



2000

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### Recommended Citation

Mahaffey, George Jr. (2000) "Recent Developments: *Diep v. Rivas*: Maryland's Slayer's Rule Does Not Prevent the Relatives of a Murderer from Taking as Contingent Beneficiaries under a Life Insurance Policy," *University of Baltimore Law Forum*: Vol. 30 : No. 2 , Article 5.

Available at: <http://scholarworks.law.ubalt.edu/lf/vol30/iss2/5>

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## *Diep v. Rivas*

### Maryland's Slayer's Rule Does Not Prevent the Relatives of a Murderer from Taking as Contingent Beneficiaries Under a Life Insurance Policy

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By George Mahaffey, Jr.

The Court of Appeals of Maryland held that under Maryland's slayer's rule, the relatives of a murderer could take in the proceeds of the murderer's insurance policy as contingent beneficiaries. *Diep v. Rivas*, 357 Md. 668, 745 A.2d 1098 (2000). The court supported its conclusion by pointing out that the relatives were blameless in the crime committed by the murderer and were not attempting to obtain the insurance proceeds by claiming "through and under" the murderer. As such, Maryland's slayer's rule could not prevent them from receiving the insurance proceeds under the policy.

On April 2, 1996, Xuang Ky Tran ("Tran") murdered his wife, Maria Rivas ("Maria"), then committed suicide. Tran held an accidental death and dismemberment insurance policy, issued by Continental Casualty Company ("CNA") through his employer, ITT Research Institute. Shortly after the murder/suicide, the relatives of Maria ("Rivas") and Tran ("Dieps") both filed claims with CNA as the beneficiaries of the life insurance policy.

Faced with the prospect of conflicting claims, CNA interpleaded both parties in the Circuit Court for Montgomery County. The circuit court held for the Rivas family and noted that Maryland's slayer's rule

was inapplicable. A timely appeal was filed, and the court of special appeals, while noting the insurance policy provided benefits to the Dieps, held that Maryland's slayer's rule precluded the Dieps from taking under Tran's policy. The Court of Appeals of Maryland granted certiorari.

The court of appeals began its analysis by reviewing the language of Tran's insurance policy. *Id.* at 671-72, 745 A.2d at 1100. Under the policy, Tran was an "insured" and Maria an "insured family member." *Id.* Under the "Payment of Claims Clause" of the policy, benefits "for loss of life of any insured family member will [be] payable to the Insured, if living, otherwise in the same manner as above." *Id.* at 673, 745 A.2d at 1100. Following the policy language analysis, the court surmised that if both Tran and Maria were dead, the benefits would be payable to certain other surviving beneficiaries. *Id.* As Maria did not survive Tran, and Tran had no surviving parents or children, the court of appeals arrived at the same conclusion as had the court of special appeals, namely that if the terms of the policy were in effect, and the slayer's rule was inapplicable, the Dieps comprised the first class of eligible beneficiaries and should be allowed to take under the policy. *Id.* at 673, 745 A.2d at 1101.

The court then examined the

second issue, whether Maryland's slayer's rule prevented the Dieps from taking under the policy. *Id.* The court noted that Maryland's slayer's rule "exists as a matter of public policy embodied in the common law." *Id.* at 675, 745 A.2d at 1101 (noting that the rule was first applied in *Price v. Hitaffer*, 164 Md. 505, 165 A. 470 (1933)). Essentially, the rule stands for the proposition that no one should be allowed to benefit either through inheritance or insurance proceeds from a wrong that they have committed. *Id.* at 675, 745 A.2d at 1102 (citing *Estate of Jeffers*, 134 Cal.App.3d 729, 182 Cal. Rptr. 300 (Cal. Ct. App. 1982)). There are exceptions to this rule, however. Generally, the rule only applies to willful and felonious killings, and "it [the rule] has no application where even though the acts of a beneficiary cause death, they are without the intent to do so . . ." *Id.* at 676, 745 A.2d at 1102 (quoting *Schifanelli v. Wallace*, 271 Md. 177, 188, 315 A.2d 513, 519 (1974)). See *Ford v. Ford*, 307 Md. 105, 512 A.2d 389 (1986). *Id.*

The court next applied these exceptions to the court of special appeals' decision, and rejected that court's holding on two grounds. *Id.* at 677, 745 A.2d at 1102. First, the court of appeals noted that the Dieps were completely blameless in Maria's

murder. Moreover, as the slayer's rule is inapplicable to those who cause death without intent or are found not criminally responsible, so too is the rule inapplicable to the blameless Dieps who committed no crime in the instant matter. *Id.* at 677, 745 A.2d at 1103.

Second, the slayer's rule is inapplicable to the Dieps because they are not claiming "through or under" Tran. *Id.* at 678, 745 A.2d at 1103. Regarding the position of the Dieps' claim under the policy, the court noted that under Maryland law, the slayer's rule "appl[ies] not only to the killer but to those claiming through or under him." *Id.* (quoting *Ford v. Ford*, 307 Md. 105, 112, 512 A.2d 389, 392 (1986)). The court pointed out, however, that in the instant matter this principle was inapplicable because the Dieps were claiming in their own right as contingent beneficiaries. *Id.* at 679, 745 A.2d at 1104. As such, the Dieps were favored by the general rule in Maryland case law that even if beneficiaries are disqualified under the slayer's rule, the benefits can still be awarded to innocent contingent beneficiaries. *Id.* at 680, 745 A.2d at 1104. As Tran failed to specify designated beneficiaries, the benefits were to be paid according to the insurance policy. *Id.* at 682, 745 A.2d at 1105. This meant that under the terms of the policy, the benefits were to be paid to the first class of eligible beneficiaries that survived Tran. *Id.* As Maria did not survive Tran, and the blameless Dieps were the next to take under the policy, the slayer's rule could not prevent them from taking thereunder. *Id.* at 683, 745 A.2d at

1106.

In *Diep*, the Court of Appeals of Maryland rendered a decision that clearly delineates who is precluded by Maryland's slayer's rule from taking under an insurance policy. In highlighting the public policy underpinnings of the rule, the court chose to follow the majority rule that innocent third parties should not be prevented from taking under an insurance policy by Maryland's slayer's rule. Rather, as long as the beneficiaries are asserting their own rights as contingent beneficiaries they should not be prevented from receiving insurance proceeds. In so holding, the court partially repudiated the rule set forth in *Estate of Jeffers*, that an insured who kills should not have the right in any form to specify the recipient of insurance proceeds. Thus, the court's decision must surely be regarded as beneficial to family members trying to take under the estate of one who has committed an act of violence, but troubling for victim's rights groups seeking to prevent any semblance of profiting by the relatives of a murderer.