, the gift will be passed to the beneficiary's descendants. It is important to note that for the anti-lapse statute to apply, the gift must go to a close relative of the intended beneficiary. This means that the gift would not go to a beneficiary's friend, cousin, or the like. Lastly, under the UPC, an adopted child is treated the same as a child as natural children for the purpose of being considered an heir.

Here, the automobile would likely be protected by an anti-lapse statute and would go to the brother's adopted child because Fred is a direct descendant of the brother, which satisfies the "close relative" requirement of the anti-lapse statute.

As such, the bequest of the automobile to the Husband's brother will likely pass to the brother's adopted child, Fred, as a result of the anti-lapse statute.

2)

At issue is whether the court viewing the house as adeemed would carry out the testator's intent at the time of making the will.

Generally, if a gift is mentioned in the will and is no longer present at the time of the testator's death, the gift will be found to be adeemed, meaning that it is no longer available for a bequest. However, when the item transforms into another like-item, the court, applying the UPC standard, will likely attempt to determine if the testator would have intended the new property to substitute the bequest. If the court finds that the testator would have intended the changed property to still go to the named person in the will, the court will find that the bequest is substituted, and will allow the

bequest to go to the named beneficiary. If the court, however, determines that substituting the gift would not carry out the testator's intent, then the court will find that the gift adeemed, and the remaining property not expressly listed in the will will go through the residue clause.

Here, the court will likely find that the Husband's intent was for the mother to receive an investment property and that the Husband's intent will still be carried out if the original house is substituted for the home located at 500 South Street. The reason the court would find that the bequest could be substituted is because the home was an investment property, rather than a personal home that the husband or wife lived in. Further, the home at 500 South Street was also never lived in and was likely also viewed as an investment piece. Since the purpose of the house remained the same (an investment) though the actual home changed, the court will likely find that substituting the home would further the testator's intent. Allowing the property to pass through the residuary clause, conversely, would likely not be found to be what the testator intended for his mother.

As such, The Husband's mother will likely be entitled to the house at 500 South Street as a substitute for the house specifically bequeathed to her.

3)

At issue is who the testator named as the beneficiary of the residuary estate in his will.

Generally, a well drafted will will contain a residuary clause which allows all property that is unaccounted for in the will to pass through the clause to a specifically named individual. If the named individual is alive at the testator's death, then that person will receive all the property that passes through the residuary.

Here, the Husband named the Wife as the beneficiary of the residuary estate. Further, the wife was alive when the Husband died. As such, based on the will, she is entitled to take the property that flows through the residuary, subject to the pretermitted status of Doris (as explained below).

4)

At issue is whether Doris is viewed as a pretermitted child, and whether they are entitled to an elective share in the will.

Generally, if a child is born after a will is executed, but before the testator has had a chance to amend the will, then the court will assume that the child is pretermitted.

This means that the testator likely failed to include the child by mistake rather than an intentional omission, which would block any inheritance from the parent. If the child is found to be pretermitted, then the child will usually be able to claim an intestate share. For children that are born outside of the marriage and whose surviving parent is not the spouse of the decedent, the child typically receives a portion of what the spouse would receive and the spouse would instead receive a life-estate in the property and a set value of the estate.

Here, Doris was born after the Husband executed his will. As such, he will likely be found to be a pretermitted child, absent evidence that the Husband intended to exclude the child. Further, Doris was the result of a nonmarital relation between the Husband and the neighbor. Since he was not a child of the Husband and Wife, Doris would likely be able to take a portion of the residuary that they would be entitled to through intestacy laws.

As such, Doris would likely be able to take a portion of the residuary estate that the wife was entitled to.

5)

At issue is whether the same pretermitted entitlement (as stated above) applied to children of the testator and the testator's spouse.

Generally, if a child is born between the testator and the spouse, then the child, though pretermitted, will likely not stand to recover through any applicable intestacy laws. This is because the law presumes that if the when the Testator dies, the spouse that is still alive will care for their child.

Here, Sam is the child of Husband and Wife. While it is true that Sam would also be viewed as pretermitted because he was born one year after Husband executed his will, he would not stand to take an intestacy share because of the fact that he is the Wife's child as well. That means that the law will likely assume that the mother will naturally make sure that the child is taken care of, and as such, there would be no share available to Sam.

As such, Sam would likely not be entitled to take a share of the Husband's estate as an omitted child.

Question MEE 4 – February 2026 – Selected Answer 3

1. In a UPC state an anti-lapse statute saves the bequest of the automobile to Husband's brother and passes to brother's adopted child, Fred.

The issue is whether an anti-lapse statute applies to a bequest with survivorship language and if so if the gift can pass to an adopted child (issue.)

In almost every state including this UPC state an anti lapse statute will save a gift that would have lapsed because a beneficiary under a will predeceased a testator. Under an anti-lapse statute rather than the gift lapsing and passing as part of the residue, the gift instead passes to the issue of predeceased beneficiary. Most anti-lapse statutes require some degree of relation between the testator and the predeceased beneficiary. Today in almost all jurisdictions the adopted child (issue) of a beneficiary is entitled to their testate share of a gift the same as a biological child would be.

Here, State Y, the state where Testator executed their will has adopted the UPC. Therefore an anti-lapse statute will apply. Testator's will reads that any automobile he owns at the time of his death should go to his brother; if her survives him. Here, Testator was predeceased by his brother. At the time of his death he owned a car. Testator and brother share a degree of relationship (siblings) and adopted issue stand to inherit as biological children. Therefore Fred, could take Husband's automobile.

2. In a UPC state Husband's mother is entitled to the house at 500 South Street as a substitute for the house specifically bequested to her.

The issue is whether a gift adeems when it is sold or if a beneficiary may take a substitute gift.

Whether a gift adeems once it is sold depends on the jurisdiction. Some jurisdictions will determine that a gift that is subsequently sold adeems. While other jurisdictions hold that a substitute gift can be offered to the beneficiary as a replacement as long as it is not contrary to the testator's intent.

Here, Husband left his house at 211 Pearson drive (an investment property). Husband then sold the house but used the same proceeds to purchase another house which neither he nor wife ever lived in. Since the house was purchased using the same proceeds and no one lived in the home it can be inferred that this house was also meant as an investment property and a replacement of the Pearson drive home. Further, Husband would have wanted his mother to have the house therefore in a

UPC state, Mother would likely take the house at 500 south street as a substitute for the specific bequest that was sold.

3. The residuary estate be distributed to Wife.

The issue is whether wife should take the residuary.

Whenever possible a testator's intent will be honored in a will, including specific bequests.

Here, Testator left the residue of his estate to Wife if she survives him. Wife survived her husband, therefore she can take the residue of his estate. Whether or not his children who were left out of the will make take a share is discussed below.

4. Is Doris may be entitled to take a share of Husband's estate as an omitted child.

The issue is whether a non marital child is entitled to take a share of Husband's estate as a pretermitted heir.

Some state's have pretermitted heir statutes which allow a child born during the Testator's lifetime but after the will was executed to take a share of the testator's estate. In most state's the omitted child is entitled to take the intestate share of the estate. Modernly, non marital child are entitled to take as marital children. If there is evidence that Testator intentionally left the child out of the will, that intent will be honored.

Here, Husband executed a will, two years later he had a non-marital child with neighbor, Doris. Since Doris is Husband's child but was born after Husband made his will, Doris may be entitled to her intestate share of Husband's estate as a pretermitted heir. Although Doris is a non marital child she is still entitled to take as a marital child. Further there is no evidence here that Testator intentionally left her out of the will.

5. Sam is entitled to take a share of Husband's estate as an omitted child.

The issue is whether Sam as a child of Wife and Husband is entitled to take a share of husband's estate as an omitted child.

In most jurisdictions a marital child left out of the will is not entitled to take a share of the Husband's estate if he is the child of the spouse and the testator. The assumption

is here that the spouse as the parent of the omitted child will distribute a portion of her share of the estate. (See rules above for omitted children.)

Here, Sam was born after Husband's will was executed so he counts as a pretermitted heir, however since Sam is the child of Spouse and testator then he is not entitled to his own share of the estate