

The Rob Reiner Family Tragedy And the 'Slayer Rule' of Law

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News that actor, film director, and political activist Rob Reiner and his wife, Michele Reiner, were brutally killed while they slept in their beds at their home in Brentwood, California, reinvigorated conversations surrounding substance abuse and mental health. In the trusts and estates world, it also raised questions about whether the deeply ingrained American legal principle known as the "Slayer Rule" will be applicable under the facts of this case.

The practical effect of the Slayer Rule is to treat the killer as having predeceased the victim, thus prohibiting the killer from benefitting financially from the victim's estate. This article will offer a brief history of the Slayer Rule, discuss its application, and consider how a California court may apply it if the alleged killer and son of Rob Reiner and Michele Reiner, Nick Reiner, were to be found Not Guilty by Reason of Insanity (NGRI) of the charges of first-degree murder.

The United States Supreme Court laid the groundwork for the Slayer Rule in its decision in *New York Mutual Life Insurance Company v. Armstrong*. There, the assignee of a life insurance policy was convicted of murdering the



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insured. The court held that the slayer "forfeited all rights under [the life insurance policy] when, to secure its immediate payment, he murdered the assured. It would be a reproach to the jurisprudence of the country, if one could recover insurance money payable on the death of a party whose life he had feloniously taken." Although not specifically termed the "Slayer Rule" in this case, the principle of law articulated by the court (that a slayer should not benefit from their crime) underlies the Slayer Rule statutes and common law precedents that developed for almost 150 years since this seminal court decision.

Shortly after the *New York Mutual Life Insurance Company* decision, in 1889, the New York Court

of Appeals articulated New York's Slayer Rule in *Riggs v. Palmer*. There, the slayer murdered his recently remarried grandfather to prevent the deceased from changing his existing last will and testament, which favored the slayer. The New York Court of Appeals cited and adopted the holding in *New York Mutual Life Insurance Company*, finding that a slayer could not inherit from his victim, that any determination to the contrary would be a "reproach to the jurisprudence of the state," and that "No one shall be

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permitted to profit by his own fraud, or to take advantage of his own wrong [...] or to acquire property by his own crime."

The *Riggs* holding has been accepted, cited, and reaffirmed by New York courts throughout the 20th and 21st centuries. The New York legislature also partially codified the Slayer Rule in the Estates, Powers and Trusts Law, but it is limited to situations where a joint tenant of a bank account is barred from receiving his or her share of the account if convicted of first-degree or second-degree murder of the joint account owner. However, the full breadth of the Slayer Rule is applied by the courts through common law principles.

Since the *New York Mutual Life Insurance Company* decision, the Slayer Rule has been applied by all 50 states, either legislatively by

statute or by the courts articulating the principle through common law. The Slayer Rule is applied in cases of "intentional and felonious" killings—accidental deaths, negligent homicides, and/or deaths resulting from self-defense do not cause the application of the unforgiving Slayer Rule. Some states' Slayer Rules require the slayer to be criminally convicted of the killing before the rule is applied, while other states allow the courts of probate to determine whether the rule applies. If a slayer were found not guilty in a criminal forum, a probate court may still review the facts based on a "preponderance of the evidence" standard, which is a lower standard of proof than "beyond a reasonable doubt" as required in a criminal prosecution.

Complications in the interpretation of the Slayer Rule arise in cases of killings involving insanity defenses, often based on substance abuse and/or mental illness, such as when an individual is found NGRI. If a person is found NGRI, that person has been deemed to be not criminally responsible for his or her actions while legally insane, even though factually guilty of committing the acts. Whether a verdict of NGRI would shield a person from the application of the Slayer Rule depends on the state's rules being applied. Probate courts in certain states, like the State of Washington as described below, may determine that even if an individual is found NGRI, the Slayer Rule should apply to bar such individual's inheritance, while other courts could find that the defendant's insanity would negate the "intentional" element needed for a Slayer Rule to apply and the defendant would be allowed to inherit.

The Slayer Rule in California, where the Reiner family resided, is found in §§250-259 of the California Probate Code and applies to any

person who “feloniously and intentionally kills the decedent.” The slayer is deemed to have predeceased the decedent and is not entitled to receive any property, interests, or benefits they would otherwise be entitled to receive by reason of the decedent’s death (whether by last will and testament, trust, joint tenancy, or otherwise). While a criminal conviction of felonious and intentional killing is sufficient, it is not required for the Slayer Rule to apply, and the Superior Court may still apply the rule if proven by a preponderance of the evidence that Nick Reiner “feloniously and intentionally” killed his parents.

California courts have not directly addressed whether its Slayer Rule would apply when the slayer is found NGRI. The Supreme Court of the State of Washington, a state that also does not require a criminal conviction for its Slayer Rule to apply, faced this exact situation in its 2009 *In re the Estate of Kissinger* case. There, the slayer was found NGRI in the killing of his mother and stepbrother and argued that he should inherit from his mother’s estate because he was found NGRI, and thus could not have “willfully and unlawfully” killed his mother, in accordance with the Washington Slayer Rule.

The court determined that the slayer was barred from receiving any inheritance from his mother’s estate. The court noted that “[...] a finding of NGRI does not make an otherwise unlawful act lawful for application of the slayer statute” and that the “trial court made very specific findings of fact and conclusions of law” in determining

that the slayer acted with the requisite intent for application of the Slayer Rule.

Given reports of substance abuse and mental health concerns, it seems likely that Nick Reiner’s defense counsel will raise NGRI as a defense to the charges. Even if Nick Reiner is found NGRI, he is not automatically exempt from the application of the Slayer Rule under California law. According to California Probate Code §254(b), “in the absence of a final judgment of conviction of felonious and intentional killing, the court may determine by a preponderance of evidence whether the killing was felonious and intentional.” NGRI does not necessarily prevent application of the Slayer Rule. Rather, the Superior Court will make a finding based on the facts and circumstances of the case, determining whether the slayer committed the act intentionally, the nature of the act, and whether public policy would sanction the result.

If an NGRI defense for Nick Reiner prevails, he might escape the application of the California Slayer Rule and, if the reports of his parents’ estimated net worth to be in excess of \$200 million are accurate, he will stand to inherit over \$50 million dollars. But it may not matter, because while Nick Reiner ultimately might inherit a small fortune, he might not be in a place (jail or a mental institution) where he would be able to enjoy and spend it.

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