William Massello III,[1] *M.D.*

The Insanity Defense to Suicide

REFERENCE: Massello, W., III, **"The Insanity Defense to Suicide,"** *Journal of Forensic Sciences*, JFSCA, Vol. 31, No. 3, July 1986, pp. 1009-1015.

ABSTRACT: The certification of suicide as the manner of death can result in either the complete loss or a significant reduction in life insurance benefits to the victim's survivors. It is, thus, not uncommon for these beneficiaries to contest suicide as the manner of death. Insanity is a recognized defense in law against suicide. It is recognized in law that, in some cases, an insane man cannot intentionally destroy himself. However, it is also recognized that life insurers can exclude suicide by an insane man from coverage. This article discusses the common law doctrines upon which the insanity defense to suicide is based, with references to judicial opinions from cases which involve contested suicides and the issue of insanity.

KEYWORDS: jurisprudence, death, suicide, mental illness

It is recognized that suicide is relatively frequent among the mentally ill. Indeed, it is customary for medical examiners to rely on an appropriate psychiatric history (depression, schizophrenia, and so forth) for support of their certification of suicide as the manner of death. Paradoxically, however, the altered mental state of the decedent can also be used as a defense in law against the certification of suicide.

Most life insurance policies exclude suicide from coverage during the first two years of the policy. Many policies, also, contain a provision which agrees to pay double the face value of the policy if the death is accidental. A determination that death resulted from suicide can mean the loss or reduction of life insurance benefits to surviving family members or other beneficiaries. Thus, it is not uncommon for these beneficiaries to contest the suicide, claiming that it was not victim's voluntary act but, rather, an involuntary, accidental act resulting from an insane mind.

Insanity: The General Rule

The general common law principle applied to insurance law is that insanity precludes suicide, unless the words "sane or insane" are appended to suicide clauses in the life insurance contract. A person cannot legally be said to have committed suicide if it can be shown that he did not understand either the moral character or physical nature and consequences of the act of self-destruction. This principle was articulated by the U.S. Supreme Court in the case of *Mutual Life Insurance Company v. Terry* (1873) [*1*]. In *Mutual Life*, the insurance contract merely specified that "if this said person whose life is hereby insured . . . shall die by his own hand . . . this policy shall be null and void." Said the court:

> If . . . the assured, being in the possession of his ordinary reasoning faculties . . . intentionally takes his own life, the proviso attaches, and there can be no recovery. If the death is caused by the

Received for publication 13 July 1985; accepted for publication 7 Oct. 1985.

[1]Assistant chief medical examiner, Office of the Chief Medical Examiner, Western Division, Commonwealth of Virginia, Roanoke, VA.

> voluntary act of the assured, he knowing and attending that his death shall be the result of his act, but when his reasoning faculties are so far impaired that he is not able to understand the moral character, the general nature, consequences, and effect of the act he is about to commit, or when he is impelled thereto by an insane impulse which he has not the power to resist, such death is not within the contemplation of the parties to the contract, and the insurer is liable.

Suicide: "Sane or Insane"

It is rather obvious that an insanity defense would be relatively easy to raise, particularly when all that needs to be shown is that the victim did not understand the moral character or criminality of the act. It is true that in England, during the Middle Ages, suicide was a felony under the law. It was looked upon by both the Church and the Crown as one of the lowest forms of moral turpitude. Harsh penalties were exacted against the corpse of the victim (public degradation, ignominious burial, and so forth). Penalties of confiscation and forfeiture were assessed against the victim's family and his estate [*2*]. Today, however, societal attitudes have become much more tolerant toward the suicide victim. Most people today don't consider suicide to be a criminal act or an act of moral turpitude. In most states, suicide is not now, and never has been, a crime [*3*]. Indeed, in the minds of many people, suicide itself constitutes prima facie evidence of insanity. Consequently, it has become common practice for insurance companies to add the words "sane or insane," or other words to that effect, to existing suicide clauses in the life insurance contract. The addition of these words has traditionally placed the insurer in a much stronger position as far as his liability is concerned.

That these words, "sane or insane," impart a definite meaning to the contract was said by the U.S. Supreme Court in the landmark case, *Bigelow v. Berkshire Life Insurance Company* (1876) [*4*]. Said the court:

> . . . felonious suicide was not alone in the contemplation of the parties to it. If it had been, there was no necessity of adding anything to the general words. These had been construed by many courts of high authority to exclude self-destruction by an insane man. Such a man could not commit a felony; but he could take his own life, with a set purpose to do so, conscious of the physical nature of the act, but unconscious of the criminality of it.

Adding these words, then, gives effect to the idea that an insane man can commit suicide. These words obviate the necessity that the individual understand both the moral character and physical nature and consequences of the act in order to be said to have committed suicide. However, they do not universally relieve the insurer from liability in all cases where an insane man dies by his own hand.

The Majority View

Essentially two views have been taken in common law with respect to the words "sane or insane" added to a suicide clause. The majority view holds that the act of self-destruction is to be tested as if the individual were sane, disregarding insanity as an issue altogether.

One of the leading cases exemplifying the majority view is from New York, *DeGogorza v. Knickerbocker Life Insurance Company* (1875) [*5*]. In its opinion, one of the strongest views toward the addition of the words "sane or insane," the court held that these words applied, even though the insured was so insane that the act of self-destruction was wholly involuntary. The words of the court were:

> That this language (sane or insane), in view of previous decisions, was inserted for such a purpose, cannot be doubted, and that it was agreed to by both the insured and the insurer is not questioned, and that it is a provision allowed by law, no one denies. We are to say from these words what the parties must have intended . . . and if they mean anything it is just what the words commonly import, and that is, if death ensues from any physical movement of the hand or

> body of the insured, proceeding from a partial or total eclipse of the mind, the insurer may go free . . . we are of the opinion that . . . it will be considered that, when a totally insane man blows his brains out with a pistol, he will be said to have died by his own hand within the meaning of a policy such as we have now under consideration.

The Illinois Supreme Court came to a similar conclusion in the case of *Seitzinger v. Modern Woodmen*, (1903) [6], which also involved the death of a man who shot himself in the head. In *Seitzinger*, it was steadfastly asserted that the insured:

> . . . was wholly insane, totally unconscious of the manner of his death, and wholly and totally incapable, by reason of such insanity, of forming an intention of taking his own life, and did not, at the time, comprehend or understand the physical nature and result of his act, and did not intend to take his life, and that the death was not the result of any intentional act of his.

Nonetheless, the court chose to apply the language of the contract in its strict and literal sense, saying:

> Nothing can be clearer than that the words "sane or insane" were introduced in the certificate by the insurer for the purpose of excepting from its operation any self-destruction, whether the insured was of sound mind or in a state of insanity. . . . These words have a precise, definite, well-understood meaning. No reasonable mind could be misled by them and no expansion of language could more clearly express the intention of the parties. . . . By the plain rules of interpretation, appellee is exempt from liability under this contract.

The doctrine of the *DeGogorza* and *Seitzinger* cases has been applied in more recent cases. One such case from Virginia is *Atkinson v. Life Insurance Company of Virginia* (1976) [7]. The facts in *Atkinson* involved a man who, despite the absence of any prior mental illness, developed a psychosis while in the hospital recuperating from surgery for regional enteritis. Under the delusion that he was being gassed through vents by the hospital staff, he broke free of his restraints, disconnected his intravenous tubing and jumped to his death out of an eight-story window. His widow subsequently brought suit on an accidental death benefit policy, asserting that the insured did not comprehend the consequences of his act and did not intend to take his life. The Virginia Supreme Court, however, in sustaining the trial court's summary judgment, held that the insured's death was within the suicide exclusions of the policy. Said the court:

> . . . it is not necessary for the insured to realize the physical nature or consequence of his act or to form conscious purpose to take his life, but if the act of self-destruction would be regarded as suicide in the case of a sane person, it would be so treated as to an insane insured, regardless of whether the insured decedent realized or was capable of realizing that such act would cause his death or whether he was capable of entertaining an intention to kill himself.

Thus, the majority opinion seems to hold that the addition of the words "sane or insane" preclude the defense of insanity altogether.

The Minority View

There is a minority opinion which has prevailed in some cases regarding the application of the words "sane or insane" in a life insurance contract. While this opinion does not completely reject the majority opinion, it does not go so far as to reject the issue of insanity entirely.

This minority view, or the "Kentucky rule," takes the position that consciousness of the physical nature and consequences of the act is a necessary element in order to conclude that the insured "intentionally" committed suicide. More simply, if the insured understood that the act would result in death, even though he may not have understood the moral character of the act, then the insurer would not be liable. However, if the insured was so insane at the

time he killed himself that he did not know that he was taking his life, or that the act he was committing would probably result in his death, then his death would be regarded as an accident.

This view is well articulated in several Kentucky cases (hence the term "Kentucky rule"). In one of these, *Mutual Benefit Life Insurance Company v. Daviess* (1888) [*8*], the court said as follows:

> . . . it is necessary for the defense . . . to establish . . . that he fired the fatal shot with intention to take his life; for, if fired with this intent, his knowledge as to the result of the act necessarily follows. Whether he was a moral, responsible agent or not is an immaterial inquiry. His condition may have been such as to exempt him from legal and moral responsibility, and still he may have had reason enough to know the physical nature of the act he was about to commit . . . if the insured fired the fatal shot, and had sufficient mental power at the time to know that it would take his life . . . the recovery in this case is limited to the premiums paid, with the interest . . . if the firing of the pistol was not intentional, because of the unconsciousness on the part of the insured that such an act would take his life, the recovery of must be had of the principal sum. The shooting, in such a case, must be regarded as the result of accident; as much so as if the pistol had gone off unexpectedly to the insured, and killed him.

Somewhat later, in another Kentucky case, *Masonic Life Association v. Pollard* (1905) [*9*], a similar doctrine was articulated:

> On the contrary, the law is that if the insured intentionally took his own life, at a time when his mind was so far gone as to render him unconscious that he was taking his life, the act will not be deemed his, but will be regarded in law as an accidental killing.

In a most recent California case, *Searle v. Allstate Life Insurance Company* (1985) [*10*], the minority doctrine was again applied. The facts in *Searle* involved a man suffering from an unspecified progressive and degenerative neurological disorder. As he continued to deteriorate, he became increasingly depressed. Finally, he shot himself in the head, in plain view of his wife. His widow brought suit on a policy, less than two years old, which excluded coverage for "suicide, sane or insane" within two years of the date of issuance. The plaintiff (widow) contended that the insured was psychotic, out of touch with reality, and did not understand the nature and consequences of his act. During the proceedings, this contention was supported by expert psychiatric testimony, although other expert testimony was introduced in rebuttal to this contention by the defendant (insurer).

The original trial court entered summary judgment in favor of the insurer. This judgment was reversed by the 4th District State Court of Appeals. The case was remanded and retried, and eventually heard by the California Supreme Court, whose lengthy opinion addressed several points of law. However, with reference to the words "suicide, sane or insane," the high court said:

> A proper interpretation of the clause is that it exempts the insurance company from liability only if the insured, whether sane or insane at the time, committed the act of self-destruction with suicidal intent. If suicidal intent is negated by a determination that the insured did not understand the physical nature and consequences of the act, then the company may be held liable for the full amount of the policy.

Thus, according to the minority view, self-killing must be considered an accident if the victim does not realize that the act, albeit intentionally done, will kill him.

The Irresistible Impulse

One other question in common law which relates to the application of suicide provisions in the life insurance contract is that of the "irresistible impulse." There is substantial agree-

ment in common law that an irresistible impulse to kill oneself still infers a knowledge of the physical nature and consequences of the act.

A case in point is *Johnson v. Metropolitan Life Insurance Company* (1968) [*11*]. In this *Johnson*, the U.S. 3rd Circuit Court of Appeals applied New Jersey law to the death of a merchant marine officer who returned from a voyage and found that his wife had sued him for divorce. A few days later, a court order was issued restraining him from visiting his wife. He went home that evening and spread fuel oil around the house and on his clothing. He then set fire to both himself and the premises. Two suicide notes, written in crayon and lipstick, were found at the scene. The decedent's widow brought suit on a life insurance policy, less than two years old, containing an exclusionary clause for "suicide, sane or insane." The plaintiff (widow) contended that "the insured died of his own acts while insane." The U.S. District Court entered summary judgment in favor of the insurer. This judgment was sustained on appeal. In addressing the issue of the irresistible impulse, the court said:

> Indeed, the appellant's brief suggests that the insured may have been impelled by an irresistible impulse to take his own life. But that conclusion would affirmatively establish that self destruction was the very result intended, albeit by a deranged mind.

Thus, an irresistible insane impulse does not prevent the application of a suicide clause with the words "sane or insane."

The Relevance of Insanity to "Purely Accidental" Death

It must be emphasized that courts have always been reluctant to apply suicide provisions in a life insurance contract to acts which may not have been intentional. Courts still recognize that an insane man can unintentionally destroy himself, albeit "by his own hand." In cases where this question arose, attention was focused on the act itself rather than on the state of mind of the individual. The question addressed, in these cases, was not so much whether the individual understood what he was doing, but did he voluntarily or inadvertently do it. In these cases, the courts have placed reliance on the circumstantial or "extrinsic" evidence alone, rather than on the state of mind of the individual.

One such case from Texas where there was a question as to whether the decedent's act was voluntary or inadvertent is *Mayfield v. Aetna Life Insurance* (1938) [*12*]. In *Mayfield*, the U.S. 5th Circuit Court of Appeals reversed a lower court summary judgment, stating that there was a question of fact which needed to be put to the jury. *Mayfield* involved a man who was under a delusion that the Mexicans on his ranch were coming after him and seeking to harm him. In trying to escape them, he was heard to stumble while climbing the stairs at the home of his brother-in-law. He was found immediately thereafter lying at the top of the stairs with a bullet hole in his head and a pistol lying near his body. Without expressly considering the applicability of the suicide clause, the appellate court assumed that it was not applicable if the insured accidentally shot himself. In holding that the trial court had erred in taking the case from the jury, it said:

> The conduct of a person laboring under a delusion, though he be otherwise sane, must be viewed with reference to the delusion. If the insured, at the time, believed he saw Mexicans following him up the stairs, drew his pistol to shoot them, and, perhaps looking over his left shoulder, as he reached his door, stumbled against the wall or the steps so as to turn the pistol towards himself and to cause him to clutch it tightly enough to fire it, a possible, and we think a reasonable explanation is afforded. Whether it is the most reasonable one, or a true one, a jury must say.

Thus, this case demonstrates a reluctance of the part of the courts to apply suicide provisions to deaths which may be purely accidental, despite the insanity of the deceased.

In contradistinction to *Mayfield*, the circumstantial or "extrinsic" evidence has also been used to infer an intention on the part of the insured to kill himself, despite his insanity. An

exemplary case from Ohio is *Pagenhardt v. Metropolitan Insurance Company* (1897) [*13*]. In *Pagenhardt*, the decedent, while supposedly suffering from delirium induced by erysipelas, cut his throat with a table knife. He recovered consciousness and stated that he did not know what he was doing and did not want to die. Despite this, the court held that the insured's intention must be inferred from the nature of the act itself, rather than from his state of mind or dying declaration. Said the court:

> The dying declaration of the deceased . . . proves nothing. The very blankness of the insured's mind at the time of making this statement deprives it of all probative force as to the condition of his mind at the time of the act. If it could be found negatively as tending to prove anything, it might tend to prove the absence of any motive other than the natural physical results of the act.
>
> It is certainly not a very satisfactory use of language to talk about the "conscious acts" of a person of unsound mind, and yet an examination of the cases will disclose that these acts are not determined by the condition of the mind, but by the very nature of the acts themselves.
>
> "Intentional" and "conscious" are used as defining those acts of an insane man from which every element of accident is excluded, and for which there can be no other possible motive than the natural physical consequences of the act.
>
> So in the case at the bar, in the absence of other motive suggested by the evidence, no matter how delirious the insured may have been, the court could conceive of no other intention to the insured's hacking his throat with a table knife than the natural physical consequences of the act, death.

Summary and Conclusion

It is recognized that sometimes an act of self-destruction by an insane person may not be his own voluntary act, but rather the irresistible and ultimate end result of his disordered mental state. In law, suicide by an insane person may be deemed an accident if it can be shown that he did not understand either the moral character or the physical nature and consequences of his act of self-destruction. However, insofar as life insurance contracts are concerned, it is recognized in law that insurers may exclude suicide by an insane man from coverage by adding words such as "sane or insane" to suicide exclusions in the life insurance contract.

These words, "sane or insane," have been interpreted by many courts (majority view) to mean that the issue of insanity is to be disregarded all together. Simply put, these words mean that the act of self-destruction is to be judged as it would apply to a sane person. Other courts (minority view) have held that these words exclude from coverage only those victims who lack an understanding of the moral character of the act. Self-destruction by persons who are so insane that they do not understand the physical nature and consequences of the act is considered an accident.

Regardless of the doctrine of law which is applied, courts are reluctant to apply suicide exclusions to acts which may be purely unintentional and inadvertent. Where the circumstantial evidence does not clearly and convincingly exclude every reasonable hypothesis of accidental death, then suicide exclusions do not apply, even though the insured was insane at the time of his death.

With regard to death certification, medical examiners, of course, cannot and are not expected to adjudicate the issue of insanity as it pertains to any given suicide. Yet, where the physical and circumstantial evidence point clearly and convincingly toward intentional self-destruction, medical examiners should not be reluctant to certify the death as a suicide. It is well established that insane persons can, and often do, kill themselves. Where such evidence for suicide is strong, there is ample precedent in law to support the certification of suicide as the manner of death, despite the fact that the decedent may not have understood either the moral character or the physical nature and consequences of his act of self-destruction.

References

[1] *Mutual Life Insurance Company v. Terry* (1873), 15 Wall. (U.S.) 580, 21 L. ed 236, 35 ALR 160, 161.
[2] Rosen, G., "History in the Study of Suicide," *Psychological Medicine*, Vol. 1, 1971, pp. 267-285.
[3] Litman, R. E., "Psycholegal Aspects of Suicide" in *Modern Legal Medicine, Psychiatry and Forensic Science*, Curran, McGarry and Petty, Eds., F. A. Davis Co., Philadelphia, 1980, p. 841.
[4] *Bigelow v. Berkshire Life Insurance Company* (1876), 93 U.S. 284, 23 L. ed. 918, 35 ALR 160, 162.
[5] *DeGogorza v. Knickerbocker Life Insurance Company* (1875), 65 N.Y. 232, 35 ALR 160, 168.
[6] *Seitzinger v. Modern Woodmen* (1903), 204 Ill. 58, 68 N.E. 478, 35 ALR 160, 169.
[7] *Atkinson v. Life Insurance Company of Virginia* (1976), 217 Va. 208, 228 S.E. 2d 117.
[8] *Mutual Benefit Life Insurance Company v. Daviess* (1888), 87 Ky. 541, 9 S.W. 812, 35 ALR 160, 177.
[9] *Masonic Life Association v. Pollard* (1905), 121 Ky. 349, 123 Am. St. Rep. 198, 89 S.W. 219, 35 ALR 160, 177.
[10] *Searle v. Allstate Life Insurance Company*, 96 Cal. App. 3d 616, 158 Cal. Rptr. 5 (1979), rev'd, Sup. Ct. of California, L.A. 31703, Super. Ct. No. 405535 (1985), unpublished.
[11] *Johnson v. Metropolitan Life Insurance Company* (1968), 404 F. 2d 1202.
[12] *Mayfield v. Aetna Life Insurance Company* (1938), 100 F. 2d 199, 138 ALR 827, 828.
[13] *Pagenhardt v. Metropolitan Insurance Company* (1897), 4 Ohio N.P. 169, 35 ALR 160, 186.

Address requests for reprints and additional information to
William Massello III, M.D.
Assistant Chief Medical Examiner
Office of the Chief Medical Examiner, Western Division
Commonwealth of Virginia
920 S. Jefferson St.
Roanoke, VA 24016