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Verdict

November 11, 2014

[Joanna L. Grossman](#)

Murder, Suicide, and the Fight Over an Inheritance



The seven-year marriage between Brandy and Joshua Matthews ended in tragedy. He shot and killed her before turning the gun on himself. There were no criminal charges arising out of this tragedy since the murderer died alongside the victim. But there was a civil fight over inheritance, raising the question whether Brandy's family should inherit from Joshua's estate. In a unanimous opinion, the Alabama Supreme Court said no.

The Dispute in *Willingham v. Smith*

Brandy and Joshua both died intestate (without a valid will). In those situations, a close relative is typically appointed to administer the decedent's estate. In Brandy's case, it was her mother, Debora Willingham; in Joshua's case, it was his brother, Rodney Matthews. Willingham filed a complaint asking a court to declare that Joshua's estate should pass to Brandy's family. Although intuitively this may seem like an appropriate outcome, given the harm he caused his wife and the grief he caused her survivors, it called for an unorthodox reading of the applicable statute.

The relevant provisions of Alabama law, §43-8-253, provides

“(a) A surviving spouse, heir or devisee who feloniously and intentionally kills the decedent is not entitled to any benefits under the will or under articles 3 through 10 of this chapter, and the estate of decedent passes as if the killer had predeceased the decedent. Property appointed by the will of the decedent to or for the benefit of the killer passes as if the killer had predeceased the decedent.”

This is, in common parlance, a “slayer” statute, which prevents killers from inheriting from their victims. Once designated a “slayer”—someone who intentionally and feloniously causes the death of another—that person cannot receive the benefit of a bequest from the victim's will or a share of his or her intestate estate.

The Role of Slayer Statutes in Inheritance Law

Slayer statutes are a common part of state inheritance law. An old and famous New York case, *Riggs v. Palmer*, decided in 1889, illustrates the principle and its purpose. Elmer Palmer stood to inherit a lot from his living-grandfather's will. Worried that the will might be changed, Elmer poisoned his grandfather—preserving, he thought, his vast inheritance. But the New York court refused to allow him to inherit. Although it was the

responsibility of the criminal courts to punish wrongdoers, it was the responsibility of the probate court to prevent heirs profiting through the inheritance system from their wrongdoing—or worse, as Elmer had done, hastening the death of a relative for the very purpose of inheriting. The court drew on its inherent equitable powers to declare that slayers cannot inherit.

There are other states with similar judicial opinions. But most states have a statute on the books, like Alabama's, which explicitly bars slayers from inheriting. These statutes sometimes vary in scope with respect to the definition of a slayer, whether the bar applies only to probate inheritance or also to non-probate transfers, and who takes in the slayer's place. But these statutes have a common core—preventing a slayer from inheriting from the victim's estate. The technical way in which this is usually accomplished is that the slayer is treated as having predeceased the victim, which knocks the slayer out of the line of inheritance.

One straightforward application of this statute in Brandy and Joshua's case is that Joshua would be barred, as a slayer, from inheriting from Brandy's estate, even though the spouse is first in line to inherit from an intestate estate. (A discussion of the slayer doctrine in a more typical case can be found [here](http://verdict.justia.com/2013/02/05/mamas-in-the-graveyard-papas-in-the-pen) (<http://verdict.justia.com/2013/02/05/mamas-in-the-graveyard-papas-in-the-pen>.) But the case that reached Alabama's highest court raised a different question—whether Brandy's family could inherit from Joshua's estate as a result of his wrongdoing.

Let's consider what would happen if Brandy had died before Joshua, but under different circumstances. Because Brandy died first, she would not be eligible to inherit from Joshua's estate because intestate heirs must survive the decedent in order to inherit. Joshua, on the other hand, would inherit from Brandy's estate, even though he died only a few hours later, as long as it could be established that he outlived her. (Although many states define "survival" in this context as outliving the property owner by 120 hours, Alabama follows the traditional version of the Uniform Simultaneous Death Act, which defines survival as actually outliving the other person, even by the fewest of seconds.) The fact that Joshua did not survive long enough to enjoy the inheritance does not matter—his intestate heirs (closest living relatives) or his will beneficiaries would benefit in his stead.

The question, then, is whether the distribution of Joshua's estate should vary because he murdered Brandy before taking his own life. Her mother argued that the policy behind slayer statute should mean not only that Joshua cannot inherit from Brandy, but also that she (and thus her family) should inherit from him, even though the traditional rules of inheritance dictate that his probate estate passes to his closest living relative.

Rodney, Joshua's brother, responded to this complaint with the argument that the slayer statute only addresses the distribution of the victim's estate, not the slayer's. And certainly he's right that this has been the traditional use of such statutes and doctrines. The trial court agreed with him and entered summary judgment declaring that Alabama's slayer statute had no application to the distribution of Joshua's estate.

The Ruling in *Willingham v. Smith*

The Alabama Supreme Court agreed with the trial court, which had concluded that a clear reading of the statute did not support Willingham's claim. To prove this, the trial court had retyped the statute—substituting "Joshua" for "surviving spouse" and "Brandy" for decedent. The result of this re-reading makes it clear that the statute operates to prevent Joshua from inheriting from Brandy, but says nothing about who should inherit from him.

Willingham had nothing to support her position, other than a raw appeal to justice or emotion. The statutory text was simply not susceptible to her interpretation. Moreover, the concept would be somewhat foreign to inheritance law. There are several instances in which courts draw on their inequitable powers to stop injustice. Based on the doctrine of equitable adoption, a probate court might stop an adult's estate from denying a parent-child relationship when the adult had promised to legally adopt the child but failed to do so. Those same equitable powers are sometimes invoked to stop a person from inheriting when he or she procured the bequest through intentional deceit. And under the traditional operation of the slayer statute, equitable principles disfavoring unjust enrichment and profit from wrongdoing prevent the slayer from inheriting.

But what Willingham asked is for something almost unheard of – for the court to simply ignore the statutory

scheme of inheritance and distribute Joshua's estate to the most deserving recipient. And while not every case involves heart-wrenching facts like this one, there are many in which estates are distributed to evil, conniving, and loathsome parties. The law – even powered by equity – does not step in to assign inheritance rights based on merit. Thus, this court was right to deny Willingham's requested remedy, even though it might seem insult on top of the injury she has already suffered through the loss of her daughter.



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