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# Recent Developments: MAMSI Life & Health Ins. Co. v. Callaway: Autoerotic Asphyxiation Constitutes Intentional Self-Injury in a Life Insurance Contract Exclusion Clause

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***MAMSI Life & Health Ins. Co. v. Callaway:***  
**Autoerotic Asphyxiation Constitutes Intentional Self-Injury in a Life Insurance Contract Exclusion Clause**

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By: Matthew F. Penater

The Court of Appeals of Maryland held autoerotic asphyxiation constitutes intentional self-injury in a life insurance contract exclusion clause. *MAMSI Life & Health Ins. Co. v. Callaway*, 375 Md. 261, 825 A.2d 995 (2003). The court held in a case of death resulting from autoerotic asphyxiation, although death may not have been the intended outcome, the self-inflicted strangulation was intended and voids coverage under an exclusion clause for self-inflicted injury. *Id.* at 282, 825 A.2d at 1007.

David Callaway ("Callaway") was found dead in his home on July 5, 2000. It was undisputed that his death resulted from autoerotic asphyxiation. Autoerotic asphyxiation involves applying suffocation devices during masturbation to cut off oxygen flow to the brain, thereby increasing sexual pleasure. Callaway was found lying on his back with a plastic bag around his head, a belt tightened around his throat, and next to a wall covered with pictures of naked females. The medical examiner determined the cause of death was asphyxiation and classified the incident as accidental. Callaway's life insurance policy was with MAMSI Life & Health Ins. Co. ("MAMSI") and contained a clause excluding payment of benefits when

death resulted from intentional self-injury. When Callaway's beneficiaries attempted to collect benefits, MAMSI denied payment claiming Callaway's death resulted from intentional self-injury.

The beneficiaries of Callaway's life insurance policy filed suit against MAMSI in the Circuit Court for Wicomico County claiming breach of the life insurance contract. Both parties filed cross-motions for summary judgment. The circuit court granted MAMSI's motion, holding Callaway's death resulted from intentional self-injury. The beneficiaries appealed to the Court of Special Appeals of Maryland, which reversed. The Court of Appeals of Maryland granted certiorari to determine whether death resulting from autoerotic asphyxiation was death from intentional self-injury as excluded in the insurance policy.

The court of appeals began its analysis by identifying rules of contract interpretation and focusing on "language employed by the parties." *Id.* at 279, 825 A.2d at 1005. "The determination of whether language is susceptible to more than one meaning includes consideration of the character of the contract, its purpose, and the facts and circumstances of the parties at the time of execution." *Id.* The court

continued by stating the structure and language of the contract established two separate issues.

The first issue was whether the insured's death was an accident. The court briefly noted this issue was tied to the overall nature of the event. The court did not discuss the first issue in depth, but merely stated, "[i]t is possible therefore to find the death itself to have been accidental although the insured may have intended the events that eventually led to his death." *Id.* at 280, 825 A.2d at 1006.

The court then focused on the second issue, whether Callaway intended to cause the injury that led to his death. The court looked to other jurisdictions to define injury. The court of appeals cited *Sims v. Monumental Gen. Ins. Co.*, which held partial strangulation occurring during autoerotic asphyxiation constitutes an injury as defined in an accidental death insurance policy. *Id.* at 280, 825 A.2d at 1006 (citing *Sims*, 960 F.2d 478 (5th Cir. 1992)). That court noted evidence showing partial strangulation involved damage to neck tissue and stated "partial strangulation is an injury in and of itself." *Id.* at 281, 825 A.2d at 1006.

The Court of Appeals of Maryland also cited *Cronin v. Zurich Am. Ins.*, which held partial

strangulation during autoerotic asphyxiation was an "injury" excluded under a life insurance contract exclusion clause. *Id.* (citing *Cronin*, 189 F.Supp.2d 29 (S.D.N.Y. 2002)). The *Cronin* court also noted partial strangulation caused temporary cell damage and reduced brain activity. *Id.*

The court of appeals next turned to the court of special appeals' findings, which held partial strangulation accompanied with a successful autoerotic experience did not constitute an injury. *Id.* at 282, 825 A.2d at 1007. The lower court claimed this type of partial strangulation did not meet the general understanding of the term injury. *Id.*

Relying on *Sims* and *Croner*, the court of appeals reversed and held a layperson would recognize this type of partial strangulation as an injury. *Id.* at 283, 825 A.2d at 1007. The court further held "by depriving his brain of oxygen, the insured injured his brain and rendered it incapable of functioning, which eventually led to his death." *Id.* at 283, 825 A.2d at 1008.

The Court of Appeals of Maryland held autoerotic asphyxiation constitutes intentional self-injury in a life insurance contract exclusion clause and determined Callaway took actions that harmed his body. The harm constituted injury and the injury caused Callaway's death. This reasoning is simple in theory and clear in application. In so holding, the court is shifting more responsibility onto insureds for their own actions. On the other hand, the court of appeals

has given insurance companies a possible escape hatch from paying benefits. Future decisions will be needed to qualify just how far this holding may be pushed.

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