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STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

In Re: Estate of
JANE D. DUCHENE,
Deceased.

File No. P8-87-23090
HEARING

The above-entitled matter came on before
Martin J. Mansur, Judge of District Court, at the Dakota
County Judicial Center, Hastings, Minnesota, on Monday,
April 26, 1993.

A P P E A R A N C E S

Edmund C. Meisinger, appeared pro se as the Personal
Representative.

Mary Jane Duchene appeared in person and pro se.

Jack D. Elmquist, Attorney at Law, appeared on
behalf of the Intervener, St. Paul Fire and Marine Insurance
Company.

Richard D. Hendrickson, Attorney at Law, appeared on
behalf of Bessie Krause, Personal Representative in the
Estate of Roger Krause.

1 determined to be relevant to the issue here, and he
2 answered all of those questions in a manner that would
3 be contrary to your position and would not get for
4 you --

5 MS. DUCHENE: If he does that, well, that's
6 fine if he does.

7 THE COURT: Does that end this case?

8 MS. DUCHENE: If Dr. Plunkett is prepared to
9 stand up and say that taking away insulin from someone
10 that is insulin dependent and has been insulin dependent
11 for ten years doesn't kill them, if he's prepared to
12 publicly state that, as someone who's been through
13 extensive medical training, for all the world to hear,
14 that's just fine.

15 THE COURT: I'm not a medical man,
16 Ms. Duchene, but I think even a layman would know that
17 you can't deprive anyone from insulin, you know, from --
18 and who has been previously determined to be dependent
19 on that.

20 MS. DUCHENE: Yes.

21 THE COURT: So I don't think he's prepared --
22 I don't think he would be prepared to make that kind of
23 statement. And we -- And assuming if in his testimony
24 he were to say that, in his opinion, her death was
25 caused by deprivation of insulin at regular intervals,

1 wanted him here, we can call him and he can come right
2 out.

3 THE COURT: We get involved in these in
4 criminal matters when the two lawyers continue to --
5 agree to continue the matter. And the only person tha
6 can continue the matter is the judge. And maybe if we
7 would have told Dr. Plunkett that he has to appear
8 before the Court and get the subpoena quashed, he woul
9 be here right now and my time would be better spent.

10 I have said in my decisions, and I believe one of
11 things you stated, Ms. Duchene: Number one, I don't
12 think I've ever stated, at least to my recollection,
13 anything about the cause of death of your mother. What
14 I indicated previously, and it continues to be my
15 position today, and that is, your mother's death from
16 whatever cause is not a proper subject matter in this
17 proceeding. This proceeding deals with your mother's
18 Estate at the time that she died.

19 MS. DUCHENE: May I explain why I --

20 THE COURT: Hold one minute.

21 All right. Now, if I thought for one minute that
22 we could put this matter to rest, what you're looking
23 for, as I understand this, is a forum, somehow, where
24 you could ask Dr. Plunkett under oath for his opinions
25 as to what he previously stated or what he will state

1 now and get that out from him?

2 MS. DUCHENE: Can I -- can I answer that? I
3 can't answer all those questions because I can't
4 remember them all. Where I'm at, Dr. Plunkett -- I pa
5 Dr. Plunkett \$500 to do a private autopsy. This autop
6 ended up being done on an embalmed body. The body was
7 embalmed one day after death. Not 72 hours later. On
8 day after death. Through medical records, I
9 incontrovertibly know that my mother developed a case
10 insulin deficiency. What I am -- I believe the cause
11 death is very pertinent to this, because I believe my
12 mother was deliberately murdered so that the parties i
13 this, including Bessie Krause who was actually at the
14 nursing home two days before my mother's dying,
15 allegedly to talk to a woman who was comatose, stating
16 that she -- my mother was allegedly saying that she
17 hoped Bessie -- Roger had written a Will so that Bessi
18 would be okay.

19 I -- I consider this to be -- Mrs. Krause, and th
20 is her deposition, those are her words. Basically. I
21 consider this to be a horrendous crime, and I think it
22 very intentional. I think it's done in collusion, and
23 have massive records that show this. It is not a simp
24 matter. It's a very complicated matter. But I
25 certainly believe that Dr. Plunkett believes my mother

1 was murdered. The legal principle I'm stating or
2 relying on is a very simple one: One cannot profit from
3 a crime. I've said this in motion -- several motions.
4 I'm sorry if I have -- I have upset you by not coming

5 THE COURT: You haven't upset me. I'm here
6 every day. Okay.

7 MS. DUCHENE: Or that you feel I should have
8 appeared. I've been at a disadvantage. And I realize
9 that all the legal things that are continuing in this
10 court is costing the Estate money, and I have tried to
11 minimize this.

12 Senator Wellstone is at this time writing to Jane
13 Reno to have this case reopened federally. Because
14 there's also the issue that there is the person who my
15 mother's death needed to be reported to, was a Dakota
16 County vulnerable adult worker who was writing peculiar
17 memorandum one week after her insulin was taken away,
18 who was in constant contact with the nurses, who was in
19 constant contact with Dr. Corbett.

20 So these are very odd circumstances. And I need
21 know -- I mean, morally, I just cannot -- I -- I need
22 know certainly what Dr. Plunkett's position is. He is
23 medical examiner. I believe he knows logically. I
24 think he has a logical mind. He knows, as well as I do
25 that any insulin dependent diabetic who has their

1 insulin taken away or is sufficiently undiagnosed would
2 die without help, which could have been prevented at an
3 point. That's very easy to rectify. You just go to the
4 hospital, have sufficient insulin restored, you have
5 fluids restored, and you're back to square one.

6 And I believe I need a definite statement from him
7 one way or the other that -- This death certificate
8 hasn't been signed. He makes no statement what this is
9 The only person who signed it is the doctor who took the
10 insulin away, so I think it's very pertinent. I believe
11 the law is on my side in that this is very pertinent to
12 this probate -- This whole probate proceeding has been
13 an attempt to profit from crime.

14 THE COURT: Well, let's assume that -- if I'm
15 tracking you correctly, you believe that through
16 Dr. Plunkett you would hope to establish that your
17 mother's death was caused by external means, either
18 person or persons?

19 MS. DUCHENE: Mm-hmm (Yes).

20 THE COURT: Through either the failure to
21 administer or through the administration of certain
22 drugs?

23 MS. DUCHENE: Yes.

24 THE COURT: And that if you got -- you know,
25 if you got to that stage of these proceedings and got t.

1 the theory of probability that this would have occurred
2 if I understand your -- your representation to me, then
3 you would then want to be able to go one step further,
4 and that is, to establish that your uncle's Estate, that
5 would be your -- that would be --

6 MR. HENDRICKSON: Roger Krause.

7 MR. MEISINGER: Roger Krause.

8 MS. DUCHENE: I don't think this has much to
9 do with that Estate. I'm not after that Estate.

10 THE COURT: Okay. Well, if we're not going to
11 be able to tie in any conduct on the part of either
12 Bessie Krause or her husband that would have hastened
13 your mother's death, then --

14 MS. DUCHENE: But there is conduct. There is
15 evidence of conduct connected to -- Bessie Krause was
16 mother's medical guardian at the time this occurred.

17 THE COURT: All right. And so you see the --
18 you have to put the pieces together.

19 MS. DUCHENE: Mm-hmm (Yes).

20 THE COURT: Assuming Dr. Plunkett gets you to
21 first base, you then have to have some probative
22 evidence that allows for the State to charge somebody
23 with the commission of a crime because, obviously, no
24 one can profit from their misdeeds. And then if there
25 is a successful prosecution, then those persons who

1 would ordinarily receive from your mother's Estate would
2 be precluded from receiving by reason of their wrongful
3 conduct.

4 MS. DUCHENE: Yes, there is, and --

5 THE COURT: Now, Bessie Krause is not a direct
6 -- does not directly inherit from your mother. She
7 inherits because she survived her husband.

8 MS. DUCHENE: And the Will was written only
9 one week after my mother's death. We -- I believe that
10 the only assets in this -- There has never been an
11 accounting of what is in the Krause Estate. I believe
12 -- And I think that it's very pertinent Bessie Krause
13 refused to provide any financial records in her
14 deposition. I believe there's nothing in that Estate
15 except this Estate -- what's coming from this Estate,
16 which, of course, now is becoming a redundancy.

17 THE COURT: Well, that matter's a public
18 record in Hennepin County. I mean, the inventory in the
19 late Mr. Krause's Estate, that's a matter of public
20 record.

21 MS. DUCHENE: Yes. And that's what's in this
22 Estate. The assets from this Estate are the only things
23 in that -- in this Estate.

24 THE COURT: Well, the only thing that would
25 subject to probate would be whatever he -- whatever he

1 owned at the time of his death in his name only. So,
2 obviously, since the Will provided a bequest to him and
3 not to him and Bessie Krause, that would be a probate
4 asset in his Estate. Now, all the other property that
5 they owned or acquired was held in joint tenancy. That
6 would not be part of that probate.

7 MS. DUCHENE: Yes, the Will was created
8 specifically to profit from this Estate. Because Roger
9 Krause died and was predictably going to die and did,
10 fact, die on February 1st, 1987.

11 THE COURT: Which Will was prepared to profit
12 from this Estate?

13 MS. DUCHENE: Roger Krause's Will.

14 THE COURT: Mm-hmm (Yes).

15 MS. DUCHENE: It was prepared one week after
16 my mother's death.

17 THE COURT: But that's a proceeding for the
18 Hennepin County Court, not us. I don't have any
19 jurisdiction over his Will.

20 MS. DUCHENE: I think we're getting away from
21 the point. I do have evidence that Bessie Krause was
22 involved with her husband, indirectly, in this. Yes,
23 would involve several -- It would be very complex, the
24 civil part of it.

25 THE COURT: As I've indicated previously to

1 and you haven't been able to convince them.

2 MS. DUCHENE: There is no -- There's no
3 signature on the death certificate. It's an open
4 verdict. It says autopsy. Says there's no death
5 certificate by Dr. Plunkett who performed an autopsy.
6 Dr. Plunkett has been contacted quite a few times. I
7 believe I'm entitled to an answer: Is this a first
8 degree murder or not? Have you read these medical
9 records or not?

10 THE COURT: Let me ask you this question.
11 Let's assume he were sitting here on the witness stand
12 and you asked him that question and he said "no."

13 MS. DUCHENE: Fine. I will then go through
14 the -- the symptoms of diabetes. I think we have to
15 approach this logically. There has to be a
16 comprehensive report. There has -- whether it's oral
17 on the stand or written, but a death that's this
18 peculiar in a nursing home is something for every
19 citizen to be concerned about.

20 THE COURT: I guess my question is, that if
21 you called Dr. Plunkett and you deposed him on this
22 witness stand and you asked him the series of
23 questions --

24 MS. DUCHENE: Mm-hmm (Yes).

25 THE COURT: -- that you have in your own mind

1 determined to be relevant to the issue here, and he
2 answered all of those questions in a manner that would
3 be contrary to your position and would not get for
4 you --

5 MS. DUCHENE: If he does that, well, that's
6 fine if he does.

7 THE COURT: Does that end this case?

8 MS. DUCHENE: If Dr. Plunkett is prepared to
9 stand up and say that taking away insulin from someone
10 that is insulin dependent and has been insulin dependent
11 for ten years doesn't kill them, if he's prepared to
12 publicly state that, as someone who's been through
13 extensive medical training, for all the world to hear,
14 that's just fine.

15 THE COURT: I'm not a medical man,
16 Ms. Duchene, but I think even a layman would know that
17 you can't deprive anyone from insulin, you know, from --
18 and who has been previously determined to be dependent
19 on that.

20 MS. DUCHENE: Yes.

21 THE COURT: So I don't think he's prepared --
22 I don't think he would be prepared to make that kind of
23 statement. And we -- And assuming if in his testimony
24 he were to say that, in his opinion, her death was
25 caused by deprivation of insulin at regular intervals,

1 that still doesn't rise to a case of murder. It might
2 rise to a case of medical malpractice or nurse
3 malpractice.

4 MS. DUCHENE: Yes, it does, I believe, from
5 reading the statute on what murder is, first degree
6 murder. First degree murder does not involve a good
7 reason for doing it.

8 THE COURT: Oh, no.

9 MS. DUCHENE: First degree murder is
10 intentionally. That means you know what you're doing
11 when you commit the act and that you do it and you
12 continue to do it. And that is what I'm getting at.
13 I'm going to be asking him as well as -- if he knows of
14 any -- any internist around in the Twin Cities who are
15 so likely not to be aware of this, including
16 Dr. Corbett, and that's what I am getting at. And I
17 can't secondguess, because I don't think anyone who's
18 What Dr. Plunkett is going to be saying, I believe it's
19 a -- I believe I have a right to call him and finalize
20 these matters.

21 There are -- there are various actions by Bessie
22 Krause that are very, very suspicious in this. Even
23 before the insulin was taken away she was acting as --
24 in a sense, as by proxy, guardian, as her husband was
25 put in a nursing home. She was in the house letting i

1 out, taking -- putting tenants in there, doing all sorts
2 of things. She was a medical guardian, and in this
3 matter she was a medical guardian, so I think this is
4 very connected. I think we have to establish it at
5 least when we establish whether this is an intentional
6 act by Dr. Corbett, then we'll ask -- it will open
7 something up. I will be satisfied one way or the other.
8 I mean, I just want to hear what he says. If he can
9 explain this, I'm happy with that. If he can -- if he
10 has some information about diabetes that I don't, I'll
11 be happy with that. But I have looked systematically,
12 and the reason that was given by the county was bogus.
13 It was -- it looked feasible and plausible, but it is
14 bogus.

15 THE COURT: You are not telling me this
16 afternoon -- We're getting wide afield. But the only
17 reason I'm -- I'm allowing this dialogue to go on is
18 I've indicated this Estate is six years old and -- and
19 it's time that we bring it to a close.

20 MS. DUCHENE: And I assure you, Judge Mansur
21 if I had had a very clear answer from Dr. Plunkett in
22 1988, this Estate would not still be going on.

23 THE COURT: But --

24 MS. DUCHENE: Judge, Dr. Murphy wrote a very
25 reasonable answer and Dr. Murphy's a medical doctor.

1 Dr. Murphy is compelled by law when he finds something
2 like this to report it to the authorities. Dr. Murphy
3 I think, has gone further than that. In his interest
4 the case, he's -- he's a person who's disabled himself
5 He has artificial hips and so on. He's very, very
6 concerned about medical ethics and these issues, and
7 felt it was an extraordinarily horrific case, so he
8 -- went into a lot of interest in this. But he wrote
9 two very sane letters to Dr. Plunkett, and if we had
10 an answer, I think I'm entitled to an answer from the
11 medical examiner, a sound rational answer.

12 THE COURT: You know, I suppose the simplest
13 thing would be to call Dr. Plunkett and tell him he's
14 under subpoena and tell him to come up here, otherwise
15 he's in violation of the Court Order. But I can also
16 say I want something productive. I'm not protecting
17 anyone. Like I said, I want to get this thing over
18 with. And at the same time, I want you to leave this
19 courtroom satisfied you had your day in court.

20 MS. DUCHENE: Would you like to see Senator
21 Wellstone's letter?

22 THE COURT: I'm not interested in Senator
23 Wellstone's letter or any other Senator, because that
24 the Legislative branch of government and they don't dip
25 their ink in our wells and we don't dip our ink in th

1 wells.

2 MS. DUCHENE: He's writing to Janet Reno.

3 THE COURT: I don't care if he's writing to
4 President Clinton. He has no right to interfere with
5 our court, but it has no relevancy to this.

6 MS. CHARLTON: As a matter of information,
7 Judge, apparently the doctor is available from between
8 now and 4 o'clock, if the Court wants to --

9 THE COURT: Well, I would like to have him
10 come up here. Yeah.

11 MS. CHARLTON: Right now?

12 THE COURT: The interest that I'm -- I'm
13 getting at is that -- and that is, that with all due
14 respect to Dr. Murphy, who I don't know, and all of his
15 writings, I'm governed by the Rules of Evidence.
16 They're not -- you know, they're not admissible. And
17 they aren't -- you know, they aren't to be used. I
18 can't rely on them, and the reason I can't rely on them
19 is not because he's not competent or may not be
20 competent, the reason I can't rely on them is I can't
21 accept opinion evidence where another party has not had
22 the right to examine the author of that opinion.

23 MS. DUCHENE: Mm-hmm (Yes).

24 THE COURT: And those are ground in the rules
25 that govern the conduct at trial. I guess the very

1 wells.

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4 President Clinton. He has no right to interfere with
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19 is not because he's not competent or may not be
20 competent, the reason I can't rely on them is I can't
21 accept opinion evidence where another party has not had
22 the right to examine the author of that opinion.

23 MS. DUCHENE: Mm-hmm (Yes).

24 THE COURT: And those are ground in the rules
25 that govern the conduct at trial. I guess the very