

Written and Oral Testimony relating to S.B. No. 213 (Raised) An Act Concerning the Inheritance Rights of a Beneficiary or Survivor who is Found Not Guilty of Murder or Manslaughter by Reason of Mental Disease or Defect.

Respectfully submitted by:
John Klar, Esq.
551 Cooks Road
Orleans, Vermont 05860
(802) 673-4852
farmerjohnklar@gmail.com

February 28, 2016

HONORABLE MEMBERS OF THE JUDICIARY COMMITTEE, SENATORS,
REPRESENTATIVES, and OTHERS,

I am a graduate of the University of Connecticut, and of the University of Connecticut School of Law, and I have been a member in good standing of the Connecticut Bar since 1989.

I **support** Senate Bill 213, and I respectfully request that the Judiciary Committee approve the bill. I hope that the General Assembly will pass the bill and that it will finally become law, correcting a long-standing defect that would prevent a similar travesty from recurring.

In 1998, David Messenger beat his pregnant wife Heather to death in front of their five-year-old son in their home in Chaplin, Connecticut. In 2001, he was found not guilty of manslaughter charges and acquitted by reason of mental disease or defect and committed to a psychiatric facility for twenty years. Since he was not convicted of the crime, Messenger was able to inherit over \$2 million as the sole beneficiary of his wife's estate. Not only did he inherit her estate, he also inherited the money from the settlement for her wrongful death. The victim's family and Heather's son received nothing.

I knew Dave and Heather Messenger for many years before this tragedy. My wife and I were scheduled to stay in adjoining rooms with them the night of the attack, but Dave canceled two days prior. I represented Dave Messenger at his arraignment for murder (for bond only), and later that week I addressed the mourners at Heather's funeral. My wife and I offered to care for and adopt the young boy who pleaded for his Daddy to stop bludgeoning his mother. That boy is now my adult client.

In 2007 I was approached through a surreal phone call by Heather's sister Hannah, who asked me to represent the family. To my horror I learned of the developments since the killing, which I had avoided following in the media. I agreed to the representation for the reason that Dave Messenger had never apologized to this family, though he had

proclaimed himself a Christian, and had sued the State of Connecticut for First Amendment freedoms for Sunday worship, and under the Americans with Disabilities Act. I have repeatedly been involved with victims of violent crimes, and I know how important it is for healing for the victims to hear remorse from perpetrators: this man has still never apologized to this family for the insane acts he committed. But he has forgiven himself, publicly.

When I traveled to Connecticut in 2007 to review Probate records for Heather's Estate, I learned to my disgust that Dave Messenger had not only inherited all she owned, but that the Estate had crafted a suit against the couple's homeowner's policy, which had been settled and ultimately distributed to the killer.

I was the Connecticut attorney who drafted the wills that allowed this to happen. However, I employed standard Connecticut will language: so actually, it was Connecticut Law that failed here. My 17-year-old daughter, here with me today, was born a year after this killing, and we see that the law still stands and the killer is free, a millionaire. This is what the world sees as Connecticut jurisprudence. I hope that the Judiciary Committee – and the General Assembly – will correct this defect in the law.

Here are my main lawyer's points:

- If I had not reviewed the Probate records at issue, the public might never have known that this travesty occurred. How many other killers have received heinous spoils in such a fashion in Connecticut? We cannot know.
- I have heard it suggested that this law should not be enacted because sometimes killers found insane were the victims of abuse by the person they killed. This patently absurd argument fails on several points, the most salient being that a) that is not what happened here, or in many other cases: shall we impose the same kinds of horrors on others that these people have faced, based on theoretical arguments that do not bear scrutiny?; and b) if a person is found not guilty of murder by reason of insanity, mental disease or defect, how are they to be entrusted to oversee money? – the argument allows the killer to “have their cake and murder it too.” Please do not be misled.
- This issue is not novel – we have long been very vocal about the need for a law change, and similar legislation has been introduced previously and then failed. Lawmakers must understand that this is more than just frustrating for this family. The only real objective they perceive they can accomplish in respect of Heather's memory is this: to pass laws that prevent such a *perversion of justice* from recurring. And those efforts have been repeatedly thwarted. The laws of Connecticut enabled David Messenger to be found “not guilty”, permitted him to collect money on his homeowners' policy for the killing through wills drafted pursuant to Connecticut law and admitted to Probate, and then administered in

part by the killer's lawyer, who concurrently served as Heather's Executrix.
Remedying this loophole has taken much too long.

Thank you to all who have attempted today, and in the past, to cure this defect in Connecticut's laws. Thank you also for the opportunity to address the Committee, and for your consideration, support, and (I pray) passage of this important Bill.

Sincerely,

John Klar