

How mental health disorders are treated in will validity claims – delusional disorders



This article considers whether a causal connection is required between the delusion and the content of the will itself and the burden of proof required.

This is the third article in a short series exploring how mental health disorders are treated in the context of will validity claims. Read the previous articles on the following topics:

- The first in this series provides a [background on will validity claims and focuses on the way testators suffering from severe bereavement may be treated](#).
- The second in this series explores [how a testator suffering from delusions may be treated](#).

How can delusional disorders invalidate a will?

In order for the delusion to invalidate the will, case law shows that there has to be a causal connection between the delusion and the disposal of property effected by the will (*Ledger v Wootton* [2007]). However, it may be challenging to establish such a connection. This difficulty was highlighted in *Banks v Goodfellow* [1870] where the court stated the following:

'Where insane delusion has once been shown to have existed, it may be difficult to say whether the mental disorder may not possibly have extended beyond the particular form or instance in which it has manifested itself. It may be equally difficult to say how far the delusion may not have influenced the testator in a particular disposal of his property.'

In *Ledger v Wootton* [2007], the testator suffered from delusions of persecution and paranoid ideas. However, the evidence did not establish that a particular delusion had directly influenced the terms of the testator's will. Similarly, in *Lloyd v Jones* [2016], the Judge held that however bizarre the delusions were, they are only relevant if they actually influence the dispositions made in the will. In this case, the delusions were not found to have had such an effect.

Where a will is challenged on the ground of delusions, and where real doubt is raised as to the testator's capacity the legal burden of establishing testamentary capacity can shift to the person seeking to uphold the will. Therefore, where the testator is shown to have suffered from delusions, the person seeking to uphold the will may need to prove that the delusions had no effect on the dispositions made by the will.

In *Kostic v Chaplin* [2007] the testator believed that there was an international conspiracy of dark forces against him. He believed that his son was implicated, so he made a will which excluded his son and left his estate to the Conservative Party instead. Based on the evidence, the Judge was fully satisfied that the testator's decision to exclude his son was heavily influenced by his delusions, particularly the belief that his son was implicated in the global conspiracy against him.

How we can help

For help or advice on will validity claims or other related topics, please contact [Dino Sikkell](#) in our specialist disputes team.

Written by



[Dino Sikkell](#)

Partner