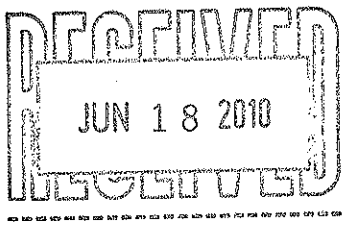
Joseph H. Kleinfelter
Senior Judge
President Judge-Emeritus

Dauphin County Court House
101 Market Street
Suite 300
Harrisburg, Pennsylvania 17101

Telephone: (717) 780-6646
Fax: (717) 780-6450

COURT OF COMMON PLEAS
Twelfth Judicial District
Dauphin County, Pennsylvania

June 17, 2010



Steven R. Blair, Esquire
650 Delp Road
Lancaster, Pa. 17601

Robert Hallinger, Esquire, APPEL & YOST
33 North Duke Street
Lancaster , Pa. 17602

Heather Vance-Rittman, Deputy Attorney General
14 floor, Strawberry Square
Harrisburg, Pa. 17120

Re: Bucher

Dear Counsel:

Enclosed please find a copy of the Bucher opinion which I am forwarding to the Clerk of the Orphan's Court for filing.

Sincerely,

Joseph H. Kleinfelter
Sr. Judge

Cc: Mark Dalton, District Court Administrator – Lancaster County Court House, 50 N. Duke St, Lancaster, Pa. 17602

JHK/rs

ESTATE OF	: IN THE COURT OF COMMON PLEAS
	: LANCASTER COUNTY, PENNSYLVANIA
THOMAS W. BUCHER	:
	: NO. 36-2008-1522
	: ORPHAN'S COURT

OPINION

This matter is a will contest which comes before the court on a "Petition for Citation For Appeal to Show Cause as to Why Letters of Administration C.T.A. Should Not Be Revoked and the Will of the Decedent Should Not Be Ruled Invalid, and as to Why Petitioner, Wilson Bucher Should Not Be Issued Letters of Administration." The petition was filed August 21, 2008. Answers were filed by the administratrix of the estate and by the attorney general in his capacity as parens patriae.

The referenced "Decedent" is Thomas W. Bucher (hereinafter "Thomas") of Columbia, Lancaster County, who took his own life on or about July 20, 2008. Thomas was the son of the late Christine Bucher[1] and the Honorable Wilson Bucher [2](hereinafter "Judge Bucher"), petitioner-contestant herein.

[1] Christine Bucher passed on December 31, 2003

The will at issue was executed on April 10, 2003, (hereinafter, "the 2008 Will") and gives Thomas' entire estate to the Lancaster County Public Library (hereinafter "Library"). The will was drafted and witnessed by Attorney Theodore L. Brubaker.[3]

The challenge to the grant of letters testamentary is premised on an alleged lack of testamentary capacity; more specifically, that Thomas was suffering from one or more "insane delusions" at the time the will was created in 2003. After the pleadings were closed, the parties proceeded with discovery, which was in turn followed by a Motion for Summary Judgment filed by Judge Bucher. The latter motion was denied by Order dated June 30, 2009, in which presiding Judge C. Joseph Rehkamp observed:

> "This Court is satisfied that, according to the deposition of Scriverner, Attorney Brubaker, the Decedent, Thomas W. Bucher had a rational basis for willing his entire Estate to a charity, being the Lancaster Public Library in that he did not have immediate family members, being a wife or children. He recently had a strained relationship with his Father and Mother and siblings and had expressed amimus toward his brothers-in-law, particularly Steven R. Blair, who represented the Estate of his deceased Aunt, Helen Bucher and also is attorney for Petitioner, Wilson Bucher in this matter.
>
> Despite the argument of Attorney Blair that Thomas Bucher had an insane delusion at the time he executed his will, none of the answers supplied by the Scrivener of the will nor his associate indicate other than a rational mind set on willing his Estate to the Lancaster Public Library."

---

[2] Judge Bucher is retired from the Lancaster County Court of Common Pleas. That circumstance prompted recusal by the present bench, and the special appointment of Senior Judge C. Joseph Rehkamp. The undersigned jurist was appointed to replace Judge Rehkamp in January 2010.
[3] Hartman, Underhill & Brubaker, LLP, Lancaster

The case then proceeded to trial before Judge Rehkamp on November 17-18, 2009. A transcript of the trial was ordered (and subsequently filed). Following substitution of the undersigned for Judge Rehkamp, the parties entered into a stipulation that this court should decide the merits of the case, as well as reserved rulings on evidentiary objections made during the trial, on the basis of the transcripts and exhibits lodged of record. Each side has submitted proposed findings of fact and conclusions of law along with supporting briefs. Oral argument was received on May 10, 2010.

FAMILY BACKGROUND – EMPLOYMENT

At the time of his death, Thomas was 59 years of age having been born on March 5, 1949. Thomas had never married and had no children. He was the eldest of three children born to Judge and Christine Bucher. His siblings, two sisters, are Anne B. Owen and Christine B. Blair.[4] In addition, Thomas is survived by five nephews and a niece: Andrew W. Owen, Julia W. Owen, Thomas B. Owen, John W. Blair, Patrick R. Blair and William W. Blair.

Judge Bucher testified that he had no concerns about Thomas as a young man. After, high school, Thomas attended Penn State University, graduating in 1971. Post graduation he first went to work in Washington for the Committee Re-Elect the President. He next joined the staff of then-Congressman Eshelman. When the congressman left office in 1976, Thomas returned home. He enlisted in the U.S. Army in mid-1977 and was discharged in mid-1980. There followed some brief periods of employment in telemarketing and with an automobile club.

[4] Christine B. Blair is the wife of Steven R. Blair, Esquire, counsel for petitioner-contestant, Judge Bucher.

In 1985, Thomas secured a position as a probation officer with the Lancaster County Office of probation and parole. For the first several years Thomas worked as a line probation officer. In 2002 he was made a supervisor overseeing other probation officers with case loads.

In early July 2008, Thomas announced his retirement. He failed, however, to attend an office retirement party that had been planned for him. His supervisor and co-workers learned of his suicide a few days later.

As for Thomas' work record, Supervisor Bruce Campbell testified that there was not a single blemish on his record and that Thomas always received satisfactory annual evaluations. Campbell did testify that Thomas was idiosyncratic or "quirky" at times. Nevertheless, Thomas worked for the department a total of 22 years.

There seems to be little doubt, until the least five years of his life, Thomas had close family ties. He participated normally in family functions such as, birthdays and holidays. Beginning in 1980, when he was 31 years old, Thomas resided with his parents at their home in Columbia and continued to do so for over 20 years, until 2001. In 1991, Thomas' parents made a gift to him of property they owned at 401 Walnut Street in Columbia. This was his residence at death.

PRIOR WILLS

On May 13, 1991, at the time of the afore-mentioned gift from his parents, Thomas executed a will (hereinafter "1991 Will") which gave his entire estate to his parents, Wilson and

Christine Bucher. It appears that this will was drafted by Judge Bucher. His sisters were listed as contingent beneficiaries.

Then, on October 16, 1998, Thomas executed a second will (hereinafter "1998 Will") giving his estate "to my nieces and nephews in equal shares"... "in trust with Fulton Bank"... "not to be distributed until January 1, 2021." It appears that neither the 1991 Will nor the 1998 Will was made with the assistance of legal counsel. It further developed that Judge Bucher and others in the family only learned of the 1998 and 2003 Wills after Thomas' death in 2008 and the 2003 Will was offered for probate.

The circumstances attending the drafting of the 2003 Will were supplied in large part by the scrivener of the will, Thomas Brubaker of Hartman, Underhill and Brubaker. His area of practice included business law and wills and estates (N.T.55) Thomas first met with Atty. Brubaker on March 17, 2003 regarding concerns he had with the handling of the estate of his late aunt, Helen Bucher. Thomas believed that he was entitled to $100,000 from the estate and had received far less. He also believed that money was being stolen from the estate. (N.T. 85) and suggested his brother-in-law, Atty. Blair, might be implicated. Atty. Brubaker informed that Thomas also asked him to do a title search of his residence. "[M]y recollection is it was a gift from his parents and he simply wanted to confirm that he had title free and clear." (N.T. 62). The final service which Thomas sought was the preparation of a new will designating Lancaster Public Library as his sole beneficiary (N.T. 63). To the best of Atty. Brubaker's recollection, Thomas did not appear to be angry and had no discussion directly about disinheritance.

After the March 17 meeting, Atty. Brubaker conducted a review of the Helen Brubaker estate as it was probated in the Office of Register of Wills and found no obvious discrepancies. He also conducted the requested title search and found that Thomas had clear title to his residence. Atty. Brubaker advised Thomas of his findings. He then prepared the will as Thomas had directed. (N.T. 77, 84) Thomas executed the will on April 10, 2003, witnessed by Atty. Brubaker.

When asked specifically if the various statements made by Thomas raised concerns as to his mental capacity, Atty. Brubaker replied:

> A. My recollection of the meetings with Tom was that he had concerns. He did not adamantly insist that any of these were fact.
>
> Q. He had no—and he had no facts to support any of his concerns, is that correct?
>
> A. Which he openly admitted.
>
> Q. Yes. But he had beliefs based on no facts?
>
> A. He had concerns.

(N.T. 92, lis 17-24)

As for Atty. Brubaker's findings and advice regarding the Helen Bucher estate, he opined that Thomas "was accepting of our advice and findings. (N.T. 108) In summary, Atty. Brubaker considered his conversations with Thomas about his will to be "rational." Although Thomas acknowledged having extended family, since he was unmarried and without children, Atty. Brubaker considered the choice of a charity to be a "logical beneficiary." (N.T. 114)

PETITIONER'S ARGUMENT

Contestant Judge Bucher argues that Thomas' bequest of his entire estate to the Lancaster County Library rather than the "natural objects of his bounty"; namely, his parents, sisters, nephews and nieces was "abnormal, unnatural and perverse." As noted at the outset, Judge Bucher believes that bequest to be the product of one or more "insane delusions" which stripped Thomas of the testamentary capacity to execute the 2003 Will.

In making his case at the trial in November 2009, counsel for Judge Bucher proceeded to chronicle a series of incidents in Thomas' life that, he argued, suggest a history of delusional behavior. Numerous objections were raised by the Library to the evidence, primarily on the basis of relevance and hearsay. To most of these objections Judge Rehkamp noted that he would "reserve" his ruling. Unfortunately, the trial ended and the present writer was substituted without any rulings having been made. As we are now proceeding on a stipulated record, it falls to me to make these rulings – at least as to those which may still have some bearing on the outcome of the case. Before proceeding with our legal discussion on the underlying issue of insane delusions, we will digress to address the evidentiary objections made at trial.

TRIAL OBJECTIONS

The first category of objections relates to the relevance of delusional behavior many years before – and after – the 2003 Will was executed. For example, testimony was proffered concerning a belief that Thomas had, while employed by the congressman in 1975, that people were talking about him. Similarly, that while in the army stationed in Germany, circa 1977-80,

Thomas believed he was followed, by the East German Police. The Library objected to the relevance of such incidents being some 25-28 years before the 2003 Will was drafted. The Library also objected to behavioral evidence post-execution of the will, such as a "voices" incident at the probation office, the act of the suicide itself, and a suicide note left by Thomas.

If the point of the evidence was to establish that Thomas was "insane" or suffered from a lifetime history of some unspecified mental illness or infirmity, it all would have been relevant – although the weight of any particular incident would certainly be lessened by the passage of time. Frankly, as we have studied the record in light of the arguments presented by contestant, it is not at all clear that Judge Bucher makes the claim that his son was "insane" per se, as opposed to being merely under control of some specific insane delusions at the time the 2003 Will was executed. If the latter is true, the early and post-2003 delusions would be irrelevant. We will address this distinction in more detail infra, but for purposes of the record we will overrule all objections made on the basis of relevancy.

A second category of objections were made on the basis of hearsay. A number of witnesses testified to incidents of delusion that were related to them by others and of which they had no first hand knowledge. For example, there was an incident in 1975 when Thomas was walking with his mother in the neighborhood. He looked into a house and told his mother that the people inside were talking about him. At the time of trial, mother was deceased and this evidence was offered through other relatives to whom she had related this story. Such testimony was clearly hearsay and should have been excluded. It was clearly offered for the truth of the matter asserted – not that mother had told the story, but that Thomas had had the delusion. Only

witnesses who had first hand knowledge, that is by witnessing it, of Thomas' delusional words or conduct, should have been permitted to testify to such.

The third category of objections related to questioning a witness whether he or she had an opinion as to whether or not Thomas "was under the influence of one or more insane delusions at the time he executed his will in 2003." (See, e.g., N.T. 172, Lis. 20-23; 210, Lis. 3-4; 254, Lis. 12-15)

The basis of the Library's objection appears to be that the question sought to elicit an expert opinion from a lay person. At least this is the way Judge Rehkamp characterized the objection: "It's just whether or not the lay person can give her opinion as to whether or not they're under an insane delusion." (N.T. 256, lis. 17-20)

The basic rule, of course, is that lay opinion is only permissibly in an area where the witness has had experience. For example, we allow licensed car drivers to give opinions as to speed. We allow lay opinion as to intoxication by those who provide a foundation through their experience and observations sufficient to allow an opinion.

In the area of delusional behavior, we believe that a lay witness could be competent to express an opinion that a particular thought was a delusion if the witness knew that the thought was in fact false or otherwise contrary to the truth. The problem with the opinion testimony at the Nov. 17, 18 trial, however, is that it went far beyond mere delusion. It extended to an "insane" delusion. It then went to whether the "insane delusion" influenced the making of the will. The term "insane delusion" – which is a legal term – was never defined for the witnesses,

either by counsel or the court. No one reading this record can be satisfied that these witnesses had the slightest idea what they were being asked when asked if Thomas was under the influence of, or operating under, an insane delusion at the time he made his 2003 will.

We will strike the opinions expressed by each of the witnesses on the ultimate issue before the court. On the other, we will admit and consider all of their non-hearsay testimony of Thomas' delusional behavior throughout his lifetime with particular emphasis on that which was contemporaneous with the 2003 Will.

LEGAL DISCUSSION

On the first day of a two-day trial (November 17-18, 2009, the will of Thomas W. Bucher executed on April 10, 2003, was admitted as evidence without objection by contestant, Judge Bucher. Once the record of probate was admitted, the will proponent Library met its burden to establish a prima facie case of the will's validity, Ash Will, 41 A.2d 620 (Pa. 1945) 1162 Burns v. Kabboul, 595 A.2d 1153 (Pa. Super. 1991). To upset the presumption of validity, a contestant is required to establish "by a clear and convincing evidence" that the testator was under undue influence, Burns, id., or suffered from a lack of testamentary capacity, Higbee Will, 75 A.2d 599 (Pa. 1950) ("clear and strong or compelling evidence").[5] The standard of clear and convincing evidence means testimony that is so clear, direct, weighty, and convincing as to enable the trier of fact to come to a clear conviction, without hesitancy, of the truth of the precise facts at issue."

[5] Our reading of the cases satisfies us that there is essentially no difference, at least in practical application, of these terms. Were one to attempt to quantify the requisite level of proof on some evidentiary scale, it would fall somewhere above the standard civil burden of proof by a preponderance and somewhat less than the criminal burden of proof beyond a reasonable doubt.

In re Larsen 616 A.2d 529, 532 (Pa. 1992). In the case before us the parties stipulated that the burden shifted to the will contestant, Judge Bucher (N.T. 14).

It next becomes necessary to define the term "insane delusion" and how, possessed by such, Thomas lacked testamentary capacity to execute his 2003 Will.

Although somewhat dated, the Pennsylvania Supreme Court provided an exhaustive review of "insane delusion" in Protyniak Will, 235 A.2d 372 (Pa. 1967):

> The question of what constitutes ... (2) an insane delusion... has been thoroughly analyzed in recent decisions of this Court...
>
> -
>
> In Summerville Will, 406 Pa. ... the Court pertinently said . . . 'What is an insane delusion as term is known to the law? All of the cases of that Court have agreed for over 100 years that an insane delusion 'is a mere figment of the imagination, a belief in the existence of something which does not exist, and which no rational person . . . [in the absence of evidence] could believe did exist.' [Citing 19 cases]
>
> -
>
> "It is difficult to formulate a definition of an insane delusion which will cover every possible case, but the general rule is clear that it must be, as its name implies, an insane delusion, and that it must have caused decedent to make his will in a manner entirely different from what he would have if the insane delusion did not exist.
>
> "In Johnson Will, 370 Pa. , , , the Court . . .said. . . 'A delusion which will render invalid a will executed as the direct result of it is an insane belief or a mere figment of the imagination—a belief in the existence of something which

> does not exist and which no rational person, in the absence of evidence, would belief to exist. (citation omitted)
>
> "The Court further pertinently said ... '... it is not enough that the testatrix should have a delusion – it must be an insane delusion. This distinction has been clearly drawn ever since 1902 when this Court in Bennett's Estate, 201 Pa., supra, said (page 490): 'But all delusions are not insane delusions. A man may, from information given him, believe that his son is dead, when, in point of fact, the son is alive. The father's belief is a delusion; and if, when his son appears to him in person and explains that the information was false, the father persists in thinking him dead, his belief becomes an insane delusion. The difference between the two species is that one is the product of the reason, and the other a figment of the imagination."

Protyniak Will, 235 A.2d at 375-37.

Returning to the case at hand and the record produced over two days of trial, it appears that contestant Judge Bucher attempted to introduce every incident of delusion that could be recalled – from Thomas' first job in the congressman's office in 1975 until his death in 2008! While we have ruled this evidence admissible as reflecting generally on Thomas' mental health, we hasten to caution that we are unable to find as fact that Thomas was mentally ill or per se insane at the time he executed his 2003 Will. Thomas was never diagnosed or treated for mental illness during his entire life.[6] No expert was retained to evaluate the record and attempt to formulate a professional opinion as to Thomas' mental health.[7] He functioned well in his position as a probation officer-supervisor for 22 years.

---

[6] There was evidence that Thomas had been briefly admitted to Lancaster Hospital for observation after the 1975 congressional office "conspiracy" delusion. However, there was no evidence of tests, diagnosis, or treatment.

[7] We recognize that case law does not require expert opinion to establish lack of capacity and that such is best determined by spoken words and conduct. In re Meyers, 189 A.2d 852, 861 (Pa. 1963)

We also find it ironic that Judge Bucher makes no claim of incapacity regarding the 1991 Will – which followed many of the incidents of delusion recalled in the tie frame of 1975-1991 but which left Thomas' estate to his parents.

Accordingly, we focus on the weeks and months immediately prior to the execution of the 2003 Will in attempting to identify the insane delusion or delusions which might have prompted Thomas to contact Atty. Brubaker.

THE 2003 DELUSIONS

As noted earlier, Thomas was one of the heirs of the late Helen Bucher, an aunt by marriage, who had died in December 2002. Over the years prior to her death, Thomas had received several sizable cash gifts from Mrs. Brubaker. Following, Helen Bucher's death, a meeting was held to determine the method of distribution for certain items of her personal property, present were Thomas, his sister Christine Blair, a cousin, and Attorney Steven R. Blair, attorney for the estate. An argument ensued between Thomas and Atty. Blair over the distribution method. (N.T. 264285).

On February 20, 2003, Atty. Blair sent Thomas a letter enclosing an interim partial distribution check from Helen Bucher's Estate in the amount of $15,000 as his share under the will. The letter also enclosed a receipt and release which Thomas was asked to sign and return (N.T. 344-345).

When Atty. Blair did not receive the signed receipt and release as requested, he called Thomas. Thomas advised that he did not intend to sign a release and added "we're investigating." Atty. Blair offered Thomas the opportunity to review the Bucher estate file at his office. (N.T. 345) It was following this telephone conversation that Atty. Blair sought the intervention of Judge Bucher with his son. (N.T. 317; 345-6)

Judge Bucher asked Thomas to come to his home to discuss the matter and Thomas complied on March 1, 2003. Thomas told his father that he did not sign the release because there was something wrong with Aunt Helen's estate and that he believed he was not getting his fair share. (N.T. 317-18) After Thomas left his father's home, his two sisters, who had been present decided to follow Thomas to his home, to further discuss the matter with him and to see what was bothering him. (N.T. 14; 188-89; 191-2; 240-248, 259-261). Upon learning that his daughters had left his residence for his son's home, Judge Bucher followed.

Once at his home, Thomas again explained his suspicions about the handling of the Helen Bucher Estate intimating that there was something wrong and that his family was engaged in a conspiracy against him. He said that he had a "database." (N.T. 145-6; 149; 242-45; 318-19; 337). Judge Bucher and his daughters testified that they were shocked by these allegations. At some point Judge Bucher told Thomas: "well, if I'm part of this conspiracy, you better stay away from me." (N.T. 319) Thomas' sister, Anne Owen, recalled in her deposition testimony that "dad lost his temper and said, well, you're not in the family any more." (N.T. 185), and a second time: "dad lost his temper and said you're out of te family or something like that." At trial she denied that her father said that. (N.T. 186).

Regardless of the exact words exchanged at Thomas' home on March 1, it was only a couple of weeks before Thomas called Atty. Brubaker and made the appointment for March 17, 2003. Moreover, after the incident on March 1, Thomas had little or no contact with his family until his brother's death on December 31.

We conclude that the nexus between the incident on March 1 and the call to Atty. Brubaker a week or so later is inescapable. While there may have been no basis in fact, for Thomas to conclude that Atty. Blair has mishandled the Helen Bucher estate or that his family was conspiring to deprive him of part of his inheritance, what was very real and not at all delusional was the fact that some unpleasant words were exchanged on March 1, which left Thomas under the opinion that he was no longer welcome in his father's household. We note that in addition to seeking a new will, one of the purposes for Thomas' appointment with Atty. Brubaker was to ___?___ himself that he had clear title to the property gifted to him by his parents. Given his father's words on March 1, this concern was by no means delusional.

In Protyniak Will, supra , quoting Johnson Will and Leedon Estate, the Court emphasized that to invalidate a will, it's execution must be the "direct result of . . . an insane belief. . . ." We find that the call to Atty. Brubaker was made only in part over concerns of Atty. Blair's handling of the Helen Bucher estate. We find that the primary Motivation for the business was Thomas' feeling of estrangement from his father and sisters, a feeling that left him thinking that, if he were no longer part of the family, the family should not be a beneficiary of his estate.

We would also point out that before Thomas signed the 2003 Will on April 10, he was advised by Atty. Brubaker that his investigation of the Helen Bucher estate revealed no irregularities. Thomas acknowledged he had no evidence to the contrary, accepted the findings, and requested no further investigation. As we read in Protyniak Will, supra, it is the persistence in a delusion that elevates it to the sphere of an "insane" delusion.

Yet another circumstance we find to be significant in distancing the Helen Bucher estate matter from the dispositive plan of the 2003 Will is the dispositive scheme of the 1998 Will. In this document, executed two years before Mrs. Bucher's death, Thomas dropped his parents and sisters as beneficiaries of his estate. Instead, he left his estate to his sisters' children – but in trust "not to be distributed until Jan. 1, 2021." While contestant's counsel challenges the wisdom of the trust, the point of this pro se, will is clear. Thomas intended that neither his parents nor sisters be beneficiaries, or even executors, of his estate. The 2003 Will was but an additional step – spurred by the events on March 1 of that year – in the direction begun some five years earlier.[8]

In sum, even were we to conclude that Thomas harbored certain delusions concerning Atty. Blair's handling of Helen Bucher's estate or delusions considering the gambling habits of Atty. Blair or his other brother-in-law, Michael Owen, the evidence is by no means clear and convincing that such delusions "controlled the making of the will." Sommerville's Estate, 177 A.2d 496, 506 (Pa. 1962). "The moment it is discovered . . . that what at first sight was

[8] We note in passing that Judge Bucher's brief makes the claim that the 1998 Will was also the product of insane delusions.

apparently a delusion is in fact based upon some substantial ground . . . the theory of insane delusion necessarily disappears," Id. at 502.

CONCLUSION

Pennsylvania courts have consistently held that a person is free to dispose of his property as he see fit. Contestant

> . . . approaches this case under the mistaken belief, which is shared by many laymen and by some members of the medical profession, that disinheriting a child or relatives invalidates a will and discloses a lack of testamentary capacity, or undue influence of insanity, or an insane delusion. Of course, that is not the law.
>
> -
>
> . . . While it may be difficult for many people to understand how or why a man is permitted to make a strange or an eccentric bequest, especially if he has children or closer relatives living, we must remember that under the law of Pennsylvania "a man's prejudices are part of his liberty." He has a right to the control of his property while living and may bestow it as he sees fit at his death.
>
> -
>
> A testator with children can disinherit some or all of his children for any reason whatsoever; he can give in his lifetime and also by will all his property to the poor or to any charity he may desire, or he can give it to a friend, or can prefer one child over all the others, or he can give all his property to an agnostic society, or to an atheistic society, or to a hospital or a charity or to a religious organization, or to a Foundation, or to the Commonwealth, or to a home for homeless cats, or to a group organization living or working in other continents; [citations omitted]. In other words, a testator does not have to give his property to those

> he loves or to the relative society believes he should love, and he can give it in such a way that 99 percent of his fellow citizens believe is foolish or unjust or outrageous. That is one of the fundamental basis, inherent rights of every citizen of the Commonwealth of Pennsylvania and these inherent basic rights reiterated and affirmed, and reaffirmed by this Court times without number.

In re Sommersville's Estate, 177 A.2d 496, 500-01, 505 (Pa. 1962).

Despite Contestant's insistence to the contrary, Thomas' desire to leave his entire estate to the Library rather than his parents, sisters, nephews, or niece, is of no probative value on the issue of his testamentary capacity. The Library carries no burden in providing a reason or, explanation for Thomas' act in naming it his sole beneficiary. Nevertheless, were some explanation required, the record provides an abundant source for such an explanation. Thomas was not married and had no children of his own. His parents, sisters and their families were quite comfortable financially. Finally, as we detailed at some length, as a result of the confrontation with his father and sisters on March 1, 2003, Thomas had reason to believe he was not a part of the family anymore. The latter set of facts are not delusional even though some parts of the disagreement may have had their underpinning on certain misperceptions.

In Sommerville, supra, our Supreme Court cautioned:

> The doctrine of insane delusion is at best a dangerous one and should not be extended beyond its present limitations and clearly defined boundaries. The Courts, recognizing this danger, have strictly limited, circumscribed and restricted the doctrine and in over 100 years have applied it less than six times.

In Sommerville, supra, 177 A.2d at 505.

We conclude that Contestant Judge Bucher has failed to prove by clear and convincing evidence that the execution by Thomas W. Bucher of his will on April 10, 2003, was controlled or the product of an "insane delusion." Accordingly, we enter the following

ORDER and DECREE

AND NOW, this 17th day of June, 2010,

IT IS HEREBY ORDERED AND DECREED that the "Petition for Citation for Appeal to Show Cause as to Why Letters of Administration C.T.A. Should Not Be Revoked and the Will of the Decedent Should Not Be Ruled Invalid, as to Why Petitioner, Wilson Bucher Should Not Be Issued Letters of Administration" is **dismissed and denied.**

BY THE COURT:

Joseph H. Kleinfelter, Senior Judge
Specially Presiding

DISTRIBUTION:

Steven R. Blair, Esquire,- 650 Delp Road, Lancaster, Pa. 17601

Robert Hallinger, Esquire, APPEL & YOST- 33 North Duke Street, Lancaster , Pa. 17602

Heather Vance-Rittman, Deputy Attorney General, 14 floor, Strawberry Square, Harrisburg, Pa. 17120

Mark Dalton, District Court Administrator – Lancaster County Court House, 50 N. Duke St, Lancaster, Pa. 17602