Avoid a Fight Over Blood Money: The Iowa Legislature Should Take Action to Amend Its Slayer Statute to Ensure that Even the Insane Slayer Does Not Inherit

Natalie J. Risse[*]

ABSTRACT: Almost every state has a slayer statute which prevents a killer from benefiting from the estate of their victim as an heir, an insurance beneficiary, or a joint tenant. However, very few of these slayer statutes address the problem that arises when the slayer has been determined to be legally insane. In the absence of legislative guidance, courts facing this problem have developed multiple different approaches to address this issue. Ultimately, the majority of courts have allowed the insane slayer to inherit, escaping the application of the slayer statute. However, some courts have taken the opposite approach and barred the insane slayer from inheriting. Recently, a federal court faced this issue while interpreting Iowa law. The court had little guidance from Iowa law—the statute was silent and the state supreme court had yet to take up the issue. It ultimately decided that Iowa's slayer statute probably did not bar the insane slayer from benefiting from the victim's estate. This Note argues that the Iowa Legislature should amend its slayer statute to ensure that even the insane slayer does not inherit.

[*] J.D. Candidate, The University of Iowa College of Law, 2024; B.A., Wartburg College, 2020.

INTRODUCTION

Imagine a scenario in which a son murders his mother by beating her over the head in their own home.[1] Now, decide whether the son should be allowed to inherit under the mother's will and whether he should take proceeds as a beneficiary from her life insurance policy. Most people would probably think the son should be barred from benefiting in any way from her death. The instinct to prevent a killer from inheriting from their victim undergirds a longstanding principle of equity.[2] Does that instinct change if the killer is later determined to be legally insane?

1. This fact pattern is based upon the facts in a recent federal case interpreting Iowa law. *See* Hartford Life & Accident Ins. Co. v. Selters, 425 F. Supp. 3d 1072, 1075 (S.D. Iowa 2019).

2. Indeed, as explained *infra* Section I.A.1, the slayer rule—enacting this very instinct—has roots in old English law, which gave rise to the slayer rule in America today.

The issue of an insane slayer causes two areas of law to collide: the slayer rule and the insanity defense. The slayer rule prevents a killer from inheriting from their victim, receiving insurance proceeds as a beneficiary on the victim's insurance, and taking the victim's share of property held jointly with the killer.[3] However, few states have provisions in their slayer statute that address the issue of an insane slayer.[4] As a result, in the absence of legislative guidance, courts that have faced this unique issue have taken many different approaches.[5] Some courts allow the killer to inherit, barring the application of the slayer rule.[6] Others apply the statute and prevent the insane slayer from inheriting.[7]

Recently, a federal court addressed this issue while interpreting Iowa's slayer statute as applied to a case where a son murdered his mother by bludgeoning her with an electric guitar.[8] Iowa's slayer statute provided no guidance for the court because the statute is silent about whether it applied to the insane slayer,[9] and the Iowa Supreme Court has not yet decided the issue. The court ultimately decided that it is possible for an insane slayer to inherit under Iowa's slayer statute, so long as the prosecution fails to show that the slayer acted intentionally.[10] But the court reasoned that under Iowa's insanity defense statute, it would be impossible for a person to act intentionally and raise a successful insanity defense.[11] Thus, the court essentially determined that the Iowa slayer statute would not be applicable to the insane slayer.[12] This case demonstrates the importance of statutory guidance on controversial issues such as this one.[13] The Iowa Legislature needs to provide clarity in its slayer statute.

This Note argues that public policy considerations demand that the Iowa Legislature amend its slayer statute to ensure its applicability to insane slayers. Part I explains the slayer rule and insanity defense, their underlying policies and controversies, and their history and development throughout American and Iowan law. Part II explains the controversial intersection of the slayer rule

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3. For an example of the slayer rule codified, see IOWA CODE § 633.535 (2023).

4. For examples of the few states which have legislatively provided for the scenario of an insane slayer, see *infra* notes 118–19 and accompanying text.

5. *See infra* Section II.A.1.

6. *See, e.g.*, Beale v. Ladd (*In re* Ests. of Ladd), 153 Cal. Rptr. 888, 894 (Ct. App. 1979); Ford v. Ford, 512 A.2d 389, 398 (Md. 1986).

7. *See, e.g.*, Hoss v. Hoge (*In re* Est. of Kissinger), 206 P.3d 665, 666 (Wash. 2009) (en banc).

8. *See* Hartford Life & Accident Ins. Co. v. Selters, 425 F. Supp. 3d 1072, 1074–75 (S.D. Iowa 2019).

9. *See* IOWA CODE § 633.535 (2023).

10. *See Selters*, 425 F. Supp. 3d at 1080–81.

11. *See id.* at 1079 ("In the Court's judgment, a person who is incapable of being aware of the acts he is committing and the ordinary and probable consequences of them cannot be said to have acted with a purpose to cause death or voluntarily with awareness of what he was doing and the expected consequences.").

12. *See id.*

13. Indeed, multiple commentators have taken opposite positions on whether slayer statutes should apply to insane slayers. *See infra* Section II.A.

and the insanity defense. It examines various approaches taken by courts, specifically delving into *Hartford Life and Accident Insurance Co. v. Selters*—the recent federal case interpreting Iowa's slayer statute in the context of an insane slayer. Finally, Part III proposes that the Iowa Legislature amend the state's slayer statute to ensure that insane slayers are not exempt because (1) it remains faithful to the underlying policy rationale of the slayer rule; (2) it honors the intent of the victim; and (3) it respects the surviving family, friends, and other possible beneficiaries of the victim.

I. THE DEEP ROOTS OF THE SLAYER RULE AND THE INSANITY DEFENSE IN AMERICAN AND IOWAN JURISPRUDENCE

Two seemingly simple concepts in the law—the slayer rule and the insanity defense—interact in a way that creates a unique issue for courts. However, to recognize these complexities and problems, it is first necessary to understand the slayer rule and the insanity defense individually. Section I.A will provide an overview of the slayer rule and its justifications, the origins of the rule in America, and a comprehensive history of the slayer rule in Iowa. Section I.B will provide an overview of the insanity defense, discuss the intense controversy surrounding it, and explain the history of the defense in Iowa.

A. THE SLAYER RULE

The slayer rule serves an important function in society and has unique justifications. The slayer rule prevents a killer[14] from benefiting from their victim's estate through inheritance[15] or as beneficiary of an insurance policy.[16] It can even bar taking the victim's share of jointly held property.[17] It is based on the common law adage "that a wrongdoer [should] not be allowed to benefit from his wrong."[18] Indeed, "[t]he most fundamental principle offered in support of the slayer rule is 'Nullus Commodum capere potest de injuria sua propria—No man can take advantage of his own wrong.'"[19] The three main justifications for the slayer rule are "[(1)] the importance of honoring the testator's intent, [(2)] fairness, and [(3)] preservation of the orderly

14. While slayer statutes generally only apply to killers, some people have proposed expanding them to disinherit an abusive heir. Nili Cohen, *The Slayer Rule*, 92 B.U. L. REV. 793, 802 (2012).

15. *Slayer's Rule*, BLACK'S LAW DICTIONARY (11th ed. 2019) ("The doctrine that a killer or killer's estate cannot profit from his victim's death, as by inheritance or descent.").

16. *See, e.g.*, IOWA CODE § 633.535(3) (2023) (preventing a killer from benefiting from the victim's life insurance policy).

17. *See, e.g.*, *id.* § 633.535(2) ("A joint tenant who intentionally and unjustifiably causes or procures the death of another joint tenant which affects their interests so that the share of the decedent passes as the decedent's property has no rights by survivorship.").

18. Carla Spivack, *Killers Shouldn't Inherit from Their Victims—Or Should They?*, 48 GA. L. REV. 145, 155 (2013).

19. Adam J. Katz, Case Comment, Heinzman v. Mason*: A Decision Based in Equity but Not an Equitable Decision*, 13 QUINNIPIAC PROB. L.J. 441, 451 (1999) (quoting Kent S. Berk, Comment, *Mercy Killing and the Slayer Rule: Should the Legislatures Change Something?*, 67 TUL. L. REV. 485, 495 (1992)).

transmission of property."[20] Another major purpose of the slayer rule is to deter criminal acts by preventing the killer from benefiting from their conduct.[21]

The first policy justification for the slayer rule—to honor the victim's presumed intent—operates on the assumption that the victim's intent would have been different had the victim known that the beneficiary under their will or insurance policy would be their killer.[22] This is a very logical assumption,[23] since natural human intuition dictates that one does not want to reward another who causes them harm. Further, honoring the victim's presumed intent justifies the application of the slayer rule because a core principle in probate law is to give full effectuation of a decedent's will and carry the decedent's intent to fruition, to the extent reasonably feasible.[24] To allow a slayer to inherit from the victim, then, would be directly contrary to the victim's intent, thereby causing further harm. The second policy justification for the slayer rule—fairness—recognizes that allowing a slayer to inherit from their victim would constitute unjust enrichment.[25] Indeed, it would be blatantly unfair for a person to kill another and then be unjustly rewarded for doing so.

The third policy justification for the slayer rule—the orderly transmission of property—may be less intuitive since it is not rooted in equity. Slayer rules are often rationalized on moral grounds, but slayer statutes are also justifiable from a property law perspective because the slayer has disrupted the normal disposition of property.[26] Property distribution is disrupted "in three ways: (1) the victim loses personal enjoyment of property; (2) the victim loses the opportunity to make an alternative estate plan; and (3) survivorship becomes unascertainable because the order of deaths was determined by the survivor's heinous act."[27]

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20. Spivack, *supra* note 18, at 149.

21. Declan J. Murray, Note, *What Should We Do with Norman Bates? Proposing Reform to the Uniform Probate Code to Allow Inheritance in Cases of Legal Insanity*, 31 QUINNIPIAC PROB. L.J. 190, 192 (2018). However, deterrence admittedly will not work on the legally insane, since they do not have the capacity to appreciate the consequence of their actions. Christopher M. Eisold, Comment, *Statute in the Abyss: The Implications of Insanity on Wisconsin's Slayer Statute*, 91 MARQ. L. REV. 875, 889–90 (2008).

22. *See* Julie J. Olenn, Comment, *'Til Death Do Us Part: New York's Slayer Rule and* In re Estates of Covert, 49 BUFF. L. REV. 1341, 1374–75 (2001).

23. There is obviously no way to know with absolute certainty that that the victim's intent would have changed. Some have argued that there are cases where the victim's intent would not change. *See* Murray, *supra* note 21, at 193 (arguing that it is possible that a parent victim's intent would not change if the slayer was an insane child). However, these too are also logical speculations.

24. Mary Elizabeth Morey, Note, *Unworthy Heirs: The Slayer Rule and Beyond*, 109 KY. L.J. 787, 788 (2021) ("There are two primary goals for the laws of succession: (1) to distribute property how the decedent would have wanted by allowing testamentary freedom and (2) to support those left behind by the testator.").

25. Katz, *supra* note 19, at 451 ("[A]t its core, the slayer rule aims to combat unjust enrichment and discourage people from committing acts that are harmful to their community.").

26. Mary Louise Fellows, *The Slayer Rule: Not Solely a Matter of Equity*, 71 IOWA L. REV. 489, 496 (1986).

27. *Id.* at 504.

Thus, it violates both moral and legal sensibilities to allow a slayer to benefit from their victim's estate.

1. Origins of the Slayer Rule in America

Like many other parts of American law, the slayer rule has its ancient origins in English common law. "English common law barred a slayer from inheriting from his victim through doctrines of attainder,[28] forfeiture,[29] and corruption of the blood.[30]"[31] However, these doctrines were never adopted in the United States,[32] so the slayer rule began as case law.

In 1886, the Supreme Court in *Mutual Life Insurance Co. v. Armstrong* formulated the slayer rule for the first time in American case law.[33] In *Armstrong*, a man took out a life insurance policy and the assignee murdered him less than two months after the policy's issuance.[34] The insurance company objected to paying the claim, and the Court ruled that the assignee could not receive the proceeds because he had been convicted of killing the insured.[35] Although the assignee had been motivated to kill to get the proceeds, the Court declared that "*independent*[] *of any proof of the motives* of [the assignee] . . . he forfeited all rights under [the policy] when . . . he murdered the

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28. Attainder is "the act of extinguishing a person's civil rights when that person is sentenced to death or declared an outlaw for committing a felony or treason." *Attainder*, BLACK'S LAW DICTIONARY (11th ed. 2019).

29. Forfeiture is "[t]he loss of a right, privilege, or property because of a crime, breach of obligation, or neglect of duty." *Forfeiture*, BLACK'S LAW DICTIONARY (11th ed. 2019).

30. Corruption of blood was a doctrine whereby:

> [A] person los[t] the ability to inherit or pass property as a result of an attainder or of being declared civilly dead. . . . "[W]hen any one [was] attained of felony or treason, then his blood [was] said to be corrupt; by means whereof . . . his children . . . [could not] be heirs to him . . . [and] he and all his children [were] made thereby ignoble and ungentle."

Corruption of Blood, BLACK'S LAW DICTIONARY (11th ed. 2019) (quoting JOH RASTELL, LES TERMES DE LA LEY: OR, CERTAIN DIFFICULT AND OBSCURE WORDS AND TERMS OF THE COMMON AND STATUTE LAWS OF ENGLAND, NOW IN USE, EXPOUNDED AND EXPLAINED 125 (Boston, Watson & Bangs, 1st Am. ed. 1812)).

31. Spivack, *supra* note 18, at 152.

32. Olenn, *supra* note 22, at 1343–44. Indeed, these doctrines were rejected via statute or constitution in all states, *id.*, and abolished at the federal level in the Constitution, U.S. CONST. art. III, § 3, cl. 2 ("The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.").

33. Jennifer Piel & Gregory B. Leong, *The Slayer Statute and Insanity*, 38 J. AM. ACAD. PSYCHIATRY & L. 258, 259 (2010). *See generally* N.Y. Mut. Life Ins. Co. v. Armstrong, 117 U.S. 591 (1886) (formulating the slayer rule in American case law).

34. *Armstrong*, 117 U.S. at 593–94.

35. *Id.* at 592, 600.

assured."[36] The Court further explained that "[i]t would be a reproach to the jurisprudence of the country, if one could recover insurance money payable on the death of a party whose life he had feloniously taken."[37]

Three years later, the slayer rule was first applied in a case that did not involve insurance proceeds.[38] In *Riggs v. Palmer*, the Court of Appeals of New York held that a man who murdered his grandfather could not receive his inheritance under his grandfather's will.[39] The court relied heavily on equitable justifications when it applied the slayer rule:

> No one shall be permitted to profit by his own fraud, or to take advantage of his own wrong, or to found any claim upon his own iniquity, or to acquire property by his own crime. These maxims are dictated by public policy, have their foundation in universal law administered in all civilized countries, and have nowhere been superseded by statutes.[40]

The court's decision was controversial. In his dissent, Judge Gray explained that, while he agreed with the equitable considerations offered by the majority, the court was bound by the statutes set by the legislature which govern the disposition of property.[41] Since the legislature had not adopted a provision which prohibited a killer from inheriting from his victim, he could not support the majority's holding.[42] Judge Gray was not the only one who had trouble accepting the majority's holding. At first, many courts around the country rejected *Riggs* because they viewed the decision as outside the scope of judicial power.[43] Because the United States had abolished the early feudal doctrines that formed the basis for the slayer rule in England,[44] some argued the judge-made slayer rule was unconstitutional.[45] However, this controversy does not exist today because, in the time since *Riggs* was decided, almost every

36. *Id.* at 600 (emphasis added). This declaration suggests that the Court clearly rejected any notion that the slayer rule would only apply in cases where the motivation for the killing was to inherit or benefit from the victim.

37. *Id.*

38. Piel et al., *supra* note 33, at 259.

39. Riggs v. Palmer, 22 N.E. 188, 188–89, 191 (N.Y. 1889).

40. *Id.* at 190.

41. *Id.* at 191–92 (Gray, J., dissenting).

42. *Id.* at 192. The dissent seemed to have three main points: (1) the court was acting outside its authority; (2) basing the decision on public policy alone was inadequate; and (3) the defendant was punished twice. *See id.* at 191–93.

43. Olenn, *supra* note 22, at 1345–46.

44. *See* Spivack, *supra* note 18, at 152–53; Olenn, *supra* note 22, at 1346.

45. *See, e.g.*, Box v. Lanier, 79 S.W. 1042, 1047 (Tenn. 1904); Perry v. Strawbridge, 108 S.W. 641, 648 (Mo. 1908); Price v. Hitaffer, 165 A. 470, 471 (Md. 1933).

state legislature has adopted a slayer statute,[46] and the few states that do not have a statute have established the rule in case law.[47]

2. Iowa's Slayer Statute

The slayer rule has a unique history in Iowa, having been changed and amended by the legislature in response to the Iowa Supreme Court's interpretations of the statute. Iowa first enacted a slayer statute in 1897.[48] At the time, it provided that "[n]o person who feloniously takes or causes or procures another so to take the life of another shall inherit . . . any portion of his estate," and it also prevented a slayer from receiving insurance proceeds as a beneficiary.[49] In the case of *Long v. Kuhn* (*In re Kuhn's Estate*) in 1904, however, the Iowa Supreme Court held that the statute did not apply to a wife's dower right—that is, her right to receive a life estate in one-third of the husband's land.[50] In *Kuhn*, the court allowed a woman who killed her husband by poisoning him to take her distributive share of his estate, reasoning that her dower right was a matter of contract, not a matter of inheritance as covered by the slayer statute.[51] The court refused to extend the statute beyond its plain language—even for public policy considerations of equity—because it would be outside the scope of the court's authority to do so.[52] In response,

46. ALA. CODE § 43-8-253 (LexisNexis 1991); ALASKA STAT. § 13.12.803 (2023); ARIZ. REV. STAT. ANN. § 14-2803 (Supp. 2022); ARK. CODE ANN. § 28-11-204 (Supp. 2021) (only covers spouses); CAL. PROB. CODE § 250 (West Supp. 2023); COLO. REV. STAT. § 15-11-803 (2023); CONN. GEN. STAT. § 45a-447 (2023); DEL. CODE ANN. tit. 12, § 2322 (2021); D.C. CODE § 19-320 (2012); FLA. STAT. § 732.802 (2022); GA. CODE ANN. § 53-1-5 (2023); HAW. REV. STAT. § 560:2-803 (2023); IDAHO CODE § 15-2-803 (2019); 755 ILL. COMP. STAT. 5/2-6 (2023); IND. CODE § 29-1-2-12.1 (2023); IOWA CODE § 633.535 (2023); KAN. STAT. ANN. § 59-513 (2005); KY. REV. STAT. ANN. § 381.280 (West Supp. 2022); LA. CIV. CODE ANN. arts. 941–946 (2001 & Supp. 2023); ME. STAT. tit. 18-C, § 2-802 (2022); MASS. GEN. LAWS ch. 265, § 46 (2022); MICH. COMP. LAWS § 700.2803 (2023); MINN. STAT. § 524.2-803 (2022); MISS. CODE ANN. § 91-1-25 (2021); MONT. CODE ANN. § 72-2-813 (2021); NEB. REV. STAT. § 30-2354 (2022); NEV. REV. STAT. § 41B.200 (2022); N.J. STAT. ANN. § 3B:7-1.1 (West 2007); N.M. STAT. ANN. § 45-2-803 (2023); N.C. GEN. STAT. § 31A-4 (2021); N.D. CENT. CODE § 30.1-10-03 (2022); OHIO REV. CODE ANN. § 2105.19 (West Supp. 2023); OKLA. STAT. tit. 84, § 231 (2022); OR. REV. STAT. § 112.465 (2021); 20 PA. CONS. STAT. § 8802 (2022); 33 R.I. GEN. LAWS § 33-1.1-2 (2011); S.C. CODE ANN. § 62-2-803 (2022); S.D. CODIFIED LAWS § 29A-2-803 (2022); TENN. CODE ANN. § 31-1-106 (2021); TEX. INS. CODE ANN. § 1103.151 (West 2009) (insurance proceeds); UTAH CODE ANN. § 75-2-803 (West Supp. 2022); VT. STAT. ANN. tit. 14, § 322 (2019); VA. CODE ANN. § 64.2-2501 (2017); WASH. REV. CODE § 11.84.020 (2022); W. VA. CODE § 42-4-2 (2022); WIS. STAT. § 854.14 (2023); WYO. STAT. ANN. § 2-14-101 (2021).

47. *See* Ford v. Ford, 512 A.2d 389, 390 (Md. 1986); Hopwood v. Pickett, 761 A.2d 436, 438 (N.H. 2000); *Riggs*, 22 N.E. at 190.

48. IOWA CODE § 3386 (1897) (current version at IOWA CODE § 633.535).

49. *Id.*

50. Long v. Kuhn (*In re* Kuhn's Est.), 101 N.W. 151, 152–53 (Iowa 1904); *Dower*, BLACK'S LAW DICTIONARY (11th ed. 2019).

51. *Kuhn*, 101 N.W. at 153. *See generally* State v. Kuhn, 90 N.W. 733 (Iowa 1902) (reviewing the trial where the wife was convicted for poisoning her husband).

52. *Kuhn*, 101 N.W. at 152–53.

the state legislature amended the statute in 1913 to exclude a slaying spouse from "receiv[ing] any interest in the estate of the decedent."[53]

In 1987, the state legislature amended the statute again. Instead of the statute applying to slayers who "feloniously" take the life of another, the legislature altered the language so the law applied to slayers who "intentionally and unjustifiably" take the life of another.[54] This language is consistent with Iowa's current slayer statute, which provides that "[a] person who intentionally and unjustifiably causes or procures the death of another" cannot inherit from their victim, take as the beneficiary of the victim's bond or insurance policy, or receive the victim's share of jointly held property.[55] The determination of whether the slayer statute applies—that is, whether the killing was intentional and unjustifiable—is made by a court in a proceeding separate from any criminal prosecution of the killing.[56] The burden of proof is a preponderance of the evidence,[57] which is much less demanding than the "beyond a reasonable doubt" standard for criminal prosecutions.[58]

Notably, Iowa's current slayer statute is different from many other states, which are modeled off the Uniform Probate Code.[59] Whereas many statutes, including the Uniform Probate Code, preclude from inheriting those who "feloniously and intentionally"[60] take the life of another, the Iowa slayer statute prevents those who "intentionally and unjustifiably"[61] kill another from benefiting from the victim's estate. This is especially significant because it mirrors Illinois's slayer statute,[62] which was similarly amended in 1983[63] and has been interpreted to preclude even the insane slayer from inheriting.[64]

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53. IOWA CODE § 3386 (Supp. 1913) (current version at IOWA CODE § 633.535).

54. IOWA CODE § 633.535 (1987) (amended 2017).

55. IOWA CODE § 633.535 (2023).

56. *Id.* § 633.536.

57. *Id.*

58. Reasonable doubt is "[t]he doubt that prevents one from being firmly convinced of a defendant's guilt, or the belief that there is a real possibility that a defendant is not guilty." *Reasonable Doubt*, BLACK'S LAW DICTIONARY (11th ed. 2019).

59. Berk, *supra* note 19, at 493. The Uniform Probate Code provides that "[a]n individual who *feloniously and intentionally* kills the decedent forfeits all benefits under this [article] with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance." UNIF. PROB. CODE § 2-803(b) (UNIF. L. COMM'N 2019) (second alteration in original) (emphasis added).

60. UNIF. PROB. CODE § 2-803(b) (UNIF. L. COMM'N 2019). Nineteen states' slayer statutes are modeled off either the original or revised Uniform Probate Code. RESTATEMENT (THIRD) OF PROP.: WILLS & OTHER DONATIVE TRANSFERS § 8.4 (Reporter's Note) (AM. L. INST. 2003).

61. IOWA CODE § 633.535 (2023).

62. Illinois's slayer statute prohibits one "who intentionally and unjustifiably causes the death of another" from inheriting. 755 ILL. COMP. STAT. 5/2-6 (2023).

63. It was amended to cover slayers who "intentionally and unjustifiably" killed another, rather than just those "convicted" of killing another. Hartford Life & Accident Ins. Co. v. Selters, 425 F. Supp. 3d 1072, 1078 (S.D. Iowa 2019) (quoting Dougherty v. Cole, 934 N.E.2d 16, 21 (Ill. App. Ct. 2010)).

64. *Dougherty*, 934 N.E.2d at 22.

B. THE INSANITY DEFENSE

The insanity defense is just one of multiple defenses a defendant can raise when charged with a crime. A person can be acquitted of a crime by a not-guilty verdict, a justification defense, or an excuse defense.[65] Self-defense is an example of a justification defense—that is, although the defendant committed the crime, the factfinder believes that it was justified under the circumstances.[66] Insanity, by contrast, is an excuse defense.[67] This means that the defendant's actions were legally wrong, but the factfinder decides that, due to the mental state or mistaken belief of the defendant, the defendant's conduct does not warrant the criminal punishment that accompanies the crime.[68] "Justified on its refusal to penalize the deranged, the insanity defense is an affirmative defense whereby the individual alleges that his mental disorder or disease caused him to commit the act."[69] Legal insanity is distinct and different from mental illness—someone who has been medically diagnosed with a mental illness is not necessarily legally insane.[70]

"[T]he insanity defense trace[s] back to second century Jewish law."[71] But it was not until the fourteenth century that England recognized the insanity defense—the first acquittal being in 1505.[72] The most common modern test for insanity—the *M'Naghten* test—stemmed from the 1843 English case, *Queen v. M'Naghten*.[73] Courts around the United States had adopted the *M'Naghten* test by 1851.[74]

However, the *M'Naghten* test is not the only test used in the United States. Courts use one of four tests to determine legal insanity: the *M'Naghten* test, the irresistible impulse test, the Model Penal Code's substantial capacity test, and the appreciation test.[75] The *M'Naghten* test alleviates the defendant from criminal liability "when a mental disability prevented the [defendant] from knowing either (1) the nature and quality of the act or (2) whether the act

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65. Spivack, *supra* note 18, at 198.

66. *Id.*

67. *Id.* at 201.

68. *See id.*

69. Brittany Brewer, Comment, *Avoiding Prison Bars, but Gaining a Bar to Inheritance: A Statutory Solution for the Insane Slayer Through a Comparative Approach*, 89 MISS. L.J. 763, 774 (2020).

70. Daniel A. Klein, Annotation, *Inheritance Under Slayer Statute by Person Determined to Be Insane*, 69 A.L.R. 7th Art. 4, § 2 (2021). Throughout this Note, the term "insane slayer" (or similar) refers to this distinctive determination of legal insanity; it is not indicative of a diagnosed medical condition or meant to be derogatory.

71. Jessica Harrison, Comment, *Idaho's Abolition of the Insanity Defense—An Ineffective, Costly, and Unconstitutional Eradication*, 51 Idaho L. Rev. 575, 579 (2015).

72. *Id.* at 580.

73. *Id.* at 581; M'Naghten's Case, (1843) 8 Eng. Rep. 718, 722 (HL).

74. Harrison, *supra* note 71, at 582.

75. Murray, *supra* note 21, at 195. Furthermore, a previously adopted test—the *Durham* test—is no longer used in America's criminal system. *Id.* at 195 n.38.

was right or wrong."[76] The irresistible impulse test, often combined with the *M'Naghten* test, alleviates a defendant from criminal liability "if mental disease prevented that person from controlling potentially criminal conduct."[77] Under the Model Penal Code's substantial capacity test, the defendant "is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lack[ed] substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirements of law."[78] Finally, the appreciation test "requir[es] proof . . . that at the time of the crime, the defendant suffered from a severe mental disease or defect preventing him or her from appreciating the wrongfulness of the conduct."[79]

Perhaps because of the controversy surrounding the insanity defense, it is rarely raised and even more rarely successful. Studies have shown that the insanity defense is only raised in approximately one percent of felony cases across the nation.[80] Of the defendants who raise the defense, over ninety percent of them have been diagnosed with a mental illness.[81] However, it is only successful in around thirty cases each year, nationwide.[82] Its rarity could suggest that although society generally recognizes that there may be some defendants who seem less culpable for their crime because of their mental capacity, society also seeks to punish crime, and such punishment is not satisfactorily fulfilled when the defendant successfully raises an insanity defense.

1. The Controversy Surrounding the Insanity Defense

Despite its ancient roots, the insanity defense has long been controversial.[83] In fact, people have called for the abolition of the insanity defense since its inception.[84] Even within the last couple decades there have been strong calls to reform, or even abolish, the insanity defense in America.[85] Some argue that it is really only a defense which is available to the wealthy because the expert testimony necessary to successfully raise the defense would be very expensive.[86]

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76. *McNaghten Rules*, BLACK'S LAW DICTIONARY (11th ed. 2019).

77. *Irresistible-Impulse Test*, BLACK'S LAW DICTIONARY (11th ed. 2019).

78. MODEL PENAL CODE § 4.01(1) (AM. L. INST. 2021) (alteration in original).

79. *Appreciation Test*, BLACK'S LAW DICTIONARY (11th ed. 2019).

80. *The Insanity Defense in Criminal Law Cases*, JUSTIA (Oct. 2022), https://www.justia.com/criminal/defenses/insanity [https://perma.cc/85RY-9LYS].

81. Trish Mehaffey, *Insanity Defense Rarely Successful in Iowa Murder Case*, GAZETTE (Feb. 24, 2010, 2:00 PM), https://www.thegazette.com/news/insanity-defense-rarely-successful-in-iowa-murder-case [https://perma.cc/QTS3-4SVL].

82. *The Insanity Defense in Criminal Law Cases*, *supra* note 80.

83. Murray, *supra* note 21, at 194.

84. *See id.* at 194–95.

85. Laurel Sevier, Comment, *Kooky Collects: How the Conflict Between Law and Psychiatry Grants Inheritance Rights to California's Mentally Ill Slayers*, 47 SANTA CLARA L. REV. 379, 392 n.114 (2007).

86. WAYNE R. LAFAVE, SUBSTANTIVE CRIMINAL LAW § 7.1(d) (3d ed. 2017), Westlaw (database updated Oct. 2022).

Further, while others acknowledge that a purpose of the defense is to recognize that the goals of the criminal process may not be fulfilled in convicting one who is insane, they still maintain that "there is just no basis in psychiatry to make a differentiation between [. . .] the man who is personally blameworthy for his makeup from the man who is not."[87] Others argue that a criminal act has still been committed, and the real issue is how to properly handle insane killers—an issue better decided after conviction.[88]

In America, the insanity defense became quite controversial after the acquittal of John Hinckley Jr., the man who tried to assassinate President Ronald Reagan.[89] Before his acquittal, "[t]he Supreme Court [had] adopted a variation of the Model Penal Code test," which is what was used at Hinckley's trial.[90] After the acquittal, Congress passed a test for insanity that was very similar to the more demanding *M'Naghten* rule.[91] Although one of the reasons for the insanity defense is that our society should not "punish the sick for being sick,"[92] people still feel that justice should be served, even to the legally insane. Hinckley's case is demonstrative: "The great irony is that [Hinckley] was in some ways the poster boy for the insanity defense. He was insane. But people wanted revenge. They wanted him held accountable. They were angry."[93]

Indeed, "[f]our states—Idaho, Kansas, Montana, and Utah—do not recognize a verdict of not guilty by reason of insanity."[94] They either outlaw the defense altogether[95] or only allow evidence about the defendant's mental state to challenge the mens rea element,[96] but they do not recognize legal insanity itself. The tension between society's want for retribution and the

87. *Id.* (alteration in original) (quoting Transcript of Annual Judicial Conference, Insanity as a Defense, 37 F.R.D. 365, 372 (1964)).

88. *Id.*

89. Sevier, *supra* note 85, at 391.

90. Harrison, *supra* note 71, at 583–84.

91. Sevier, *supra* note 85, at 391–92; 18 U.S.C. § 17 (2018) ("It is an affirmative defense to a prosecution under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of his acts.").

92. Murray, *supra* note 21, at 197.

93. Harrison, *supra* note 71, at 585 (alteration in original) (quoting Jim Acosta, Tom Foreman & Eric Marrapodi, *Documentary Portrays Criminally Insane—Through Their Own Eyes*, CNN (July 4, 2011, 6:09 AM), http://www.cnn.com/2011/CRIME/07/02/insanity.defense/index.html [https://perma.cc/SDW4-6LFJ]).

94. Murray, *supra* note 21, at 196.

95. IDAHO CODE § 18-207(1) (2019) ("Mental condition shall not be a defense to any charge of criminal conduct.").

96. KAN. STAT. ANN. § 21-5209 (2022) ("It shall be a defense to a prosecution under any statute that the defendant, as a result of mental disease or defect, lacked the culpable mental state required as an element of the crime charged. Mental disease or defect is not otherwise a defense."); MONT. CODE ANN. § 46-14-102 (2021) ("Evidence that the defendant suffered from a mental disease or disorder or developmental disability is admissible to prove that the defendant did or did not have a state of mind that is an element of the offense.").

recognition of the insane killer's inability to appreciate their actions fuels the heated controversy surrounding the insanity defense.

2. The Insanity Defense in Iowa

Iowa adopted the *M'Naghten* test for the insanity defense in the 1928 case *State v. Buck*.[97] In *Buck*, the defendant killed her husband by throwing burning gasoline on him after an argument about paying bills.[98] At trial, she raised the defense of insanity, claiming that she had suffered from a "psychopathic personality" mental disorder for much of her life, and that such condition was aggravated by her stress about finances and caused her insanity at the time of the killing.[99] However, the jury rejected the defense.[100] After discussing dicta in previous cases which suggested that the irresistible impulse test could be used as the jury instruction for insanity, the court ultimately affirmed the jury instruction given, which was more consistent with the *M'Naghten* test.[101]

After *Buck*, the Iowa Supreme Court rejected many pleas to adopt a different approach, such as the *Durham* test[102] or the test offered by the Model Penal Code.[103] However, the Iowa Legislature solidified the *M'Naghten* test into law when, in 1976, lawmakers codified the *M'Naghten* test for insanity, which took effect beginning in 1978.[104]

The insanity statute today is largely similar to the first one adopted in 1976:

> A person shall not be convicted of a crime if at the time the crime is committed the person suffers from such a diseased or deranged condition of the mind as to render the person incapable of knowing the nature and quality of the act the person is committing or incapable of distinguishing between right and wrong in relation to that act. . . . If the defense of insanity is raised, the defendant must prove by a preponderance of the evidence that the defendant at the

97. State v. Buck, 219 N.W. 17, 21 (Iowa 1928). In *Buck*, the court discussed the case in which they first considered jury instructions for insanity but explained that it was largely dicta. *Id.* Thus, it proceeded to affirm a jury instruction given for insanity, thereby formally adopting the rule. *Id.*

98. *Id.* at 18.

99. *Id.*

100. *Id.*

101. *Id.* at 20–21.

102. Under the *Durham* test, "a defendant is not criminally responsible for an act that was the product of mental disease or defect." *Durham Rule*, BLACK'S LAW DICTIONARY (11th ed. 2019). However, this test is no longer used in America. Murray, *supra* note 21, at 195 n.38.

103. *See, e.g.*, State v. Harkness, 160 N.W.2d 324, 324 (Iowa 1968) ("[Defendant] contends M'Naghten's rule as the test for [insanity] should be replaced by either the American Law Institute rule or the Durham rule or both."); State v. Hamann, 285 N.W.2d 180, 182 (Iowa 1979) ("The defendant asks us to overrule the M'Naghten rule."); *see also supra* text accompanying note 78 (describing the insanity test under the Model Penal Code).

104. Iowa Criminal Code, ch. 1245, § 104, 1976 Iowa Acts 549, 549 (codified at IOWA CODE § 701.4 (1979)).

> time of the crime suffered from such a deranged condition of the mind as to render the defendant incapable of knowing the nature and quality of the act the defendant was committing or was incapable of distinguishing between right and wrong in relation to the act.[105]

The Iowa Supreme Court has clarified that "right" and "wrong" under the statute refer to legal, not moral, "rights" and "wrongs."[106] However, there have been very few cases in Iowa history where a defendant has successfully raised the insanity defense.[107] Even if a defendant does raise a successful insanity defense, "the court shall immediately order the defendant committed to a state mental health institute or other appropriate facility for a complete psychiatric evaluation."[108] The defendant stays in the mental health facility until it is determined that they are not mentally ill and no longer dangerous to others or themself.[109]

With this baseline knowledge of the slayer rule and insanity defense in America and Iowa, one can fully appreciate and understand the problems associated with the unique situation that arises when a person who is determined to be legally insane seeks to benefit from their victim's estate, as discussed in Part II.

II. THE CONFLICT BETWEEN THE SLAYER RULE AND A SUCCESSFUL INSANITY DEFENSE

The slayer rule[110] and the insanity defense[111] seem like two doctrines that would never cross. After all, the slayer rule is a part of probate law[112] and the insanity defense is part of criminal law.[113] However, some courts have been faced with an unexpected issue: how should the slayer rule apply in cases where the slayer is found to be legally insane? While the slayer rule is noncontroversial,[114] the insanity defense has been controversial since it was

105. IOWA CODE § 701.4 (2023).

106. *Hamann*, 285 N.W.2d at 183 ("We believe the words 'right' or 'wrong' under the M'Naghten rule should be understood in their legal and not in their moral sense.").

107. Mehaffey, *supra* note 81.

108. IOWA R. CRIM. P. 2.22(8)(b)(1) (2023).

109. IOWA R. CRIM. P. 2.22(8)(e)(3) (2023) ("If the chief medical officer reports at any time that the defendant is either no longer mentally ill or no longer dangerous to the defendant's self or others, the court shall hold a hearing to determine if continued custody and treatment of the defendant are necessary . . . .").

110. *See supra* Section I.A.

111. *See supra* Section I.B.

112. For example, Iowa's slayer statute is found in the state's probate code. IOWA CODE § 633.535 (2023).

113. For example, Iowa's insanity defense is found in the state's criminal code. IOWA CODE § 701.4 (2023).

114. When the slayer rule was first enacted in case law, it was controversial. *See supra* notes 41–45 and accompanying text. However, since almost every state now has a slayer statute, the controversy no longer exists. *See supra* note 46 (listing state slayer statutes).

first created.[115] Thus, the interplay between the slayer rule and the insanity defense can raise a lot of different opinions. Some have argued strongly that the slayer rule should not apply to those slayers who are found to be legally insane.[116] On the other hand, others have argued that the slayer rule should still apply in cases where the slayer is legally insane.[117]

To help rectify the issue, some states have added provisions to their slayer statutes which provide explicit guidance for whether the insane slayer may inherit. For example, North Carolina's statutory code specifically provides that the slayer rule does not apply to insane slayers.[118] On the flip side, Indiana and Ohio statutes provide that their slayer rules do apply to insane slayers.[119] However, in the absence of legislative guidance, courts have taken different approaches. Particularly relevant for this Note, Iowa's slayer statute does not provide guidance for Iowa courts on the issue of an insane slayer, and the Iowa Supreme Court has not yet decided the issue. However, the Federal District Court for the Southern District of Iowa has recently considered this very issue while interpreting the state's slayer statute.[120]

Section II.A will explain the problem that arises from a lack of legislative guidance—namely the fact that it has created inconsistency in courts around the country; describe the majority approach used by courts; and discuss the rationale used by those on both sides of the issue to justify their position. Section II.B will delve into the federal case that interprets Iowa's slayer statute and discuss the problem faced by Iowa courts in the absence of legislative guidance on the issue.

A. THE TENSION BETWEEN THE SLAYER RULE AND THE INSANITY DEFENSE

Left to decide whether an insane slayer may inherit from their victim without any guidance from the legislature, courts have taken some very different approaches. Section II.A.1 will explain the various approaches and

115. *See supra* Section I.B.1.

116. *See, e.g.*, Murray, *supra* note 21, at 204 (proposing an amendment to the Uniform Probate Code to exclude application of the slayer rule in cases of insanity); Spivack, *supra* note 18, at 149 (arguing that the slayer rule should not apply in cases of insanity "because it fails to account for the abusive familial context that led to the homicide . . . [and] does *not* preserve the orderly transmission of property").

117. *See generally* Zachary B. Roberson, Comment, *Oh the Insanity: After 124 Years, It's Time to Amend Mississippi's Slayer Statute to Account for the Insane Slayer*, 87 MISS. L.J. 441 (2018) (arguing that Mississippi's slayer statute should also apply to insane slayers because the funds will go toward the cost of caring for them at their medical institution, it would go against the intent of the decedent, and it ignores the public policy rationale for the slayer rule).

118. N.C. GEN. STAT. § 31A-3(3) (2021) ("The term 'slayer' does not include a person who is found not guilty by reason of insanity of being a principal or accessory before the fact of the willful and unlawful killing of another person.").

119. IND. CODE § 29-1-2-12.1(a)(1) (2023) (defining "[c]ulpable person" to include those who are "found . . . guilty but mentally ill"); OHIO REV. CODE ANN. § 2105.19 (West Supp. 2023) (providing that an insane slayer may not inherit).

120. *See infra* Section II.B.1.

the majority approach. However, no matter what test is developed, courts must ultimately decide whether the insane slayer inherits, which gives rise to strong controversy. Thus, Section II.A.2 will discuss the rationale that those on both sides of the issue employ to defend whether an insane slayer should be exempt from slayer rules.

1. Approaches Used by Courts to Solve This Dilemma in the Absence of Statutory Guidance

Since very few states have adopted provisions in their slayer statutes to account for insane slayers,[121] courts are usually left to decide this issue on their own. Often, courts allow the insane slayer to inherit,[122] which is the majority approach.[123] The two leading cases in this approach are *Beale v. Ladd* (*In re Estates of Ladd*)[124] and *Ford v. Ford*.[125]

In *Ladd*, a California case, a mother killed her two sons because she was considering committing suicide and did not want them to experience the trauma associated with her self-imposed death.[126] The trial court found that she was insane while committing the crime.[127] When the administrator of her sons' estates petitioned to determine who their heirs were, the court determined that the mother was the only heir.[128] The sons' uncle challenged that determination, relying on the state's slayer statue.[129] In an issue of first impression, the court decided that the state's slayer statute did not preclude the mother from inheriting.[130] The court explained that it would not construe the slayer statute to apply to anyone outside of whom the legislature intended because to do so would constitute forfeiture,[131] which had been abolished.[132] The court looked at the legislative history of the slayer statute and reasoned

121. For examples of the few states that have included provisions accounting for the insane slayer in their state codes, see *supra* notes 118–19.

122. *See, e.g.*, Beale v. Ladd (*In re* Ests. of Ladd), 153 Cal. Rptr. 888, 894 (Ct. App. 1979) (allowing an insane mother who killed her sons to be their heir); Ford v. Ford, 512 A.2d 389, 398 (Md. 1986) (deciding that the slayer rule did not apply to the legally insane); Simon v. Dibble, 380 S.W.2d 898, 899 (Tex. Civ. App. 1964) (allowing a man who killed his wife while legally insane to take her life insurance proceeds as beneficiary); Cekovich Est., 59 Pa. D. & C.2d 588, 597 (Ct. Com. Pl. 1972) (allowing a son who murdered his mother and was found insane to inherit under her will); *In re* Fitzsimmons' Est., 315 N.Y.S.2d 590, 593 (Surr. Ct. 1970) (allowing a son who murdered his parents but was found insane to inherit from them); Hill v. Morris, 85 So. 2d 847, 851 (Fla. 1956) (determining that the state's slayer statute did not apply to an insane slayer).

123. Sevier, *supra* note 85, at 395.

124. *In re Ests. of Ladd*, 153 Cal. Rptr. at 894.

125. *Ford*, 512 A.2d at 398.

126. *In re Ests. of Ladd*, 153 Cal. Rptr. at 891.

127. *Id.*

128. *Id.*

129. *Id.* at 891–92.

130. *Id.* at 892–94.

131. *Id.* at 892.

132. *See supra* note 32.

that the legislature likely intended a successful insanity defense to constitute an acquittal.[133]

In *Ford*, a Maryland case, a daughter killed her mother by stabbing her over forty times.[134] She then sought to inherit from her mother's will, and her son brought a challenge alleging that the inheritance should go to him because he was listed as an alternative beneficiary.[135] The state's slayer rule was not codified, but instead it was established through case law.[136] The court analyzed the state's statutory insanity test and noted it had previously determined that "the clear legislative intent regarding the successful interposition of a plea of insanity is not that an accused is to be found not guilty of the criminal act it was proved he committed, but that he shall not be punished therefor."[137] By saying this, the court made it clear that a successful insanity defense does not relieve the defendant of their guilty status, but rather they are relieved of the punishment that normally accompanies it. Thus, under the state's insanity statute, a successful insanity defense means that the defendant is not criminally responsible for the crime.[138] This was key to the court's holding because the court ultimately decided "that the slayer[] rule is simply not applicable when the killer was not criminally responsible at the time he committed the homicide."[139]

In its reasoning, the court explained that its holding did not violate the "principles of equity, justice and morality" on which the slayer rule is based.[140] Instead, the court reasoned that it actually "furthers the principles of equity, justice and morality recognized by both the rule and the statutes."[141] The court further noted that every other state that had encountered the issue of an insane slayer at that time had held that the slayer statute was inapplicable.[142] However, the court noted that the reasoning to achieve that end was not uniform but instead varied in each state.[143]

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133. *In re Ests. of Ladd*, 153 Cal. Rptr. at 892–94.

134. Ford v. Ford, 512 A.2d 389, 390 (Md. 1986).

135. *Id.*

136. *Id.* "[I]t is the basic rule of this State that a murderer, or his heirs or representatives through him, ordinarily may not profit by taking any portion of the estate of the one murdered." *Id.* at 391.

137. *Id.* at 394 (quoting Langworthy v. State, 399 A.2d 578, 584 (Md. 1979)).

138. *Id.* at 398.

139. *Id.*

140. *Id.*

141. *Id.* at 399. The court explained, "[c]ertainly a killer who is not responsible for his criminal conduct and as a matter of public policy cannot be punished, is no more culpable than a killer under the circumstances of" a previous case where the court held that the slayer rule did not apply to a person who was convicted of involuntary manslaughter. *Id.* at 398.

142. *Id.* at 399.

143. *Id.* Although the court did note that "[t]he common thread running through all the cases is that permitting the insane killer to share in the distribution of his victim's assets is consistent with the common law principle of equity which prompted the adoption of a slayer's rule in the first place." *Id.*

In an approach similar to the majority, at least one court has determined that whether an insane person is subject to the slayer rule depends upon the severity of the insanity.[144] The court explained that the insanity must be so severe that the killer is not able to act willfully and that not every case of insanity means that the killer acted unintentionally.[145] Similarly, another court also found that the insane slayer could inherit, unless there was a subsequent civil proceeding in which the court determined that the killing was not intentional or unlawful.[146]

On the other hand, some courts have determined that the slayer statute could apply to the insane killer if it is shown that the killer acted intentionally.[147] In one of the leading cases of this approach, *Hoss v. Hoge* (*In re Estate of Kissinger*), the court explained "that a finding of not guilty by reason of insanity does not make an otherwise unlawful act lawful."[148] In *In re Estate of Kissinger*, the defendant, who had a long history of mental illnesses such as schizophrenia and Capgras syndrome,[149] murdered his mother and brother and was found to be insane.[150] The court decided that whether the killer acted unlawfully and willfully within the meaning of the state's slayer statute is a determination to be made in a civil proceeding after the criminal proceeding.[151] Contrasting the insanity defense to self-defense, the court explained that if a defendant is successful in proving self-defense, then it means their conduct was lawful.[152] However, when a defendant raises a successful insanity defense, the state merely declines to punish the defendant, but that does not make their actions lawful—an insane defendant could still have acted willfully.[153] The court ultimately decided that the defendant in *In re Estate of Kissinger* acted willfully because "the trial court made very specific findings of fact and conclusions of law and determined that [the defendant] acted with premeditated intent when he killed his mother."[154] Therefore, the slayer rule applied to the insane defendant.[155]

As the cases above illustrate, courts have taken various approaches when facing the issue of an insane slayer without legislative guidance: some allow

144. *See* Sobel v. Nat'l Bank & Tr. Co. of Erie, 71 Pa. D. & C. 321, 327–28 (Ct. Com. Pl. 1950).

145. *See id.* at 327–29.

146. *See* Brumage v. Kivi (*In re* Est. of Brumage), 460 So. 2d 989, 990–91 (Fla. Dist. Ct. App. 1984).

147. *See, e.g.*, Chase v. Young (*In re* Ests. of Young), 831 P.2d 1014, 1016 (Okla. Civ. App. 1992); Hoss v. Hoge (*In re* Est. of Kissinger), 206 P.3d 665, 671 (Wash. 2009) (en banc); Osman v. Osman, 737 S.E.2d 876, 880 (Va. 2013).

148. *In re Est. of Kissinger*, 206 P.3d at 670.

149. "In Capgras syndrome, the affected individual harbors the delusion that others, frequently a relative, have been replaced by impostors." Piel & Leong, *supra* note 33, at 258.

150. *In re Est. of Kissinger*, 206 P.3d at 666–67.

151. *Id.* at 671.

152. *Id.* at 670.

153. *Id.*

154. *Id.* at 671.

155. *Id.*

the insane slayer to inherit, some do not permit the insane to inherit, some look at the level of severity, and some require a subsequent civil proceeding. The varied approaches ultimately lead to one of two outcomes: either the insane slayer can inherit or they cannot. The following Section explores the rationale on both sides of the issue.

2. The Rationale for and Against Allowing an Insane Slayer to Inherit

When the policy for the slayer statute and the policy for the insanity defense collide, there are very different ideas about whether allowing the insane slayer to inherit actually furthers either of those policies. Those in favor of allowing the insane slayer to inherit argue that the underlying justifications for the slayer rule[156] are not applicable when the slayer is insane. One commentator argues that the slayer rule should not apply in cases of insanity, particularly when the victim and slayer are family members, because the murder of a family member complicates the normal equities associated with the slayer rule since the slayer is rarely motivated by a desire to accelerate their inheritance.[157] Specifically, the author argues that it is plausible that a parent killed by an insane child—one unable to understand or appreciate their actions—would not want that child to be disinherited.[158] Thus, the ordinary presumption that the victim's intent has changed may not necessarily be true in every case. Further, those who wish for the insane slayer to inherit argue that the justification of unjust enrichment for the slayer rule is not applicable in the case of an insane slayer because the doctrine of unjust enrichment is a deterrence mechanism, which presumably would not be effective on one who is legally insane.[159] Additionally, they argue, preventing the insane slayer from inheriting will just further disrupt "the orderly transfer of property."[160]

However, those on the other side of the argument assert that preventing the insane slayer from inheriting likely satisfies the intent of the victim, since it is very reasonable to assume that the victim would not have made the slayer a beneficiary under their will or insurance policy had they known that the slayer would kill them.[161] In this way, allowing the insane slayer to inherit would run contrary to the long-established principle that courts should do everything possible to effectuate the intent of the deceased.[162] Further, it would be unwise to allow the transfer of money and/or property to a person who is legally insane because they lack the capacity to manage such matters.[163] In some states, the funds would be used to pay for the cost of caring for the

156. *See supra* Section I.A.
157. *See* Spivack, *supra* note 18, at 148.
158. *Id.* at 160.
159. Murray, *supra* note 21, at 193.
160. *Id.*
161. Eisold, *supra* note 21, at 890.
162. Roberson, *supra* note 117, at 458.
163. Eisold, *supra* note 21, at 890.

insane slayer in a medical institution, which consequently comes at the expense of the other potential beneficiaries of the decedent.[164] In this way, allowing the insane slayer to receive funds that would otherwise go to other beneficiaries would be like escheat,[165] which is highly disfavored and rarely used.[166]

Thus, the strong opinions on both sides of the issue demonstrate the dilemma faced by courts that encounter this issue without legislative guidance and the serious consequences of a court's decision, no matter whether it allows the insane slayer to inherit.

B. THE COLLISION OF THE SLAYER RULE AND THE INSANITY DEFENSE IN IOWA

The Iowa slayer statute is silent on the issue of an insane slayer,[167] and the Iowa Supreme Court has not decided the issue. Thus, it is unclear exactly how an insane slayer would be treated under Iowa's slayer statute. However, there is a recent federal case interpreting Iowa law on this very issue.

1. The *Selters* Case

In *Hartford Life and Accident Insurance Co. v. Selters*, the police received a call from a woman who claimed that her son was having a schizophrenic episode and that she could not control him.[168] When the officers arrived, the son was pacing in the front yard, visibly disturbed, stating that he had killed his mother because he had heard voices telling him to do so.[169] The officers found his mother lying face down with a bleeding injury on the back of her head.[170] She later died from her injuries.[171]

The son underwent a competency evaluation and the medical examiners determined that he was not competent to stand trial.[172] However, after his competency was restored, the state brought criminal proceedings against him.[173] Following an insanity evaluation where the psychiatrist determined that he was legally insane at the time of the killing, the court granted the state's motion to dismiss.[174]

The mother's life insurance company brought an interpleader action to determine whether the son was allowed to receive proceeds from her life

164. Roberson, *supra* note 117, at 455.

165. Escheat is the "[r]eversion of property . . . to the state upon the death of an owner who has neither a will nor any legal heirs." *Escheat*, BLACK'S LAW DICTIONARY (11th ed. 2019).

166. Roberson, *supra* note 117, at 456.

167. *See* IOWA CODE § 633.535 (2023).

168. Hartford Life & Accident Ins. Co. v. Selters, 425 F. Supp. 3d 1072, 1075 (S.D. Iowa 2019).

169. *Id.*

170. *Id.*

171. *Id.*

172. *Id.*

173. *Id.* at 1075–76.

174. *Id.* at 1076.

insurance policy.[175] The policy provided that the proceeds would be split between three beneficiaries—her three sons.[176] The company paid the two brothers after the mother's death but did not pay out the third share to the other son because he had killed the decedent.[177] The two brothers filed cross-claims, alleging that the third brother was not eligible to receive the proceeds under Iowa's slayer statute.[178] They "also moved for summary judgment," claiming "that the [slayer] statute bars" even the insane slayer from benefiting from the victim.[179]

Although the son never actually faced trial, and therefore never raised the insanity defense, the parties argued the issue as if he had.[180] The son argued that the court should follow the majority rule[181] and hold that a slayer who is insane at the time of the killing is not subject to the slayer statute.[182] The brothers, on the other hand, argued that the slayer statute should still apply, pointing to an Illinois court decision that prevented an insane slayer from inheriting under the Illinois slayer statute which was worded almost identically to Iowa's.[183] That court examined comments made by an Illinois state representative at the time the slayer statute was amended and concluded that those statements showed that the legislature did not intend for a successful insanity defense to bar the application of the slayer statute.[184]

Even though Iowa's slayer statute was amended around the same time as Illinois's slayer statute to use almost the same exact verbiage[185] and the facts in the Illinois case were extremely similar to the facts facing the court,[186] the court in *Selters* ultimately rejected the Illinois court's reasoning.[187]

Instead, the court determined that insanity would likely bar the application of the slayer statute:

> In the Court's judgment, a person who is incapable of being aware of the acts he is committing and the ordinary and probable consequences of them cannot be said to have acted with a purpose

175. *Id.* at 1073–74.

176. *Id.* at 1074.

177. *Id.*

178. *Id.* Iowa's slayer statute bars a beneficiary of a life insurance policy from receiving the proceeds if they "intentionally and unjustifiably cause[] or procure[] the death of the principal obligee or person upon whose life the policy is issued or whose death generates the benefits." IOWA CODE § 633.535(3) (2023).

179. *Selters*, 425 F. Supp. 3d at 1074.

180. *Id.* at 1076–77.

181. *See supra* Section II.A.1.

182. *Selters*, 425 F. Supp. 3d at 1077.

183. *Id.* at 1078; *see also* Dougherty v. Cole, 934 N.E.2d 16, 22 (Ill. App. Ct. 2010) (discussing how the amended Illinois statute precludes the insane killer from inheriting).

184. *Dougherty*, 934 N.E.2d at 22.

185. See discussion *supra* Section I.A.2 about the Illinois amendment.

186. *Selters*, 425 F. Supp. 3d at 1078.

187. *Id.* at 1081.

> to cause death or voluntarily with awareness of what he was doing and the expected consequences. It follows that if [the son] was insane when he struck [his mother] . . . he was not capable of intentionally causing her death within the meaning of [Iowa's slayer statute].[188]

Essentially, the court determined that insanity could bar the application of the slayer statute, as long as it cannot be shown that the insane slayer acted intentionally.[189] Because the facts of the case did not conclusively indicate whether the son had acted intentionally, the court remanded the case.[190]

Since the Iowa Supreme Court has not decided this issue, the *Selters* case is the best indication of whether an insane slayer would be allowed to inherit. As explained above, under the court's reasoning, an insane slayer could still inherit under Iowa's slayer statute.[191] As explained in the next Part, this is problematic for multiple reasons.

III. THE IOWA LEGISLATURE SHOULD AMEND ITS SLAYER STATUTE TO ACCOUNT FOR THE INSANE SLAYER

To provide clarity and direction for the courts, observe the core underlying basis of slayer statutes, honor the presumed intent of the victim, and respect the surviving family and friends of the victim, the Iowa Legislature should amend its slayer statute to prevent insane slayers from inheriting, or benefiting as a beneficiary, from their victims. This Part will provide the rationale for preventing the insane slayer from inheriting[192] and propose amendments to Iowa's current slayer statute.[193]

A. THE IOWA LEGISLATURE SHOULD BAR THE INSANE SLAYER FROM INHERITING

In the absence of direction from the legislature, courts have a very difficult task of trying to effectuate the legislature's intent. This is especially true when courts are faced with the issue of whether an insane killer should be subject to the state's slayer statute:

> The clearer and more definitive our distribution-codified law is, the more effectively we will be able to protect an individual's rights to inherit what is rightfully theirs to take. Until then, the ambiguity in

188. *Id.* at 1079.

189. *Id.* at 1080–81.

190. *Id.* at 1081. Indeed, the court noted that some facts indicated that the son had acted intentionally: he struck his mother with a great deal of force and stated several times to police that he had killed his mother. *Id.* at 1080. On the other hand, the fact that he was having a schizophrenic episode and that a psychiatrist opined that the son was not capable of understanding the nature of what he was doing indicated that he did not act intentionally. *Id.* Thus, there was a genuine issue of material fact. *Id.* at 1081.

191. *See id.*

192. *See infra* Section III.A.

193. *See infra* Section III.B.

> this area will continue to haunt us in the form of inequality and blatant interference with testamentary rights.[194]

It is also important for the legislature to decide whether the insane slayer should be subject to the state's slayer statute because courts around the country have taken many different approaches to solving this problem,[195] so there is really no consensus. Further, some legislatures may not agree with the decision of the courts. For example, the Court of Appeals in Indiana allowed an insane slayer to inherit.[196] Less than two years thereafter, the Indiana Legislature amended its slayer statue to specifically prevent the insane slayer from inheriting.[197]

Indeed, since the very beginnings of the slayer rule in America,[198] it has been controversial for the courts to interpret something that the slayer statute does not explicitly say. The dissent in *Riggs* expressed this discomfort with promulgating the slayer rule through case law in the absence of direction from the legislature.[199] The Iowa Supreme Court in *Kuhn* refused to apply the slayer statute to dower rights in the absence of express language in the statute.[200] To avoid another similar scenario when Iowa courts face the issue of an insane slayer, the Iowa Legislature should take action to provide guidance.

Although the majority of courts that have encountered the issue of an insane slayer have allowed the insane slayer to inherit,[201] the Iowa Legislature should follow the minority view and bar the insane slayer from inheriting for three reasons: (1) it will remain faithful to the purpose of the slayer statute[202]; (2) it will honor the intent of the victim[203]; and (3) it will respect the surviving family, friends, and other possible beneficiaries of the victim.[204]

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194. Callie Kramer, Note, *Guilty by Association: Inadequacies in the Uniform Probate Code Slayer Statute*, 19 N.Y.L. SCH. J. HUM. RTS. 697, 721 (2003).

195. *See supra* Section II.A.1.

196. Turner v. Est. of Turner, 454 N.E.2d 1247, 1249 (Ind. Ct. App. 1983).

197. Eisold, *supra* note 21, at 882; *see also* IND. CODE § 29-1-2-12.1(a)(1) (2023) (defining "culpable person" to include those who are "found . . . guilty but mentally ill").

198. *See supra* Section I.A.1.

199. Riggs v. Palmer, 22 N.E. 188, 191 (N.Y. 1889) (Gray, J., dissenting) ("We are bound by the rigid rules of law, which have been established by the legislature, and within the limits of which the determination of this question is confined.").

200. Long v. Kuhn (*In re* Kuhn's Est.), 101 N.W. 151, 152 (Iowa 1904).

201. Sevier, *supra* note 85, at 380; *see also supra* Section II.A.1 (describing court approaches absent statutory guidance).

202. *See infra* Section III.A.1.

203. *See infra* Section III.A.2.

204. *See infra* Section III.A.3.

1. Prohibiting the Insane Slayer from Inheriting Stays True to the Basis of Slayer Statutes and Is the Best Decision in Light of the Controversy Surrounding the Insanity Defense

The most fundamental justification for the slayer rule is that no man should benefit from his wrongdoing—"Nullus Commodum caprere potest de injuria sua propria."[205] Of course, this gets complicated when the killer is insane,[206] especially considering the immense controversy surrounding the insanity defense.[207]

"Insanity acquittals have been known to incite public outrage and movement for reform, as the insanity defense leaves crimes without accountable perpetrators."[208] Although society seems to feel that killers who are legally insane are not as culpable for their conduct, the insanity defense remains controversial because it can seem "that the defense gives criminals a 'get out of jail free' card."[209] Thus, allowing the insane slayer to inherit enhances and intensifies the controversy because the killer, although insane, is benefiting from their wrongful actions.[210] To many, a successful insanity defense seems to let the defendant escape accountability for their actions because traditional notions of justice require that people are punished when they do something wrong.[211]

The increasing criticism of the insanity defense is a good justification for the Iowa Legislature to bar the insane slayer from inheriting. This is because preventing the insane slayer from inheriting is more consistent with the adage that one should not benefit from their wrongdoing. Indeed, as the Supreme Court indicated in *Armstrong*,[212] equitable principles are applicable no matter the reason for the killing.[213] Thus, amending Iowa's slayer statute to ensure it bars insane slayers from benefitting from the death of their victims would be more faithful to the core justification of the slayer rule and would avoid intensifying the controversy surrounding the insanity defense.

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205. Katz, *supra* note 19, at 451 (quoting Berk, *supra* note 19, at 495).

206. *See supra* Section II.A.2.

207. *See supra* Section I.B.1.

208. Piel et al., *supra* note 33, at 261.

209. Harrison, *supra* note 71, at 595 (quoting Acosta et al., *supra* note 93).

210. As explained in *supra* Section I.B, the insanity defense is an excuse defense. This means that the killer's actions are still legally wrong, but they will not be punished. It is quite different from justification defenses, which mean that the act was not legally wrong.

211. Eisold, *supra* note 21, at 890.

212. *See supra* Section I.A.1.

213. The Court declared that "*independently of any proof of the motives* of [the assignee] . . . he forfeited all rights under [the policy] when . . . he murdered the assured." N.Y. Mut. Life Ins. Co. v. Armstrong, 117 U.S. 591, 600 (1886) (emphasis added).

2. The Intent of the Victim Is Honored when the Insane Slayer Is Barred from Inheriting

One of the most important purposes of the slayer rule is that it honors the intent of the victim.[214] Presumably, one would not make another a beneficiary on an insurance policy or under a will if they knew that the other would kill them. Thus, it is safe to assume that preventing an insane slayer from inheriting would satisfy the intent of the victim.[215] In this way, allowing the insane slayer to inherit runs contrary to the long-established principle that courts should do everything possible to effectuate the intent of the deceased.[216] Therefore, to accomplish an important goal in probate law—effectuating the intent of the decedent in interpreting a will—the Iowa Legislature should amend its slayer statute to prevent an insane slayer from benefiting from the estate of their victim.

3. It Is Respectful to the Surviving Family and Friends to Bar the Insane Slayer from Inheriting

One often overlooked aspect of the controversy surrounding whether an insane slayer should be subject to a state's slayer statute is the effect of such decision on the other surviving family members, friends, and other possible alternative beneficiaries of the victim.[217] Indeed, an important part of the slayer rule is that it "provides justice and additional support for the victim's innocent family members. Thanks to the slayer rule, the innocent family members of the victim do not have to watch as the murderer inherits from their loved one."[218]

The benefit to the other survivors would be taken away if the insane slayer was allowed to inherit; the legal mental status of the killer likely does not impact the survivors' feelings about the death. Thus, statutes which prevent insane slayers from inheriting are "extremely predictable and maximize[] the welfare of the decedent's innocent family members."[219] Therefore, to best protect the interest of the other surviving family members and friends of the victim, the Iowa Legislature should amend Iowa's slayer statute to bar the insane slayer from inheriting.

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214. *See supra* Section I.A.

215. Eisold, *supra* note 21, at 890. However, it is obviously not possible to know with absolute certainty that the victim's intent would have changed. For example, some commentators have argued that a parent killed by a mentally ill child may still have wished for the child to inherit had the parent known what the child would do; thus, it is possible that the victim's intent in cases such as these would not change from the intent expressed in the will. Murray, *supra* note 21, at 193.

216. *See, e.g.*, Roberson, *supra* note 117, at 458.

217. Josh Noles, Note, *The Slayer Rule and Its Effect on Family Members of the Slain Decedent: Maximizing Closure and Minimizing Trauma*, 46 LAW & PSYCH. REV. 255, 257 (2022).

218. *Id.*

219. *Id.* at 271.

B. PROPOSED AMENDMENT TO IOWA'S SLAYER STATUTE

The foregoing has established the strong need for the Iowa Legislature to take action to account for the insane slayer before Iowa courts are left to do so without legislative guidance. The need for clarity demands action.

The Iowa Legislature should amend the Iowa slayer statute[220] by (1) clearly stating the slayer rule applies to those who have been deemed legally insane; and (2) extending the slayer statute to such individuals even if the State declines to prosecute. The following language, indicated in italics, or something similar, should be added in a new subsection: *This section shall apply to persons who have been determined to be legally insane. This includes those whom a reasonable factfinder has determined to be legally insane under Iowa's insanity statute as articulated in section 701.4, as well as those whom the State, in its prosecutorial discretion, declines to prosecute due to a determination that the person was insane at the time of the killing.*

This amendment would prevent any insane killer, whether actually prosecuted or not,[221] from inheriting from their victim. This would be most faithful to the purpose for the slayer statute, avoid intensifying the controversy surrounding the insanity defense, give the best effectuation to the victim's intent, and respect the other surviving family members of the victim.

CONCLUSION

The insane slayer presents a unique situation whereby the areas of probate law and criminal law directly collide—two areas which one would ordinarily never expect to intersect. Although one would hope that Iowa courts would never have to make the difficult decision of whether an insane slayer may inherit under Iowa's slayer statute, the unfortunate reality is that the courts could be faced with such a determination. The *Selters* case interpreting Iowa law is demonstrative. Thus, to promote clarity and important public policy considerations, the Iowa Legislature should amend its slayer statute to account for the insane slayer—specifically by prohibiting such individuals from inheriting.

220. IOWA CODE § 633.535 (2023).

221. In *Selters*, the killer was not actually prosecuted because the State moved to dismiss the charges after a doctor opined that he was insane at the time of the killing and he was admitted for long-term hospitalization. Hartford Life & Accident Ins. Co. v. Selters, 425 F. Supp. 3d 1072, 1076 (S.D. Iowa 2019).