

How mental health disorders are treated in will validity claims



This blog is the second in a series exploring how mental health disorders are treated in the context of will validity claims. The [first blog](#) in this series provides a background on will validity claims and focuses on how testators suffering from severe bereavement may be treated.

The focus of this blog is on delusional disorders. It is important to note that there are a variety of delusional disorders that are complex and may involve a variety of different symptoms, with delusions being only one of those.

However, focusing on delusional disorders generally allows us to understand the current consensus around how the will of a testator suffering from delusions may be treated.

[Banks v Goodfellow \(1870\) – the leading case](#)

The leading case of *Banks v Goodfellow* not only laid down the test for testamentary capacity (read our previous blog post on [testamentary capacity](#)), but the fourth limb of that test directly addresses delusional disorders.

In this regard the court concluded that for any will to be valid it is essential that (in addition to the other limbs of the test):

“no disorder of the mind shall poison [the testator’s] affections, pervert his sense of right, or prevent the exercise of [the testator’s] natural faculties and that no insane delusion shall influence [the testator’s] will in disposing of [the testator’s] property and bring about a disposal of it which, if the mind had been sound, would not have been

What is meant by ‘delusion’?

When looking at this test, the first question therefore becomes ‘what is meant by a delusion?’ This was considered in *Boughton v Knight* (1873) in which the court stated the following:

“can I understand how any man in possession of his senses could have believed such a thing? And if the answer you give is, I cannot understand it, then it is of the necessity of the case that you should say the man is not sane.”

To clarify, where a court concludes that no person in possession of their senses could have believed what the testator believed then the belief would be found to be delusional.

So where a testatrix was suffering with dementia and reached false conclusions surrounding her carers’ conduct (and had made numerous accusations against them, including mental and physical abuse and theft of money and jewellery) the judge concluded that these beliefs were delusional as a person with full capacity, who knew what the testatrix knew, could not have reached the conclusions she had reached about their conduct (*Walter v Smee* [2008]).

On the other hand, just because a belief turns out not to be true, this does not necessarily equate to that belief being found to be delusional – if the belief was justified in any way it is not a delusion. Furthermore, and as Sir John Hannen stated in *Boughton v Knight*:

“There is a limit beyond which one feels that it ceases to be a question of harsh unreasonable judgment of character, and that that the repulsion which a parent exhibits towards one or more of his children must proceed from some mental defect in himself...”

In other words, a harsh and unreasonable judgment will not always be considered a delusional belief but the extent of that judgment (if untrue) could, potentially, be used as evidence of an unsoundness of mind.

In next month’s blog we will consider the whether a causal connection is required between the delusion and the content of the will itself.

How we can help

For more advice on contesting a will, please contact our [specialist team](#).



[Dino Sikkel](#)

Partner