

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION**

AID ASSOCIATION FOR  
LUTHERANS, a Fraternal Benefit  
Society,

Plaintiff,

vs.

MARTIN C. SPROCK, the Executor of  
the Estate of Michelle Ann Gibson,  
Deceased, NED GIBSON, LINDA  
GIBSON, and RANDY A. ZAABEL,

Defendants.

No. C99-3037-MWB

**MEMORANDUM OPINION AND  
ORDER REGARDING DEFENDANTS  
NED GIBSON AND LINDA GIBSON'S  
MOTION FOR SUMMARY  
JUDGMENT**

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**I**n this dispute over the entitlement to life insurance benefits, the life insurance policy's primary beneficiary seeks to disprove the observation of noted Irish comic dramatist George Farquhar that "[c]rimes, like virtues, are their own rewards." GEORGE FARQUHAR, *THE INCONSTANT*, act 4, sc. 2 (1702). Here, the life insurance policy's primary beneficiary, who stands convicted of murdering the insured, claims that he is entitled to the proceeds of the policy.

***I. INTRODUCTION AND BACKGROUND***

***A. Procedural Background***

On May 7, 1999, plaintiff Aid Association For Lutherans brought this interpleader action to determine entitlement to the proceeds of an insurance policy on the life of Michelle Anne Gibson claimed by Randy A. Zaabel, her former fiancée and primary

beneficiary of the policy, and Michelle's estate, the successor beneficiary of the policy. On May 12, 1999, plaintiff Aid Association For Lutherans filed its Application For Placement Of Funds Deposited With The Court. In conjunction with its motion and pursuant to Federal Rule of Civil Procedure 67, plaintiff Aid Association For Lutherans tendered a check to the Clerk of Court in the amount of \$106,718.69 and sought to have the funds deposited in an interest-bearing money market account. On July 14, 1999, the court granted plaintiff Aid Association For Lutherans's Application For Placement Of Funds Deposited With The Court. On August 12, 1999, the court granted the parties' Stipulation For Order Of Discharge Of Aid Association For Lutherans, and dismissed plaintiff Aid Association For Lutherans.

On May 26, 2000, defendants Ned Gibson and Linda Gibson ("the Gibsons") filed their Motion For Summary Judgment (#26). In their motion, the Gibsons assert that as co-administrators of the estate of the insured, their daughter Michelle Anne Gibson, they are entitled to judgment as a matter of law with respect to the proceeds from a life insurance policy insuring the life of Michelle Anne Gibson. The Gibsons assert that the named beneficiary of the subject life insurance policy, Randy A. Zaabel, intentionally caused the death of Michelle and therefore is precluded under Iowa law from receiving the proceeds. Defendant Zaabel filed a timely resistance to the Gibsons's motion for summary judgment. Defendant Zaabel asserts that he is currently appealing his murder conviction and that the court should delay judgement in this case until his appeal is exhausted. The court turns first to a discussion of the undisputed facts as shown by the record and the parties' submissions, then to consideration of the standards applicable to motions for summary judgment, and, finally, to the legal analysis of whether the Gibsons are entitled to summary judgment.

### ***B. Factual Background***

The record reveals that the following facts are undisputed. On February 4, 1998, Aid

Association For Lutherans issued a flexible Premium Adjustable Life Insurance Certificate, number 07541772 (“the Policy”), insuring the life of Michelle Anne Gibson in the amount of \$100,000.00. In the Policy, Randy A. Zaabel was designated as the first beneficiary, with the second beneficiary being the “Trustee under the Last Will and Testament of the Insured.”

At the time the Policy was issued, Zaabel and Michelle Anne Gibson were living together in Gowrie, Iowa. Although they were not married, Michelle was pregnant with Zaabel’s child and due to give birth in June of 1998. On March 29, 1998, Michelle was killed. Zaabel was subsequently charged in Iowa state court with her death and with the death of their unborn child and later convicted of Murder in the Second Degree. Zaabel is presently incarcerated. He has filed an appeal of his state court conviction with the Iowa Supreme Court. As a result of Michelle’s death, there is now payable, under the Policy, a total of \$100,000.00, plus interest. At the time of her death, Michelle was single, did not have any living children, and died intestate.

## **II. LEGAL ANALYSIS**

### **A. Standards For Summary Judgment**

This court has considered in some detail the standards applicable to motions for summary judgment pursuant to FED. R. CIV. P. 56 in a number of prior decisions. See, e.g., *Swanson v. Van Otterloo*, 993 F. Supp. 1224, 1230-31 (N.D. Iowa 1998); *Dirks v. J.C. Robinson Seed Co.*, 980 F. Supp. 1303, 1305-07 (N.D. Iowa 1997); *Laird v. Stilwill*, 969 F. Supp. 1167, 1172-74 (N.D. Iowa 1997); *Rural Water Sys. #1 v. City of Sioux Ctr.*, 967 F. Supp. 1483, 1499-1501 (N.D. Iowa 1997) *aff’d in pertinent part*, 202 F.3d 1035 (8th Cir. 2000); *Tralon Corp. v. Cedarapids, Inc.*, 966 F. Supp. 812, 817-18 (N.D. Iowa 1997), *aff’d*, 205 F.3d 1347 (8th Cir. 2000) (Table op.); *Security State Bank v. Firststar Bank Milwaukee, N.A.*, 965 F. Supp. 1237, 1239-40 (N.D. Iowa 1997); *Lockhart v. Cedar Rapids*

*Community Sch. Dist.*, 963 F. Supp. 805 (N.D. Iowa 1997). Thus, the court will not consider those standards in detail here. Suffice it to say that Rule 56 itself provides, in pertinent part, as follows:

Rule 56. Summary Judgment

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the party's favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim . . . is asserted . . . may, at any time, move for summary judgment in the party's favor as to all or any part thereof.

(c) Motions and Proceedings Thereon. . . . *The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.*

FED. R. CIV. P. 56(a)-(c) (emphasis added).

Applying these standards, the trial judge's function at the summary judgment stage of the proceedings is not to weigh the evidence and determine the truth of the matter, but to determine whether there are genuine issues for trial. *Quick v. Donaldson Co.*, 90 F.3d 1372, 1376-77 (8th Cir. 1996); *Johnson v. Enron Corp.*, 906 F.2d 1234, 1237 (8th Cir. 1990). An issue of material fact is genuine if it has a real basis in the record. *Hartnagel*, 953 F.2d at 394 (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986)). As to whether a factual dispute is "material," the Supreme Court has explained, "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *Beyerbach*, 49 F.3d at 1326; *Hartnagel*, 953 F.2d

at 394. Furthermore, “[w]here the unresolved issues are primarily legal rather than factual”—as the parties assert is the case here—“summary judgment is particularly appropriate.” *Arnold v. City of Columbia, Mo.*, 197 F.3d 1217, 1220 (8th Cir. 1999) (citing *Crain v. Board of Police Commissioners*, 920 F.2d 1402, 1405-06 (8th Cir. 1990)); *Haberer v. Woodbury County, Ia.*, 188 F.3d 957, 961 (8th Cir. 1999) (also citing *Crain*); *Cearley v. General Am. Transp. Corp.*, 186 F.3d 887, 889 (8th Cir. 1999) (same).

With these standards in mind, the court turns to consideration of the Gibsons’s motion for summary judgment.

### ***B. Application Of Iowa’s Felonious Death Statute***

The Iowa Felonious Death statute, IOWA CODE §§ 633.535-537, codifies the well established common law rule that a murderer may not benefit from his crime. *Schmidt v. Northern Life Ass’n*, 112 Iowa 41, 44-45, 83 N.W. 800, 801 (1900) (“we know of no reason why the maxim ‘*Nullus commodum capere potest de injuria sua propria*’ should not apply”). The Iowa Felonious Death statute provides that the disqualified benefits are to be distributed “as though the person causing death had predeceased the decedent.” IOWA CODE § 633.535(3); *see also* IOWA CODE § 633.535(1) (similarly providing in the case of estate property that such property “shall pass as if the person causing death died before the decedent”).<sup>1</sup>

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<sup>1</sup>Section 633.535(3) provides:

3. A named beneficiary of a bond, life insurance policy, or any other contractual arrangement who intentionally and unjustifiably causes or procures the death of the principal obligee or person upon whose life the policy is issued or whose death generates the benefits under any other contractual arrangement is not entitled to any benefit under the bond,

(continued...)

Application of the Iowa Felonious Death statute here is clear. Under Iowa's Felonious Death statute, "[a] person convicted of murder or voluntary manslaughter of the decedent is conclusively presumed to have intentionally and unjustifiably caused the death for purposes of this section and section 633.535." IOWA CODE § 633.536.<sup>2</sup> Thus, Zaabel has been disqualified as the primary beneficiary of the Policy by virtue of his murder conviction because under that conviction he is "conclusively presumed" to have "intentionally and unjustifiably" caused the death of Michelle, the "person upon whose life the policy is issued." The proceeds of the Policy are therefore payable as if Zaabel had

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<sup>1</sup>(...continued)

policy, or other contractual arrangement, and the benefits become payable as though the person causing death had predeceased the decedent.

IOWA CODE § 633.535(3).

<sup>2</sup>Section 633.536 provides in full that:

A determination under section 633.535 may be made by any court of competent jurisdiction by a preponderance of the evidence separate and apart from any criminal proceeding arising from the death. However, such a civil proceeding shall not proceed to trial, and the person causing death is not required to submit to discovery in such a civil proceeding until the criminal proceeding has been finally determined by the trial court, or in the event no criminal charge has been brought, until six months after the date of death. A person convicted of murder or voluntary manslaughter of the decedent is conclusively presumed to have intentionally and unjustifiably caused the death for purposes of this section and section 633.535.

IOWA CODE § 633.536.

predeceased Michelle. Under the terms of the Policy, the second beneficiary is designated as being the “Trustee under the Last Will and Testament of the Insured.” Here, however, Michelle died intestate. As a result, under the terms of the Policy, the remaining beneficiary is the Estate of Michelle Ann Gibson.

Defendant Zaabel does not dispute the application of Iowa’s Felonious Death statute on the facts that are currently before this court. Rather, he asserts that the court should delay ruling on the Gibsons’s motion for summary judgment until the appeal of his murder conviction is determined by the Iowa Supreme Court. He asserts that the proceeds of the Policy may be dissipated by the successor beneficiary before his appeal has been concluded. The court rejects Zaabel’s argument. Zaabel’s criminal conviction remains a judgment of the Iowa district court until it is reversed. Under Iowa law, a criminal conviction is a finalized judgment of the trial court, and notice of appeal denotes this fact. *See* IOWA R. APP. P. 101 (“An appeal in a criminal action shall be taken and perfected within thirty days of *final judgment* in the manner prescribed. . .”) (emphasis added). The pendency of an appeal does not stay the finality of the conviction. *See State v. Olson*, 204 N.W.2d 278, 280 (Iowa 1925) (holding that “[t]he failure of the court to fix the amount of the bond upon appeal affected neither the validity nor the finality of the judgment entered.”). Moreover, even if Zaabel’s conviction were to be reversed on appeal and he was to be acquitted upon retrial, such actions would not preclude him from being found to have “intentionally and unjustifiably” caused the death of Michelle. *See* IOWA CODE § 633.536 (“A determination under section 633.535 may be made by any court of competent jurisdiction by a preponderance of the evidence separate and apart from any criminal proceeding arising from the death.”). Therefore, the court concludes that summary judgment is appropriate in this case and the court grants the Gibsons’s motion for summary judgment.

The court notes that the Gibsons’s request that judgment be entered in favor of them individually and in their capacity as co-administrators of the estate of Michelle Ann Gibson.

However, because under the terms of the Policy, the remaining beneficiary is the Estate of Michelle Ann Gibson, the court will order that judgment be entered in favor of Ned Gibson and Linda Gibson only in their capacity as co-administrators of the Estate of Michelle Ann Gibson. Although it appears that the Gibsons are the only beneficiaries of the Estate of Ann Gibson, the disbursement of the assets of that estate is not within this court's jurisdiction but lies with the state probate court.

### ***III. CONCLUSION***

The court finds that by operation of Iowa's Felonious Death statute, defendant Zaabel has been disqualified as the primary beneficiary of the Policy by virtue of his murder conviction. Because Michelle Ann Gibson died intestate, under the terms of the Policy, the remaining beneficiary is the Estate of Michelle Ann Gibson. Thus, the Estate of Michelle Ann Gibson is entitled to receive the proceeds of the Policy issued on Michelle's life. Therefore, the court **grants** the Gibsons's motion for summary judgment and orders that judgment be entered in favor of Ned Gibson and Linda Gibson in their capacity as co-administrators of the Estate of Michelle Ann Gibson. The court further orders that the funds deposited in the registry of the court shall be paid out by the clerk of court to Ned Gibson and Linda Gibson in their capacity as co-administrators of the Estate of Michelle Ann Gibson.

**IT IS SO ORDERED.**

**DATED** this 9th day of October, 2000.

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MARK W. BENNETT  
CHIEF JUDGE, U. S. DISTRICT COURT  
NORTHERN DISTRICT OF IOWA

