

a competency assessment prior to delinquency proceedings. The court referred to the landmark case, *In re Gault*, 387 U.S. 1 (1967), in noting that, “Neither the Fourteenth Amendment nor the Bill of Rights is for adults alone.” The court wrote, “A juvenile charged with delinquency is entitled to have the court apply those common law jurisprudential principles which experience and reason have shown are necessary to give the accused the essence of a fair trial.”

The Indiana Supreme Court rejected the appeals court’s view that the juvenile code provides no procedure for determining the competency of children. The court acknowledged that Ind. Code § 31-32-1-1 provides, “If a child is alleged to be a delinquent child, the procedures governing criminal trials apply in all matters not covered by the juvenile law.” However, the court reasoned that the juvenile code “must be liberally construed” to “ensure that children within the juvenile justice system are treated as persons in need of care, protection, treatment, and rehabilitation” (Ind. Code § 31-10-2-1(5)).

Ind. Code § 31-32-12-1 provides that “the [juvenile] court may also order medical examinations and treatment of the child under any circumstances otherwise permitted in this section.” The supreme court concluded that this provision in the juvenile code allows for competency evaluations of children without the specific guidelines set forth for adult competency evaluations. Therefore, the adult competency statute does not apply to children.

Discussion

The Indiana Supreme Court reviewed the history of the juvenile court system, with focus on the *parens patriae* doctrine allowing the court to function in a parental role. The court wrote that *parens patriae* “gives juvenile courts power to further the best interests of the child, which implies a broad discretion unknown in the adult criminal court system.”

The United States Supreme Court decided a number of cases in the 1960s and 1970s that broadened juveniles’ constitutional rights and thereby limited the discretion of juvenile courts. However, the Court has affirmed that the states have “a *parens patriae* interest in preserving and promoting the welfare of the child” (*Santosky v. Kramer*, 455 U.S. 745 (1982)).

Although there was no formal equal protection argument before the Indiana Supreme Court, the

court nonetheless compared the rights of juveniles adjudicated delinquent to those alleged to be delinquent. If a child alleged to be delinquent were subject to adult competency law, then the child could be placed in a state psychiatric institution hundreds of miles away from his or her family. The justices noted that in most cases in which a juvenile is found to be delinquent, “the trial court is prohibited from placing the child in a facility outside the child’s county of residence.” Also, juvenile delinquents should be given dispositions, “in the least restrictive (most family like) and most appropriate setting available . . . consistent with the best interest and special needs of the child.” The justices wrote, “In our view no less is required for a juvenile only alleged to be delinquent.”

Finally, it should be noted that the Indiana Supreme Court did not set any new guidelines for juvenile competency evaluations. Rather, they found that the adult guidelines did not apply to children and emphasized the broad discretion of the juvenile courts to create dispositions in the best interest of the child.

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Undue Influence

Standards Revised for Rebutting Undue Influence in a Will Contest

In *Jackson v. Schrader*, 676 N.W.2d 599 (Iowa 2003), daughters Janice Schrader and Kathleen Jackson both appealed the ruling of the lower court regarding the estate of their deceased mother. At issue was whether their mother’s 1992 will, as well as monies and gifts transmitted from the mother to one daughter during the last years of the mother’s life, were the product of undue influence of the daughter on their mother.

The Supreme Court of Iowa held that the rule for rebutting the presumption of undue influence arising from a confidential relationship only requires that the grantee of the transaction prove by clear, satisfactory, and convincing evidence that the grantee acted in good faith throughout the transaction and the grantor acted freely, intelligently, and voluntarily.

Facts of the Case

Kathleen Jackson and Janice Schrader were the daughters of Elmer and Martha Schrader. Beginning in 1973 and continuing until after the parents' death, substantial animosity existed between Kathleen and her parents. Kathleen twice sued Elmer and Martha for outstanding loans. She sued Martha for property after Elmer's death and had her parents arrested for entering her home.

In contrast, Janice enjoyed a close relationship with her parents. In 1974, Elmer and Martha executed wills, naming Janice as beneficiary in the event of their common deaths. In 1982, they made Janice the contingent beneficiary of their life insurance policy. When her father died in 1992, Janice was named sole beneficiary. Ten certificates of deposit held jointly by Elmer and Martha were designated payable to Janice on the death of the surviving spouse. Finally, Elmer gave a \$28,000 gift to Janice and nothing to Kathleen.

After Elmer's death, an attorney advised Martha that she could reduce her estate's tax burden if she disclaimed certain property. Martha refused when she learned this would mean half her property would pass to Kathleen. The attorney also advised Martha about the tax benefits of providing annual gifts of \$10,000 to her children. The attorney later testified that Martha was receptive to this idea with respect to Janice, but not to Kathleen.

In September 1992, Martha saw a different attorney to make a new will. This attorney testified that Martha appeared to be fully competent when she bequeathed her estate to Janice (minus \$100,000 she bequeathed to Kathleen to avoid litigation). Martha also gave Janice power of attorney.

From 1992 to 1999, Martha made eight annual gifts of \$10,000 to Janice. The early checks were signed by Martha, the last by Janice acting as power of attorney. In these years, Martha's certificates of deposit matured, and she purchased new certificates totaling \$399,000 in joint tenancy with Janice. Martha died on July 17, 1999.

Martha was diagnosed with a brain tumor in 1986. Radioactive seeds were placed in the tumor in 1990 and 1994. In April 1992, a psychologist found her to have a full-scale IQ of 64 and testified that she had significant global impairment. Other doctors examined Martha but came to different conclusions regarding her mental capacity.

After Martha's death in 1999, Kathleen contested the will that was executed in September 1992. At trial, a jury found that Martha lacked testamentary capacity at the time she executed her 1992 will, due to the variation in her mental functioning caused by the brain tumor. The jury also found, however, that Martha continued to have sufficient mental capacity to engage in ordinary financial transactions until the end of 1996, including many but not all of the transfers of money Martha had made to Janice in the years prior to Martha's death. The jury discounted Martha's mental incapacity by reasoning that, although Martha performed poorly on intelligence testing, she functioned quite well in her ordinary and familiar world.

On the issue of undue influence, the jury concluded that a confidential relationship existed between Janice and Martha, based on the long history of trust and closeness between Janice and her parents. The jury considered whether the presumption of undue influence of Janice on Martha could be rebutted using the standard previously set forth by the Supreme Court of Iowa in *In re Estate of Todd*, 585 N.W.2d 273 (Iowa 1998). *Todd* indicated that four elements were necessary to rebut a presumption of undue influence in a confidential relationship. Specifically, the benefited party (Janice) would have to prove by clear, satisfactory, and convincing evidence the following: (1) lack of susceptibility of the grantor (Martha) to undue influence; (2) lack of opportunity to exercise such influence; (3) lack of disposition (by Janice) to influence unduly for the purpose of procuring an improper favor; and (4) a result clearly unaffected by undue influence. The trial court stated that since a confidential relationship presupposes the first two elements of susceptibility and opportunity, the presumption of undue influence in the confidential relationship between Janice and her mother could not be rebutted. As a result, the trial court decreed that Janice reimburse the estate for gifts and monies received in the course of her relationship with Martha—nearly \$550,000. Janice appealed the order to reimburse her mother's estate, while Kathleen cross-appealed, urging that the trial court should have ordered a larger reimbursement.

Ruling

The Supreme Court of Iowa reversed in part and affirmed in part the trial court's decree requiring Janice to reimburse Martha's estate for gifts and monies

received in the course of her relationship with Martha. In partially reversing the trial court, the Supreme Court of Iowa found that nearly all of the gifts and monies transmitted from Martha to Janice were the product of Martha's free will and not the result of undue influence and that Martha had demonstrated a propensity outside of their confidential relationship to reward Janice in this manner. In partially affirming the trial court, the Supreme Court of Iowa upheld the ruling that Janice reimburse Martha's estate only for those gifts for which there was no specific proof of Martha's wishes outside of their confidential relationship and therefore the presumption of undue influence had not been rebutted.

With respect to the additional transactions of which Kathleen complained on her cross-appeal, the trial court's holding was affirmed. The Supreme Court of Iowa thus established a new standard for rebutting a presumption of undue influence: whether or not the end result was the product of undue influence.

Reasoning

The standard for rebutting a presumption of undue influence stated in *In re Estate of Todd* is unreasonably demanding and may cause the invalidation of *bona fide* transfers in a confidential relationship. In applying a more appropriate standard (whether the end result was the product of undue influence), the court's *de novo* review concluded the evidence failed to show that many of the challenged transactions were the product of undue influence.

The Iowa Supreme Court reviewed *Todd* and concluded that the criteria (from *In re Estate of Baessler*, 561 N.W.2d 88, 92 (Iowa Ct. App. 1997) to rebut the presumption of undue influence was unrealistic. The court examined other case law to hold that the rule for rebutting the presumption of undue influence arising from a confidential relationship only requires the grantee of a transaction to prove by clear, satisfactory, and convincing evidence that the grantee acted in good faith throughout the transaction and the grantor acted freely, intelligently, and voluntarily.

The court agreed with the lower court's reasoning that Martha had the mental capacity to engage in ordinary and familiar financial transactions such as those contested by Kathleen. The question of com-

petency was therefore disposed of on the ground that Kathleen had failed to show that Martha lacked mental capacity at any specific time.

Discussion

Testamentary capacity—a person's ability to make a last will and testament—differs from undue influence. A person is presumed to have testamentary capacity, which requires a relatively low level of functioning. Specifically, to execute a valid will, a person must know she is making a will, appreciate the extent of her assets, identify her natural heirs, and understand how the will distributes her assets. A person who suffers from a mental disease or defect (including dementia) still may possess testamentary capacity as long as her compromised mental status does not influence the will.

Undue influence refers to the use of unscrupulous methods (such as threats or coercion) by a second person, to influence the decision-making process of the testator (the person making the will). Undue influence does not imply a lack of testamentary capacity; it suggests the testator was coerced into making a decision regarding her will. When wills are contested, the burden of proof is on the person contesting the will to show either lack of testamentary capacity or existence of undue influence.

This case changed the standard for rebutting a presumption of undue influence in Iowa from the cumbersome "quality of the confidential relationship" to the more reasonable "end result."

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Insurance

An Insured's Mental Condition May Negate His Intent for a Criminal Act and Bar the Application of an Intentional-Act Exclusion Clause in a Homeowner's Policy

Facts of the Case

In *Allstate Insurance Co. v. Barron* (848 A.2d 1165 (Conn. 2004)), during the early morning