Diminshed Capacities Across Different Contexts: A Psychiatric Perspective

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Disclosures

- None

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Learning Objectives

- Understand the basic competency evaluations for individuals
- Understand the standard methodology of the evaluations
- Understand when to refer

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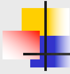

WHY DISCUSS THIS ISSUE

- Increased proportion of older adults has transformed healthcare
- By 2030, 23% US pop will be > 65 years old
- Ageism: bias against individual due to age
- Assessment and communication strategies
  - Geriatric psychiatrists work with older adults and are knowledgeable about meds, normal aging and chronic disease
  - Most clinicians will provide care for individuals at end of lifespan

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Capacity

- Definition
  - The measure of some ability
  - Mental ability
- **Etymology**
  - rom Middle English *capacite*,
  - from Old French *capacite*,
  - from Latin *capācitās*, from *capāx* ("able to hold much"), from *capiō* ("to hold, to contain, to take, to understand").

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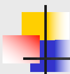

Competency

- Definition
  - The ability to perform some task
- From French *compétence*.
- **Etymology** Latin *con-* + *petō* or French *compétence*.
  - **competō** *(present infinitive* ***competere****, perfect active* ***competīvī*** *or* ***competiī****, supine* ***competītum****); third conjugation*
    1. come together, meet
    2. agree, coincide in point of time
    3. be equal to, be capable of

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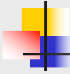

Four arms of competence

- Communication of choice.
  - Does the individual understand there is a choice?
- Factual understanding of issues.
  - Can the patient paraphrase the treatment options?
- Appreciating situation and consequences.
  - Can the patient describe the likely outcome?
- Rational manipulation of the information.
  - Can the patient logically weigh the risks and benefits?

Appelbaum and Grisso, *NEJM*, 1988, pp. 1635-1638.

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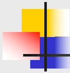

Standards for Decision Making

- Best interests
  - acting in the "best interest" of the patient, heavily relies on decision makers values
- Substituted judgement
  - what the patient would have wanted had the patient understood the circumstances and had capacity
- Best interests prevailing thinking until 1977
  - US Supreme Court, Superintendent of Belchertown v. Saikewicz
  - 67 y/o ID male w/ IQ abt 15 developed leukemia
  - treatment was obviously in his "best interest" but may not have been his choice if he had been competent

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Decisional capacity/competence

- Competence is presumed in adults unless adjudicated otherwise.
- Since physicians are NOT judges, we only decide "decisional capacity."
- Decisional capacity is a level of functioning at which society is willing to accept an individual continuing to make their own decisions.
- **This is not a static line!**

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GENERAL VS. SPECIFIC COMPETENCIES

- GENERAL COMPETENCE
  - ABILITY TO HANDLE ALL AFFAIRS IN ADEQUATE MANNER
  - GUARDIANSHIP
- SPECIFIC COMPETENCE
  - WRITE A WILL (TESTAMENTARY CAPACITY)
  - MAKE A CONTRACT / FINANCIAL DECISIONS
  - DRIVE AN AUTOMOBILE
  - MAKE MEDICAL / HEALTHCARE DECISIONS
  - GET MARRIED

Different transactions and decisions have different requirements regarding capacity. All of the foregoing transactions require different levels of capacity, which are defined in the various Georgia statues.

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Legal Frameworks for Capacity

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Legal Thresholds for Capacity

- Capacity to marry - To constitute a valid marriage in this state there must be:
  1. Parties able to contract;
  2. An actual contract; and
  3. Consummation according to law.
     - **(O.C.G.A. § 19-3-1)**

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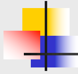

Legal Thresholds for Capacity

Capacity to marry - To be able to contract marriage, a person must:

a. Be of sound mind;
b. Except as provided in subsection (b) of this Code section, be at least 18 years of age;
c. Have no living spouse of a previous undissolved marriage. The dissolution of a previous marriage in divorce proceedings must be affirmatively established and will not be presumed. Nothing in this paragraph shall be construed to affect the legitimacy of children; and
d. Not be related to the prospective spouse by blood or marriage within the prohibited degrees.
   - **(O.C.G.A. § 19-3-2)**

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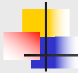

Legal Thresholds for Capacity

- Capacity to contract - To constitute a valid contract, there must be parties able to contract, a consideration moving to the contract, the assent of the parties to the terms of the contract, and a subject matter upon which the contract can operate.
  - **(O.C.G.A. § 13-3-1)**

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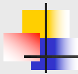

Legal Thresholds for Capacity

Capacity to contract -

a. The contract of an insane, a mentally ill, an intellectually disabled, or a mentally incompetent person who has never been adjudicated to be insane, mentally ill, intellectually disabled, or mentally incompetent to the extent that he is incapable of managing his estate as prescribed by this Code is not absolutely void but only voidable, except that a contract made by such person during a lucid interval is valid without ratification.
b. After the fact that a person is insane, mentally ill, intellectually disabled, or mentally incompetent to the extent that he is incapable of managing his estate has been established by a court of competent jurisdiction in this state and the affairs of such person are vested in a guardian, the power of such person to contract, even though restored to sanity, shall be entirely gone; any contracts made by such person shall be absolutely void until the guardianship is dissolved. One may recover for necessaries furnished an insane person, a mentally ill person, an intellectually disabled person, or a mentally incompetent person upon the same proof as if furnished to minors.
   - **(O.C.G.A. § 13-3-24)**

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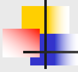

Legal Thresholds for Capacity

Testamentary Capacity -

a. Testamentary capacity exists when the testator has a decided and rational desire as to the disposition of property.
b. An incapacity to contract may coexist with the capacity to make a will.
c. An insane individual generally may not make a will except during a lucid interval. A monomaniac may make a will if the will is in no way connected with the monomania. In all such cases, it must appear that the will expresses the wishes of the testator unbiased by the insanity or monomania with which the testator is affected.
d. Neither advancing age nor weakness of intellect nor eccentricity of habit or thought is inconsistent with the capacity to make a will.

- **(O.C.G.A. § 53-4-11)**

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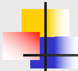

Testamentary Capacity

- "understood that the will had the effect of disposing of her property at the time of her death, was capable of remembering generally what property was subject to disposition by will, was capable of remembering those persons related to her, and was capable of expressing an intelligent scheme of disposition."
  - Odom v. Hughes, 293 Ga. 447, 454, 748 S.E.2d 839 (2013)

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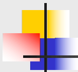

Legal Thresholds for Capacity

Testamentary Capacity -

- Former Code Sec. 53-2-21 included a "decided and rational desire"
- "decided, as distinguished from the wavering, vacillating fancies of a distempered intellect, and rational, as distinguished from the ravings of a madman, the silly pratings of an idiot, the childish whims of imbecility, or the excited vagaries of a drunkard."
- Eliminated "merely illustrative" and "outdated" language.
- The terms "insane" and "monomania," while of uncertain medical meaning, are retained because they have been defined or referred to often in Georgia case law.

(O.C.G.A. § 53-4-11)

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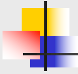

INSANE DELUSION

- "A person who is not sane does not have the capacity to make a will, except during a lucid interval."
- OCGA § 53–4–11 (c).
- *Meadows v. Beam*, 302 Ga. 494, 498 (Ga. 2017)

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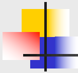

MONOMANIA

- monomania is a single pathological preoccupation.
- A person who is partially insane, a condition known as monomania, may make a will if the will "is in no way connected with the monomania."
- To set aside a will based on an unsound mind, it must be shown that the testator was insane or, if partially so, that the will was connected with that partial insanity.

Cite: see also Boney v. Boney, 265 Ga. 839, 840 (1), 462 S.E.2d 725 (1995). OCGA § 53–4–11 (c); see also Nodvin v. Arogeti, 277 Ga. 602, 602 (1), 592 S.E.2d 846 (2004) ; Powell v. Thigpen, 230 Ga. 760, 760–761 (2), 199 S.E.2d 251 (1973).

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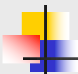

Testamentary Capacity

Undue Influence -

- A will must be freely and voluntarily executed. A will is not valid if anything destroys the testator's freedom of volition, such as fraudulent practices upon the testator's fears, affections, or sympathies; misrepresentation; duress; or undue influence whereby the will of another is substituted for the wishes of the testator.

(O.C.G.A. § 53-4-12)

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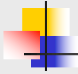

Case Example

- *Meadows v. Beam*, 302 Ga. 494, 498 (Ga. 2017)
- Reversed jury verdict on contested will
- Fact 1: In September 2013, Decedent, then 90 years old, was admitted into a hospital and exhibited confusion and forgetfulness during her hospitalization. Before her hospitalization, Decedent began to express certain beliefs that Caveators found strange. She said that she had been offered a job with the West Lumber Company, but she had stopped working there many years earlier. Decedent continued to make this assertion through 2014. In August 2013, Decedent also claimed she was offered a job at a Kroger grocery store where she and her husband played bingo, but her husband was dead and bingo was no longer played at the Kroger store.

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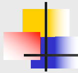

Case Example

- *Meadows v. Beam*, 302 Ga. 494, 498 (Ga. 2017)
- Reversed jury verdict on contested will
- Fact 2: Decedent also came to believe that her son John stole originals of her certificates of deposit and attempted to withdraw the money. In March 2014, as a result of her belief that John was stealing from her and mismanaging her funds, Decedent revoked John's power of attorney that she executed in 2004, asked him to return several estate documents, and questioned why the hospital asked for Decedent's 2004 will. John testified that he accessed a safe deposit box while Decedent was hospitalized because the hospital requested the executed power of attorney and her living will (which were in the same envelope as her will).

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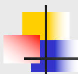

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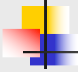

Case Example

- *Meadows v. Beam*, 302 Ga. 494, 498 (Ga. 2017)
- Reversed jury verdict on contested will
- Fact 3: In April 2014, Decedent executed a will naming Marian as executor and devising property to her children, except to John, with a majority of her estate going to Marian. In the 2014 will, as amended by a July 2014 codicil, Decedent provided that she would not directly give John any assets since "he is a successful business man, financially astute, [and] independently wealthy," and instead bequeathed $10,000 to a charity in his honor. Decedent had previously executed a will in 2004 in which she devised her property to her four children in equal shares. Shortly after signing the codicil in July 2014, Decedent died.

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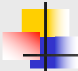

Case Example

- *Meadows v. Beam*, 302 Ga. 494, 498 (Ga. 2017)
- Reversed jury verdict on contested will
- Fact 4: At trial, Caveators introduced the testimony of Dr. Matthew Norman, a board-certified forensic psychiatrist, to the effect that he reviewed Decedent's medical records, various depositions, affidavits from people that knew her, and other material in the case. Based on this review, Dr. Norman opined that Decedent had a "potentially" weakened state of mind, lacked testamentary capacity in that she was operating under a "fixed false belief" that Caveators were stealing from her, and was unduly influenced into executing the 2014 will and codicil.

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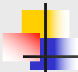

Case Example

- *Meadows v. Beam*, 302 Ga. 494, 498 (Ga. 2017)
- Reversed jury verdict on contested will
- Findings: Notably, at trial, Caveators expressly disclaimed that Decedent was insane or suffered from monomania. That is, in addition to accepting the presumption that Decedent had testamentary capacity, the Caveators failed to claim that Decedent was not of sound mind. Instead, they merely argued that she suffered from delusions. Assuming, without deciding, that delusions alone, distinguishable from insanity or monomania, were a basis upon which to establish a lack of testamentary capacity, Caveators' claim nevertheless fails. Our case law is clear that not every delusion deprives one of testamentary capacity; rather, it must be an insane delusion. Boney, 265 Ga. at 840 (1), 462 S.E.2d 725.

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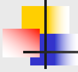

Meadows v. Beam (2017)

Findings: We have defined an insane delusion as existing ”wherever a person conceives something extravagant to exist which has no existence whatever, and [s]he is incapable of being permanently reasoned out of that conception. The subject-matter of the insane delusion must have no foundation in fact, and must spring from a diseased condition of mind.”

Boney, 265 Ga. at 840, 462 S.E.2d 725

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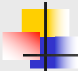

Meadows v. Beam (2017)

Findings: Indeed, the evidence does not establish that Decedent's will was affected by any insane delusions. Decedent's false beliefs about employment offers or injuries had nothing to do with her will. Although her false belief that Caveators were stealing from her and mismanaging her finances angered Decedent and caused her to execute a new will in 2014, the evidence shows that Decedent came to this belief based on false information Marian provided. That Decedent may have been duped by Marian does not establish that her mind was unsound. See Brumbelow v. Hopkins, 197 Ga. 247, 250 (1), 29 S.E.2d 42 (1944) ; see also Boney, 265 Ga. at 840 (1), 462 S.E.2d 725 ("An insane delusion does not mean a mistaken conclusion from a given state of facts, nor a mistaken belief as to the existence of facts." (citation and punctuation omitted)). Caveators' allegations that Marian was a bad actor and caused strife among her family such that Decedent changed her will are beside the point; the claims predicated upon those allegations were rejected by the jury and are not on appeal here.

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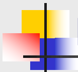

Legal Thresholds for Capacity

- Comptency to Vote – “no person who has been judicially determined to be mentally incompetent may register, remain registered, or vote unless the disability has been removed.”
  - **(O.C.G.A. § 21-2-216 (b))**

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Legal Thresholds for Capacity

- Comptency to Drive –

(3) Who is a habitual user of alcohol or any drug to a degree rendering him or her incapable of safely driving a motor vehicle;

(4) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;
...

(6) Who the commissioner has good cause to believe would not, by reason of physical or mental disability, be able to operate a motor vehicle with safety upon the highway; or

(O.C.G.A. § 45-2-22 (c)(D))

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Legal Thresholds for Capacity

- Comptency to Drive –

(3) Who is a habitual user of alcohol or any drug to a degree rendering him or her incapable of safely driving a motor vehicle;

(4) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;
...

(6) Who the commissioner has good cause to believe would not, by reason of physical or mental disability, be able to operate a motor vehicle with safety upon the highway; or

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Healthcare Decisions

1. Any adult, for himself or herself, whether by living will, advance directive for health care, or otherwise; (1.1) Any person authorized to give such consent for the adult under an advance directive for health care or durable power of attorney for health care under Chapter 32 of this title;
2. In the absence or unavailability of a person authorized pursuant to paragraph (1.1) of this subsection, any married person for his or her spouse;
3. In the absence or unavailability of a living spouse, any parent, whether an adult or a minor, for his or her minor child;
4. Any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care; and any guardian, for his or her ward;
5. Any female, regardless of age or marital status, for herself when given in connection with pregnancy, or the prevention thereof, or childbirth;

(O.C.G.A. § 31-9-2)

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Healthcare Decisions

6. Upon the inability of any adult to consent for himself or herself and in the absence of any person to consent under paragraphs (1.1) through (5) of this subsection, the following persons in the following order of priority:

   A. Any adult child for his or her parents;
   B. Any parent for his or her adult child;
   C. Any adult for his or her brother or sister;
   D. Any grandparent for his or her grandchild;
   E. Any adult grandchild for his or her grandparent; or
   F. Any adult niece, nephew, aunt, or uncle of the patient who is related to the patient in the first degree; or

7. Upon the inability of any adult to consent for himself or herself and in the absence of any person to consent under paragraphs (1.1) through (6) of this subsection, an adult friend of the patient. For purposes of this paragraph, "adult friend" means an adult who has exhibited special care and concern for the patient, who is generally familiar with the patient's health care views and desires, and who is willing and able to become involved in the patient's health care decisions and to act in the patient's best interest. The adult friend shall sign and date an acknowledgment form provided by the hospital or other health care facility in which the patient is located for placement in the patient's records certifying that he or she meets such criteria.

(O.C.G.A. § 31-9-2)

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Healthcare Decisions

For purposes of this Code section, the term "inability of any adult to consent for himself or herself" means a determination in the medical record by a licensed physician after the physician has personally examined the adult that the adult "lacks sufficient understanding or capacity to make significant responsible decisions" regarding his or her medical treatment or the ability to communicate by any means such decisions.

(O.C.G.A. § 31-9-2)

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Advance Directives Healthcare

(O.C.G.A. § 31-32-2)

https://law.justia.com/codes/georgia/2022/title-31/chapter-32/section-31-32-2/

https://aging.georgia.gov

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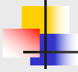

Psychiatric Advance Directive

(O.C.G.A. § 37-11)

https://law.justia.com/codes/georgia/2022/title-37/chapter-11/

https://aging.georgia.gov

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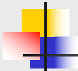

Georgia Guardianship / Conservator

- Guardianship is a legal proceeding wherein a court appoints a surrogate decision-maker for a person who is no longer able to act or make their own decisions.
  - Of the Person (Guardian): for individuals who are unable to provide properly for their personal needs for physical health, food, clothing or shelter.
  - Of the Estate (Conservator): for individuals who are substantially unable to manage their own financial resources or resist fraud or undue influence.
- These are governed by the Georgia Probate Courts and are generally heard in Probate Court
- https://aging.georgia.gov/about-us/publications

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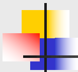

Georgia Guardianship / Conservator

1. The petition shall be sworn to by two or more petitioners or shall be supported by an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, or a licensed clinical social worker, or, if the proposed ward is a patient in any federal medical facility in which such a physician, psychologist, or licensed clinical social worker is not available, a physician, psychologist, or licensed clinical social worker who is authorized to practice in that facility.
2. Any affidavit shall be based on personal knowledge and shall state that the affiant has examined the proposed ward within 15 days prior to the filing of the petition and that, based on the examination, the proposed ward was determined to lack sufficient capacity to make or communicate significant, responsible decisions concerning the proposed ward's health or safety.
3. In addition to stating the facts that support the claim of the need for a guardian, the affidavit shall state the foreseeable duration of the guardianship and may set forth the affiant's opinion as to any other limitations on the guardianship.

- **(O.C.G.A. § 29-4-2 (c); 29-5-2 (c))**

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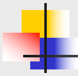

Standards of Proof

- Beyond a Reasonable Doubt
  - About 90% certain
- ***Clear and Convincing Evidence*****
  - About 75% certain
- Preponderance of Evidence
  - About 51% certain – reasonable degree medical certainty
- ***Probate Court mandates the application of Clear and Convincing Evidence as the standard of proof in conservatorship cases…*

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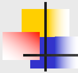
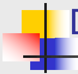


Clinical Frameworks of Capacity

41



Importance of Capacity Declarations

- This is your medical evidence – it is a medical professional's evaluation of a person's capacity based on assessment of that person's mental functions.
- The Capacity Declaration includes assessments of the exact categories of mental functions a court looks at in determining a person's capacity.

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Myths & Realities of Capacity Declarations

- Physicians and psychologists may not know what a capacity declaration is.
- Physicians and psychologists may refuse to fill out a capacity declaration for fear of being called into court for trial testimony in a contested conservatorship proceeding.
- Physicians fear they may not have had confirmed consent for prior treatment.

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Myths & Realities of Capacity Declarations (cont.)

- They are accessible to the public, part of the public court file.
- It is only one piece of evidence submitted when seeking conservatorship.
- There is no "cookbook" formula for completing the form, it's a clinical practice and practices vary widely.

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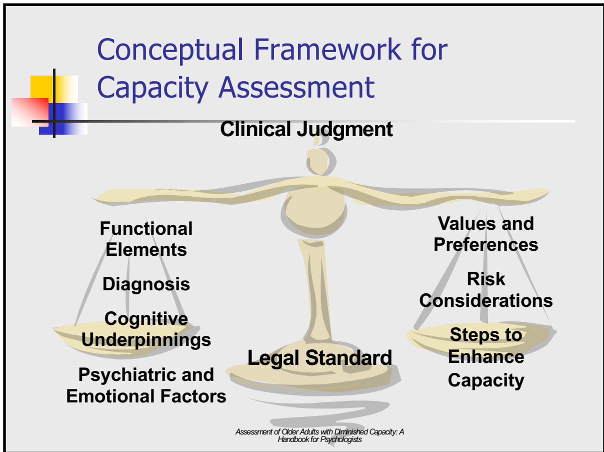
Historical Perspective & Caveats

- Clinical evaluation of decisional capacity is an evolving field
- Capacity assessment is a new practice area for psychiatrists/psychologists
- Confusion about the term capacity
- Confusion from referring parties

Source: Assessment of Older Adults with Diminished Capacity: A Handbook for Psychologists © American Bar Association Commission on Law and Aging- American Psychological Association (pgs. 12-15).

45



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Comparisons:

Legal	**Clinical**
Transactions *Can a person 'transact' certain things- e.g. make a will?*	Domains *How well does a person function in various neuropsychological domains- e.g. memory, executive functioning?*
Binary *Is capacity present or lacking? Is black and white- like an on/off switch- seeks 'yes' 'no' answers.*	Continuous *Capacities are variable continuums in which there may be no bright lines.*
Conceptual *Offer a simple conceptual template- but does not specify concrete tests that tap the abilities needed*	Operational *Fills in the detail about operational abilities necessary to meet legal standard but must link to relevant legal standard*

Source: Assessment of Older Adults with Diminished Capacity: A Handbook for Psychologists © American Bar Association Commission on Law and Aging- American Psychological Association

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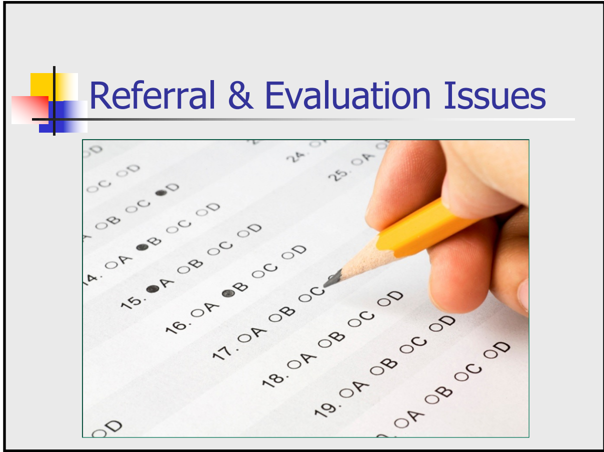

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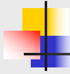

Conclusions

- Evaluate the client's issues and don't be afraid to ask any question you have of the client.
- Always document your thought process.
- Obtain a consult if you feel out of your expertise or the case is complicated.
- Always be courteous towards clients.

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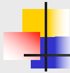

Resource links

- Gutheil & Appelbaum, Clinical Handbook of Psychiatry and the Law, Fifth Edition (2019)
- Remar & Hubert, Law & Mental Health Professionals: Georgia (1996)
- https://aging.georgia.gov

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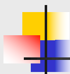

Questions or comments

Feel free to email them to:

norman@matthewnormanmd.com

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EXHIBIT A:

Competency to Stand Trial

Matthew W. Norman, M.D., LLC
4401 Northside Parkway NW, Suite 245, Atlanta, GA 30327
404-495-5900 fax: 404-495-5901
norman@matthewnormanmd.com

VIA EMAIL ONLY

Mr.

Atlanta, GA 30303

RE: **State of Georgia v.**
Superior Court
Indictment Nos.

COMPETENCY TO STAND TRIAL

Dear :

, the defendant in the above-referenced criminal case, was evaluated pursuant to your request for a psychiatric evaluation. A copy of this report is being sent only to you.

This report will discuss the defendant's competency to stand trial (*i.e.*, whether capable of understanding the nature and object of the proceedings; whether he comprehends his own condition in reference to such proceedings; and whether he is capable of rendering counsel assistance in providing a proper defense).

has been charged with allegedly committed on . He is charged with County, Georgia,

SUMMARY OF OPINION:

In my opinion, with a reasonable degree of medical certainty, [redacted] was **not competent to stand trial**.

SOURCES OF INFORMATION:

Case-specific sources of information that I included in my evaluation to date are listed below. Please note that in quoting from medical records, I have at times spelled out words that were abbreviated in the original record. Please note that in quoting from my interview with [redacted], I have attempted to accurately reflect [redacted] statements based on a computer-generated transcript of the audio recording.

Interview of the defendant conducted by Matthew W. Norman, M.D., on [redacted], [redacted], for approximately [redacted]. The interview was terminated early secondary to his behavior. The interview was audio recorded.

Documents provided by [redacted]:

I. Indictment No. [redacted]; and

II. [redacted])

QUALIFICATIONS OF EXAMINER:

My opinions are based on my education, training, and experience. I obtained my undergraduate degree in psychology from the University of Virginia in 1991. I obtained my M.D. from Mercer University School of Medicine in 1997. I completed my residency in psychiatry at Emory University in 2001, served as Chief Resident at Emory University Hospital in 2000 through 2001, and completed my fellowship in forensic psychiatry at Emory University in 2002. I am board certified in psychiatry with added qualifications in forensic psychiatry from the American Board of Psychiatry and Neurology. I have been qualified to testify over 250 times in state, federal, and military jurisdictions in both criminal and civil proceedings. I have continuously practiced general and forensic psychiatry in Georgia since obtaining my medical license in Georgia in 1998, including conducting over 1500 competency to stand trial evaluations and testifying in nearly fifty competency to stand trial proceedings.

I also hold an appointment and actively teach as an Adjunct Professor with the Department of Psychiatry and Behavioral Sciences, Emory University School of Medicine, and as an Adjunct Professor, Emory University School of Law, including teaching clinicians and attorneys about criminal responsibility (*i.e.*, NGRI). I was also appointed by Georgia's governor to the Georgia Composite Medical Board in 2019, was Chair of the Board from 2022 to 2023, and reappointed to the Board in 2023. I have conducted over 1500 criminal evaluations, over 500 Independent Medical Examinations, and over 400 retired NFL player evaluations. I have given over 100 invited presentations to local, regional and national groups on mental health issues. I have been actively and continuously treating psychiatric patients for over 25 years. Further, my *Curriculum Vitae* is attached.

NOTIFICATION OF RIGHTS:

At the outset of evaluation, I read to [redacted] my standard *Advisory Notice*. This notice included informing him of the request for a psychiatric evaluation, that his competency to stand trial would be evaluated, that the evaluation was not confidential, that anything he told me I might be asked to testify about in court, and that a copy of this report would be sent only to his attorney. [redacted] verbally agreed to the evaluation. He signed the *Advisory Notice*. When asked to sign the advisory notice, he said without further explanation, "that was the name given to me when I came to America, my human trafficker." When asked to date the notice, he looked at a computer monitor within his view and stated: "Well, I think it's 2005, but it tell us [redacted]4. So I'm going to put '[redacted] here for you to make, to make it pretty cool for you, man."

BRIEF BACKGROUND:

[redacted] was born on [redacted], in [redacted]. He stated: "Yes, in traffic to America in 2006 with fake documentation." When asked how that occurred, he said: "Immigration - - the United States government. … Well, it was tribalism, tribalism and sorcery. … Sorcery of [redacted], sorcery of [redacted], sorcery of people in payback, in spiritual payback." As continued throughout the brief evaluation, [redacted] self-report was permeated by bizarre (*e.g.*, being illegally brought to the United States through sorcery) and paranoid delusions (*e.g.*, involvement of the FBI and CIA in his charges). Thus, the reliability and validity of the information may be questionable.

reported completing his GED in . He claimed to have a . He denied having any children.

EVALUATION FOR COMPETENCY TO STAND TRIAL:

Awareness of charges

Prior to asking specific questions related to competency, was asked whether he was taking any medications. He responded: "No, I'm not under any medication, and I'm mentally stable, you know, all these things are lies on me and I'm not from this nation. I was humanly brought up to this country wrong since this is not where I create a new case of this, you know, these are, I'm here only for violation of probation, for not reporting to them for their lies of , a case by the FBI and CIA of . So I'm here just to make your job very easy and respond to your question while I'm mentally stable. I'm not on medical program and stuff like that." While speaking, he alternated between speaking in English and some other language.

was asked from what country of origin were the other languages he spoke. He responded: " . Khatamil." (*sic*).

was able to state some of his charges. He stated: "I'm not and I am not what those documentation says. So I am in a spiritual strength of who I am in my country and all who accuse . All who accuse me, I curse them with and fire. For it's my year, I curse them by faith in Jehovah."

Later, added: "Since 2006, in America with fake documentation. So I just been denying their probation, refusing their probation, and that's why I'm and catching the flight to going back to . So I was arrested by the sorcerer, US Marshal, US Marshal or sorcerer of CIA. Someone who and put it on tape where the title of the tape is called, 'Say I'm Air is Rough Child in Detective as pawns in Allen.' These are the people in my case way back to , as I remember as a , growing up in their family and brought up to America to leave a fake life of . So I've been mentally abused by this family, so I stayed away from them, and I decided to go back to where I

was arrested. I came here to to serve again another six months of Lazarus." (*sic*).

When asked why he thought he had another six months in , replied: "For I , which I continue to now report because they are lies of accusation of the devil. Devil, which is the people who are accusing me, places me, who judging me, who give me sentence that's been given to them already." (*sic*).

stated that his case "is lies." (*sic*).

Throughout the evaluation he exhibited disorganized and delusional thoughts. said: "they're telling me they're praying to their god Satan children are praying to their god well Satan children is the agitation of uh just loud noise loud noise you know in the unit and they begging to their god man that I should give them breakfast you know sack lunch man they can't even do my one day one day without eating sometimes I spend a day without eating and I pray to Jehovah God and man I call and uh when and in so good connection man she is uh and when I call I laugh and me and fun and uh me and fun get them get them get them our station next one get them and get them and guys don't answer." (*sic*).

spontaneously spoke of numerous other conspiracies. He stated: "That's it. Yeah, they give they give it I'm mentally abused from childhood all the way , by all these names, by all these people here around us. And I don't congratulate them in their lives. And I refuse them when I have to, you know, till I've realized, okay, if it's good for me to to accept someone in truth, to if I have to report them, they make good for me, then I have to do it. Yeah, and you're going to ask." (*sic*).

Throughout the brief interview, alternated between speaking in English and some other dialect. His speech was often disorganized and unintelligible.

claimed to have It's a French word, amare, say amare. That's what was given to me when I was 12 years old. who is the father

of [redacted]z in this case, a trick meaning in 2006 coming to America, 2007 is a year, 2008, I mean, the personal entrance on the case in 2009, three years later, barely speaking English, I'm falling into the dip sets of the case [redacted] [redacted]."

Awareness of possible consequences

[redacted] was able to correctly state the difference between guilty and not guilty.

[redacted] was able to adequately define plea bargaining. However, he was unable to rationally discuss reasonable plea bargains in his case.

When asked about the roles of various participants at a trial, [redacted] often provided odd and bizarre definitions. For example, when asked about the role of the defense attorney he stated: "My attorney job I believe is I tell you what my attorney job is to be who he was taught to be but I believe the country of Satan who always tells him how to behave because they have the power as they are already dead meaning is this human being who are dead who come see me and who are actually a defensive attorney who represent sometimes charmous witchcraft voodoo as we are here and we are fed and we're being molested spiritually by the devil who created these places and chains as cuffs." (*sic*).

When asked the role of the prosecutor, [redacted] stated: "Well, I guess he just want to show, you know, that he is the man, you know, he got his, uh, he got his masonic on, he got a second year, he'd been fast and good like me, you know, and, uh, he got his power." (*sic*).

During this series of questions, [redacted]'s thoughts and speech were quite tangential. He said: "And it creates shaming to young men like me. [redacted] [redacted] I mean, can you believe that you're 50 years old and you go [redacted] being incarcerated and a grown man says, [redacted] And he wears his US devil uniform. And he sits as a US devil president. And he sits as a devilish pope. You know, or a [redacted] as a daddy or that in G over."

Ability to assist his attorney

[redacted] was able to affirmatively acknowledge that he knew his current attorney. There were significant interaction difficulties though. He exhibited significant

delusional (*e.g.*, extreme paranoia) and disorganized behavior. His responses were frequently punctuated by his delusional thought process. That is, his answers were disorganized, tangential, and delusional. He denied needing any mental health treatment, which showed an extreme lack of insight into his situation secondary to his delusional thoughts.

FORMAL MENTAL STATUS EXAMINATION:

[redacted] was only semi-cooperative overall with the evaluation. He was oriented to the time, place, and situation. He was dressed in a jail uniform. He was adequately groomed. He had good eye contact. He had a constricted affect.

[redacted] displayed no abnormal involuntary movements. He exhibited no psychomotor retardation or agitation. His speech was odd in content but otherwise normal in rate, volume, and prosody.

[redacted] reported that his mood was alright.

[redacted] denied auditory or visual hallucinations. He had delusions related to his case, the indictment, and others. Despite his denial and lack of insight, his behavior provided clear evidence that he was likely experiencing some bizarre thinking.

[redacted] was generally polite, yet his answers were often disorganized and delusional.

[redacted] had extremely limited insight into his illness. The disorganized thoughts and paranoia were the most pronounced psychiatric symptoms. He did not bring attention to his symptoms.

[redacted] vocabulary and speech implied an average intelligence.

OPINION REGARDING COMPETENCY TO STAND TRIAL:

At the time of the evaluation, [redacted] paranoid delusions (*e.g.*, being illegally detained, false accusations, being previously [redacted]) and disorganized thoughts (*e.g.*, rambling and disjointed speech) interfered with his ability to comprehend his own condition in reference to the charges and would interfere with his ability to appropriately consult with his attorney in reference to preparing for a proper defense.

According to *Sims v. State* (614 SE2d 73), competency to stand trial also encompasses the ability "to recall and relate facts pertaining to his actions and whereabouts at certain times; whether he is able to assist counsel in locating and examining relevant witnesses; whether he is able to maintain a consistent defense; whether he is able to listen to the testimony of witnesses and inform his lawyer of any distortions or misstatements; whether he has the ability to make simple decisions in response to well explained alternatives; whether, if necessary to defense strategy, he is capable of testifying in his own defense; and to what extent, if any, his mental condition is apt to deteriorate under the stress of trial."

In my opinion, [redacted] would have difficulty assisting counsel in locating and examining relevant witnesses, would have difficulty testifying in his own defense without delusional thoughts being expressed, and his mental condition is apt to deteriorate (even further) under the stress of trial.

As part of the evaluation, I considered whether [redacted] was malingering.[1] In my opinion, there was no overt evidence of malingering. His behavior was consistent with someone with a genuine psychiatric illness, in my experience. Additionally, he was not drawing attention to any of his psychiatric symptoms (which is more common in malingering). He denied that he had any mental disorder.

In my opinion, at the time of the evaluation, [redacted] was **not competent to stand trial**.

DISCUSSION:

I do not have overt concerns about [redacted] cognitive knowledge of the nature and object of the proceedings. My concerns for his competency to stand trial are that his symptoms of a psychotic episode[2] would prevent him from exhibiting the skills necessary to reasonably make decisions in his case, such as weighing the evidence against him, identifying appropriate witnesses, and assisting his attorney without the intrusion of delusional thoughts.

---

[1] According to *DSM-5-TR*, malingering is defined as "the intentional production of false or grossly exaggerated physical or psychological symptoms, motivated by external incentives such as avoiding military duty, avoiding work, obtaining financial compensation, evading criminal prosecution, or obtaining drugs." (*DSM-5-TR*, at 835).

[2] In my opinion, Mr. [redacted]'s diagnosis is Schizophrenia.

During my evaluation, [redacted] psychotic thoughts clearly affected his ability to rationally discuss his current charges (*e.g.*, he spoke about the illegal charges, having sorcery placed on him, and being illegally brought to this country). Thus, his current psychotic thinking did interfere with his ability to rationally relate with me.

If you have any questions concerning this report, I would be happy to discuss them with you. I can be reached by telephone at (404) 495-5900 or via email at norman@matthewnormanmd.com.

Sincerely,

Matthew W. Norman, M.D.
Board Certified, Psychiatry & Forensic Psychiatry, American Board of Psychiatry & Neurology
Adjunct Professor, Department of Psychiatry, Emory University School of Medicine
Adjunct Professor, Emory University School of Law

Encl: *CV*

EXHIBIT B:
Competency to Contract

Matthew W. Norman, M.D., LLC
4401 Northside Parkway NW, Suite 245, Atlanta, GA 30327
404-495-5900 fax: 404-495-5901
norman@matthewnormanmd.com

VIA EMAIL ONLY

Mr.

RE:
DOB: 01/20/

COMPETENCY TO CONTRACT

Dear :

Your client, , signed numerous contractual documents in . These included a I was asked by you to review various documents related to his mental condition around this relevant time period and provide you with my opinions.

This report will discuss competency and capacity to sign these documents. My opinions are based on a record review and not on an in-person evaluation of . This analysis is generally accepted as standard methodology given that has been evaluated by another psychiatrist and his behavior, as well as the time period, no longer applies. That is, this is a retrospective analysis.

The opinions stated in this report are to a reasonable degree of medical probability, based on the information reviewed and obtained as of the date of the report. Any additional information not yet reviewed may alter the opinions contained in this report.

SUMMARY OF OPINION:

In my opinion, with a reasonable degree of medical probability, [redacted], lacked mental capacity to contract between [redacted].

SOURCES OF INFORMATION:

Documents provided by [redacted] P.C.:

I. [redacted];
II. [redacted];
III. [redacted];
IV. [redacted] statement;
V. [redacted] statement;
VI. Pastor [redacted] statement;
VII. [redacted] statement;
VIII. [redacted] statement; and
IX. Psychiatric evaluation of [redacted], M.D.

QUALIFICATIONS OF EXAMINER:

My opinions are based on my education, training, and experience. I obtained my undergraduate degree in psychology from the University of Virginia in 1991. I obtained my M.D. from Mercer University School of Medicine in 1997. I completed my residency in psychiatry at Emory University in 2001, served as Chief Resident at Emory University Hospital in 2000 through 2001, and completed my fellowship in forensic psychiatry at Emory University in 2002. I am board certified in psychiatry with added qualifications in forensic psychiatry from the American Board of Psychiatry and Neurology. I have been qualified to testify over 250 times in state, federal, and military jurisdictions in both criminal and civil proceedings. I have continuously practiced general and forensic psychiatry in Georgia since obtaining my medical license in Georgia in 1998, including conducting over 1500 competency to stand trial evaluations and testifying in nearly fifty competency to stand trial proceedings.

I also hold an appointment and actively teach as an Adjunct Professor with the Department of Psychiatry and Behavioral Sciences, Emory University School of Medicine, and as an Adjunct Professor, Emory University School of Law,

including teaching clinicians and attorneys about various mental competencies and capacities. I was also appointed by Georgia's governor to the Georgia Composite Medical Board in 2019, was Chair of the Board from 2022 to 2023, and reappointed to the Board in 2023. I have conducted over 1500 criminal evaluations, over 500 Independent Medical Examinations, and over 400 retired NFL player evaluations. I have given over 100 invited presentations to local, regional and national groups on mental health issues. I have been actively and continuously treating psychiatric patients for over 25 years. Further, my *Curriculum Vitae* is attached.

DISCUSSION REGARDING COMPETENCY TO CONTRACT:

Numerous individuals noted that [REDACTED] usual mental state was altered during the relevant time period.

For example, [REDACTED] sister, [REDACTED], noted that he was "unstable" and "clearly not of right mind" between [REDACTED]

Another of [REDACTED] sisters, [REDACTED], noted that her brother, [REDACTED], had noticeable mental and behavioral changes between [REDACTED]. T[REDACTED]ese included increased irritability, impulsivity, and taking unusual risks.

Pastor [REDACTED] noted that [REDACTED] was "erratic, unstable, [and] even almost manic" in [REDACTED]. He "moved in and out of sadness and madness." According to Pastor [REDACTED], [REDACTED] had "come to his senses" by [REDACTED].

[REDACTED] father) noted changes in [REDACTED] between [REDACTED]. These included [REDACTED] thinking "he was the greatest thing on earth," going on spending sprees, being overly confident, showing increased irritability, having decreased need for sleep, and showing increases in goal-directed activities.

[REDACTED] private security, [REDACTED], noted "emotional turmoil" and mood instability with irritability throughout the relevant time period.

Psychiatrist [REDACTED], M.D., evaluated [REDACTED] on [REDACTED]. Dr. [REDACTED] opined that [REDACTED] was "in a constant state of mania or mixed

mania and depression, which was exacerbated by substance abuse," between [redacted]. He further opined that [redacted] lacked capacity during this timeframe and was "psychotic due to his Bipolar Disorder."

OPINION REGARDING COMPETENCY TO CONTRACT:

Based on my record review along with my education, training, and experience, I concur with Dr. [redacted]'s opinions as to diagnosis. That is, [redacted] was suffering with a severe (and previously undiagnosed) Bipolar Disorder with psychosis. His illness was exacerbated by his substance use.

In my opinion, to a reasonable degree of medical probability, [redacted] lacked the capacity to contract secondary to the severe psychiatric symptoms.

If you have any questions concerning this report, I would be happy to discuss them with you. I can be reached by telephone at (404) 495-5900 or via email at norman@matthewnormanmd.com.

Sincerely,

Matthew W. Norman, M.D.
Board Certified, Psychiatry & Forensic Psychiatry, American Board of Psychiatry & Neurology
Adjunct Professor, Department of Psychiatry, Emory University School of Medicine
Adjunct Professor, Emory University School of Law

Encl: *CV*

EXHIBIT C:
Testamentary Capacity

IN THE PROBATE COURT OF [redacted]

STATE OF GEORGIA

IN RE: ESTATE OF	)	
	)	ESTATE NO. [redacted]
[redacted] ,	)	
DECEASED	)	

AFFIDAVIT OF MATTHEW W. NORMAN, M.D.

Personally appeared before me an officer duly authorized by law to administer oaths, Matthew W. Norman, M.D., who after first being duly sworn, states the following:

1.

My name is Matthew W. Norman and I am competent in all respects to testify regarding the matters set forth herein. I am over 21 years of age and suffer from no disability affecting my ability to give this Affidavit.

2.

I am a medical doctor specializing in the field of psychiatry. From July 2002 up through the present I have been involved in a private practice known as Psychiatric Associates of Atlanta, LLC where I practice in the field of general and forensic psychiatry. I have consulted in nearly 1000 criminal evaluations and in over 200 murder evaluations. I have also consulted in over 1,300 forensic issues overall and have been qualified and testified over 100 times in Federal and State jurisdictions. Also, from July 2002 to the present I have served as an Adjunct Assistant Professor, Department of Psychiatry and Behavioral Sciences, Emory University School of Medicine.

3.

I am Board Certified in Psychiatry and in Forensic Psychiatry through the American Board of Psychiatry and Neurology.

4.

In this matter, I have been asked by counsel for the Caveators to review certain materials and to determine whether I could give an opinion with respect to whether y possessed the appropriate mental capacity and was of sound and disposing mind to enter into her 2 Will and Codicil. I was also asked to determine whether I could give an opinion as to whether was the subject of undue influence at the time of making her Will and Codicil.

5.

In order to determine whether or not such opinions could be rendered by me, I have reviewed numerous documents provided to me by Caveators' counsel, including the Affidavits of n, ., t , , e well as all of the Affidavits submitted by Propounder which were attached to her Motion for Summary Judgment. After reviewing these numerous affidavits, I have made the determination that by assuming certain facts revealed therein, I am in a position to render the opinions requested.

6.

In reaching my opinions I have relied on facts such as , and his wife lived near for over twenty (20) years and that over that period of time enjoyed a loving and close relationship with and assisted in caregiving duties and responsibilities for . As of , respected her son

to the point of granting him a Power of Attorney over her affairs and named him as the Executor of her Will in . I also note that in her Will left her estate to her children in equal shares.

7.

Over the years, y had assured at least three of her children and her sister, a , that she would divide her estate in equal shares among her children or she would leave the bulk of her estate to her children, , and t because she had, over the years, provided monetary gifts and other financial support to her daughter, h s, and to s husband to assist him in a business venture.

'8.

When y s mother died, her estate was handled in such a way that it divided the family and created animosity and tension between y and her sister on one hand and their siblings on the other. Further, had on numerous occasions expressed her intent to have her estate distributed in a manner that would avoid family strife and division.

9.

Even though h and t did not live in the state of Georgia, for years they maintained a close relationship with their mother visiting her at least several times a year and on holidays and special occasions and maintained close contact with her by telephone.

10.

That h s visits with over the years were much less frequent than those of and Mrs. did not provide active and regular assistance or support for her mother until after s hospitalization and rehabilitation in late . At that point Mrs. became involved in s affairs and life and, in approximately March assumed control of her mother's affairs. Further, that once this occurred the relationship between and her other three children, became strained and they had difficulty in communicating with her and felt shielded and isolated from her, especially, when their sister was visiting in s home.

11.

Over a large part of her life and especially during suffered from a variety of medical problems and issues and took numerous prescribed medicines as a part of her treatment regimen. Her medical problems included polio, arthritis, pain and swelling in her legs, congestive heart failure, high blood pressure, high cholesterol, type II diabetes, weight issues, sleep apnea, hiatal hernia, incontinence, internal bleeding episodes, cataracts, low potassium, and a loss of hearing.

12.

During and after her hospitalization and rehabilitation, difficulty in taking her prescribed medicines appropriately sometimes forgetting to take them and sometimes confusing what medicines were to be taken when.

13.

Following her hospitalization and rehabilitation in late , began accusing her son of, among other things, removing her from her safe deposit box and trying to cash them in, and "stealing from her." Furthermore, she began to accuse her daughter of either giving away or stealing clothes and other items from her home against her wishes and for causing damage to her automobile. In reaching my opinions in this matter I am assuming that these accusations were not accurate or true and that when a long time trusted church friend and her among others, asked to address these issues with her children to resolve any conflict and confront whether they were true, she refused to do so and insisted that her beliefs, misplaced or not, were accurate.

14.

It appears that during this pertinent time more involved in her mother's life and did not encourage her mother to attempt to resolve her issues with and but allowed these problems to foster. According to the Affidavit of apparently aggravated such a situation by confirming the truth of these false beliefs to her mother.

15.

It was apparent that truly believed these "fixed false beliefs" she had in her mind and, as the Affidavits of numerous persons show, she would express to her friends and others these accusations regarding . and .

16.

Based on the affidavits it appears apparent that during this pertinent time [redacted] mental capacities diminished as there is evidence that she could not remember the names of her grandchildren, she imagined offers of employment being made to her, she would deny responsibility for accidents leading to damages to her vehicle and then attempt to place the blame on others who were not in the state of Georgia when the damages occurred, she could not remember to lock the wheels on her walker, she could not remember to whom she was speaking on the phone, she imagined she was going to be picked up by an ambulance and taken to a hospital for gallbladder surgery, among other things. It was also set out in the Affidavits that about this time her personality changed such that she would become angry when anyone confronted her about certain incidents and she started to cut off relationships not only with [redacted] and [redacted] but also some of her long time church friends.

17.

Considering the above facts and circumstances, it is my opinion from a psychiatric standpoint based on my education and experience that when [redacted] decided to change her [redacted] Will whereby she had left her estate in equal shares to her children, and entered into her [redacted] Will and Codicil, she was suffering from delusional thoughts and was distorting and imagining facts and events that did not exist or happen such that she was motivated by "fixed false beliefs." Under these circumstances, in conjunction with her age and her diminished capabilities, when she made her Will and Codicil in [redacted] it is my opinion she lacked the appropriate mental capacity and was not of sound and disposing mind.

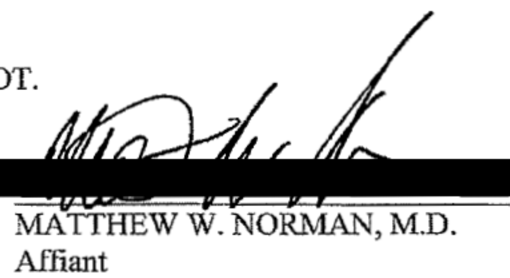
18.

It is further my opinion when all of these circumstances and facts referenced above are considered, [redacted], at the time of making her [redacted] Will and Codicil, was extremely susceptible to being unduly influenced by a person then close to her and especially someone who had assumed control of her affairs like [redacted]s. It is further my conclusion and opinion that if [redacted] had possessed the appropriate level of mental capacity and not been subjected to undue influence it is highly unlikely that she would have gone against her longstanding intentions of dividing her estate in such a way that family strife would be avoided and she would not have entered into a Will and Codicil distributing to her [redacted]s the significant bulk of her estate to the detriment of her other three children.

19.

Lastly, I will state that I have not had the opportunity to review certain medical records of [redacted] that Caveators' counsel has requested from [redacted]tt [redacted]l Center and I reserve the right to modify this Affidavit as appropriate once I have had the opportunity to review such records.

FURTHER AFFIANT SAYETH NOT.



MATTHEW W. NORMAN, M.D.
Affiant

Sworn and subscribed before me
This 18 day of [redacted]

[redacted]
Notary Public

Exp. 10-14-18

EXHIBIT D:

Other Affidavit

EXPERT WITNESS REPORT OF MATTHEW W. NORMAN, M.D.

Pursuant to Federal Rules of Civil Procedure 26(a)(2), Matthew W. Norman, M.D. submits an expert report as follows:

(i) a complete statement of all opinions the witness will express and the basis and reasons for them;

My opinions are based on my training and experience. I obtained my undergraduate degree in psychology from the University of Virginia in 1991. I obtained my M.D. from Mercer University School of Medicine in 1997. I completed my residency in psychiatry at Emory University in 2001, served as Chief Resident at Emory University Hospital in 2000 through 2001, and completed my fellowship in forensic psychiatry at Emory University in 2002. I am board certified in psychiatry with added qualifications in forensic psychiatry from the American Board of Psychiatry and Neurology. I have continuously practiced general and forensic psychiatry in Georgia since obtaining my medical license there in 1998, including diagnosing and treating Posttraumatic Stress Disorder (PTSD). I also hold an appointment and actively teach as an Adjunct Associate Professor with the Department of Psychiatry and Behavioral Sciences, Emory University School of Medicine. I was also appointed to the Georgia Composite Medical Board in 2019. Further, my CV is attached.

On , Mr. was involved in an incident resulting in his death by firearm during an armed robbery at a Georgia.

In , was evaluated by Disability Determination Services. Evaluating psychiatrist, , M.D., diagnosed Mood Disorder, Not Otherwise Specified and Psychosis, Not Otherwise Specified. Evaluating psychologist, ., diagnosed Posttraumatic Stress Disorder; Psychotic Disorder, Not Otherwise Specified; Dissociative Disorder, Not Otherwise Specified; Schizotypal Personality Disorder; Reading Disorder; and Disorder of Written Expression. r was "noted to have developed an isolated, dissociative and self-contained fantasy world and lives in a schizotypal lifestyle as a coping strategy." At the time, aunt noted he had "no sense of appropriate social boundaries with others." The evaluation noted marked limitations in maintaining social functioning and maintaining concentration, persistence, or pace.

During a psychological evaluation signed by D. and dated described hearing "voices a lot in [his] head." His aunt noted that "will leave on the same [clothes] for [a] week." Dr. noted on mental status examination that insight (e.g., an ability to understand a piece of information) was "fair to poor." Dr.

[REDACTED] diagnosed [REDACTED] [REDACTED] with Schizotypal Personality Disorder and Posttraumatic Stress Disorder. Dr. [REDACTED] opined that [REDACTED] [REDACTED] was "odd" and "appeared incapable of managing his own money." He noted impairments in social interactions and would "have great difficulty relating to the general public without displaying aberrant behavior."

In paperwork submitted to the Social Security Administration in [REDACTED], Mr. [REDACTED] wrote that during a typical day he may "play [his] game while talking to [his] imaginary friends." He noted that he relied on his aunt to give him his medication. He noted impairments in concentrating, remembering, understanding or following directions, completing tasks, and getting along with people (i.e., Mr. [REDACTED] stating: "people think I'm weird").

During a telephone interview with Mr. [REDACTED] ([REDACTED] [REDACTED]'s friend), Mr. [REDACTED] described Mr. [REDACTED] as "very happy but very simple." From his lay perspective, he thought Mr. [REDACTED] was "on the Autism spectrum" and "child-like in manner." Mr. [REDACTED] described Mr. [REDACTED] as "differently abled" and "had his impairments."

Mr. [REDACTED] was not examined by me. He is currently deceased. Thus, my opinions are qualified by the fact that I did not personally examine Mr. [REDACTED]. But, I was able to review extensive materials, including numerous medical records and video of the incident.

In my opinion to a reasonable degree of medical probability, Mr. [redacted] had impairments in his perception of reality, concentration, ability to understand a piece of information, and social interactions based on the evidence reviewed. Due to his impairments, Mr. [redacted] was not an adult of ordinary intelligence.

In my opinion to a reasonable degree of medical probability, Mr. [redacted]'s ability to reasonably perceive the danger in the [redacted] on [redacted] [redacted] [redacted] would have been impaired based on the evidence reviewed.

A review of the records, videos, and collateral telephone interview support numerous examples of Mr. [redacted] exhibiting impairments in his cognition, perception, and behavior.

These opinions are expressed to a reasonable degree of medical probability.

(ii) the facts or data considered by the witness in forming them;

1. Review of five surveillance videos from [redacted] on [redacted] [redacted] [redacted] (approximately thirty-nine minutes and forty-two seconds total);
2. School records of [redacted] from the Board of Education of the City of [redacted] (6 pages);
3. Medical records of [redacted] (52 pages total), including Social Security Administration, Dr. [redacted] [redacted], Jr., [redacted] Disability

Determination Services, and [redacted] Community Mental Health Center;

4. Telephone interview with [redacted] on August 7, [redacted] for approximately fifteen minutes;
5. Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), American Psychiatric Association, May 2013;

(iii) any exhibits that will be used to summarize or support them;

The evidence in (ii) is incorporated.

(iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;

Please refer to my Curriculum Vitae attached hereto as "Exhibit A."

(v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and

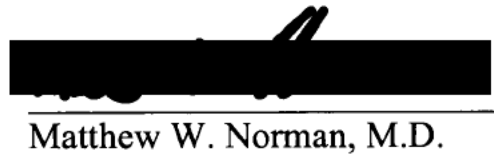
Please see testimonial experience list attached hereto as "Exhibit B."

(vi) a statement of the compensation to be paid for the study and testimony in the case.

My customary charges in a case such as this are $[redacted] per hour to review documents and records, and to prepare my expert reports. If I were called to testify at a deposition or in court, my customary charges would be [redacted] for a half day and $[redacted] for a full day.

I reserve the right to change or modify my opinions as expressed herein based upon the receipt of additional information.

THIS 31st day of August, [redacted].



Matthew W. Norman, M.D.

EXHIBIT E:
Capacity Affidavit

AFFIDAVIT

Personally appeared before the undersigned notary, MATTHEW NORMAN, M.D., and after first being duly sworn and disposed and testified as follows:

1.

I am an adult suffering from no legal disabilities and I have personal knowledge of the facts contained in this Affidavit.

2.

I am a Medical Doctor licensed in Georgia and board certified in Psychiatry and Forensic Psychiatry.

3.

On Friday, [redacted], I traveled to [redacted], Georgia, to conduct a forensic psychiatric examination of Mr. [redacted] for the purpose of determining whether Mr. [redacted] had the mental capacity to make a Will, make a gift to [redacted] (daughter), select a person or persons to hold medical power of attorney, select a person or persons to hold a financial power of attorney, transfer real property back to himself, revise trust documents, and enter into contracts to hire attorneys to help with estate planning and to end a marriage to his current wife.

4.

I personally met with Mr. [redacted] for approximately two (2) hours after which I determined that Mr. [redacted] had the mental capacity to enter into and sign the aforementioned legal documents.

5.

Within twenty (20) minutes following the conclusion of my examination of Mr. [redacted] I witnessed Mr. [redacted] sign documents that I understood were a Last Will and Testament, a deed

transferring property to his daughter [redacted], a financial power of attorney and a medical power of attorney and a legal engagement agreement.

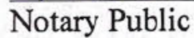
6.

Between the time that I conducted my examination and Mr. [redacted]' execution of the documents, I witnessed no degradation in his medical condition. It is my opinion that Mr. [redacted] had the mental capacity to execute the documents referred to in the immediately preceding paragraph.

Further affiant signed this [redacted].

Matthew Norman, M.D.

Signed this 19th day of August, 2022
in the presence of:



Notary Public