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Life Insurance - Division of the Spoils of a Murder Case

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CASE COMMENTS

LIFE INSURANCE—DIVISION OF THE SPOILS OF A MURDER CASE—A notorious Colorado murder case, *Downey v. People,*[1] in which life insurance policies on the victim evidently supplied the motive for her murder by her husband, the beneficiary, has an interesting aftermath giving half of the insurance proceeds to the murderer's mother. A nice question of insurance contract contruction is presented.

David Downey and his wife, Lila, were married in April, 1946. The following month he caused her life to be insured in his favor for $10,000, naming his mother as contingent beneficiary. Three months later he procured two like policies of $5,000 each, this time naming a friend of his wife as contingent beneficiary. In July of the following year he murdered his wife. He was convicted and sentenced to life imprisonment, and this judgment was affirmed.

Downey was the beneficiary of all of the policies "if living" at the death of his wife. One Beck, as administrator of the wife's estate, brought suit against both insurers in a California state court. One of these, *Beck v. Downey et al.,*[2] in which the mother-in-law was the contingent beneficiary, was removed to the federal court and finally came before the Court of Appeals for the Ninth Circuit. The other case, *Beck v. West Coast Life Insurance Company, et al.,*[3] remained in the state court and eventually reached the Supreme Court of California. These two appellate courts arrived at irreconcilable conclusions.

The federal district court awarded the policy proceeds to the contingent beneficiary mother-in-law on the theory that because of his sentence to life imprisonment, David Downey was "civilly dead" under California law, and hence the contingency clause became effective. The federal appellate court, however, reversed this ruling, holding that Downey was still legally alive under Colorado law (which, it was said, governed the question of disability), but could not profit by his own wrong and had forfeited his rights under the policy, and that the "if living" clause in the policy barred a taking by the contingent beneficiary. That clause meant, the court said, that the first beneficiary must be "dead and buried" before the contingency clause could become operative, and it concluded, and so ordered, that the policy proceeds belonged to Lila Downey's estate.

In the state court, however, a different result was reached.

[1] 121 Colo. 307, 215 P. 2d 892.
[2] 191 F. 2d 150, August 6, 1951.
[3] 241 P. 2d 544, March 21, 1952.

It was there held, as in the federal decision, on the principle that no one can profit by his own wrong, that Downey had forfeited all right under the policy. But the state supreme court rejected the reasoning of the federal appellate court as to disposition of the insurance proceeds, and held that they must go to the contingent beneficiary. This was on the premises that Lila Downey, by naming a contingent beneficiary, had clearly indicated her intention that, failing a first beneficiary, the contingent beneficiary should take in preference to her estate; and the court gave effect to this intention by awarding the proceeds of the policies to that individual.

In the meantime the defeated mother-in-law petitioned for certiorari in the United States Supreme Court, seeking review of the adverse decision of the federal appellate court. On March 31, 1952, the Supreme Court granted certiorari, vacated the judgment in favor of the estate, and remanded the case to the Court of Appeals "for further consideration in the light of *Beck v. West Coast Life Insurance Company*, decided by the Supreme Court of California on March 21, 1952." [4]

This seems to be an effective lefthanded way of telling the lower federal court it would be wise to follow the state court decision and confer the bloody spoils on the murderer's mother, thus repaying her for raising so foreseeing a son.

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BEING SPECIFIC

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On December 10, 1891, Kit Carson, Jr., in the course of an affray in which he was engaging with one Richards, discharged his revolver at random and killed Richards' wife, Manulita. He was charged with murder. Under practice, and by virtue of statute,[1] it would be necessary to allege in addition to the formal parts only the following: "That Kit Carson, Jr., on December 10, 1891, at the County of Bent, State of Colorado, did feloniously, wilfully and of his malice aforethought kill and murder Manulita Richards." But here is how it actually was done: [2]

> "That Kit Carson, Jr., on the 10th day of December, A. D. 1891, at the said County of Bent, did then and there in and upon one Manulita Richards, in the peace of the

[4] 20 Law Week 3258, April 1, 1952.
[1] '35 C.S.A., c. 48, §453.
[2] Carson v. People, 4 Colo. App. 463, 464, 36 P. 551.