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## Wills - Slayer's Act - Re-litigation of Guilt in Orphan's Court

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## RECENT DECISIONS

WILLS—Slayer's Act—Re-litigation of guilt in Orphans' Court—Conviction of murder conclusive bar to recovery under decedent's will.

*Kravitz Estate*, 418 Pa. 319 (1965).

In June, the Pennsylvania Supreme Court in *Kravitz Estate*<sup>1</sup> reached a decision involving a slayer's rights under a decedent's will. Now, a conviction of murder is held to be a conclusive bar to a slayer's right to take under the will, without the necessity of the question of guilt being re-litigated in Orphans' Court.<sup>2</sup>

Ethel Kravitz was indicted and convicted of the murder of her husband. The Supreme Court of Pennsylvania in *Commonwealth v. Kravitz*<sup>3</sup> affirmed the judgment and sentence. The slain husband left a will in which his estate was bequeathed to his wife if she survived him by ninety days. After the prescribed period of time she claimed the estate, but the claim was disallowed on the grounds that under the Slayer's Act of August 5, 1941<sup>4</sup> she was not entitled to any part of her husband's estate. On appeal, the Supreme Court of Pennsylvania affirmed the decision holding that her conviction of murder and judgment of sentence conclusively barred her right to take under the will.<sup>5</sup>

The applicable provisions of the Slayer's Act are:

Section 2. No slayer shall in any way acquire any property or receive any benefit as the result of the death of the decedent. . . .

Section 14. The record of his conviction . . . shall be admissible in evidence against a claimant of property in any civil action arising under this act. (Emphasis added.)

Section 15. This act . . . shall be construed broadly in order to effect the policy of this State that no person shall be allowed to profit by his own wrong.

The court, in reaching this decision, stated that, while the Slayer's Act is silent on the question of whether or not a person convicted of murder could re-litigate the issue of his guilt, such a holding "would be a general indictment of the whole American jury system"<sup>6</sup> and "would make a

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1. 418 Pa. 319 (1965).

2. Ethel Kravitz did not testify during the criminal proceedings. In the present case, however, she offered to testify as to her innocence and to support this claim by the testimony of other witnesses. Her offer was refused by the auditing judge.

3. 400 Pa. 198, 161 A.2d 861 (1960).

4. P.L. 816, PENNA. ANN. STAT. § 3442.

5. *Kravitz Estate*, *supra* note 1.

6. *Id.* at 327.

mockery of the law and of justice."<sup>7</sup> Chief Justice Bell, in writing for the majority concluded that the common-law principle that a judgment entered in a criminal case is not to be considered proof in a subsequent civil action arising out of the same set of facts, has been weakened and outdated. Citing several recent decisions<sup>8</sup> to substantiate its position, the court decided that the trend in Pennsylvania has been away from this common-law rule.

The present case, however, can be distinguished from the decisions cited by the supreme court on one very important point. The cases discussed by the supreme court were either litigated prior to the enactment of the Slayer's Act<sup>9</sup> or dealt with circumstances outside the scope of the Act.<sup>10</sup> While the basis for both the Slayer's Act and the cases mentioned by the court is that no wrongdoer should be allowed to profit by his own wrong, the Slayer's Act limits the application of this principle. The Act states that the record of a criminal conviction shall be admissible into evidence in the civil courts. The only reasonable interpretation of this section is that the legislature intended that the Orphans' Court shall determine the status of the parties for the purposes of this statute.

Without attempting to determine the trend of the law in this area,<sup>11</sup> it can be clearly seen that the Pennsylvania Supreme Court has overstepped the bounds of judicial interpretation. In placing the main emphasis on that section of the Slayer's Act which provides for a broad interpretation,<sup>12</sup> the court, in effect, ignores the other provisions of the statute. The Act provides that such evidence shall be admissible into evidence<sup>13</sup> and not that such evidence is a conclusive bar to recovery.

In reaching this decision the court violated several fundamental principles of our judicial system, namely, that a statute should be interpreted in its entirety and not piecemeal, and that the power to make revisions in legislative enactments should be reserved for the legislature.

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7. *Id.* at 328.

8. *Pennsylvania Turnpike Commission v. United States Fidelity and Guaranty Co.*, 412 Pa. 222, 194 A.2d 423 (1963); *Mineo v. Eureka Security Fire and Marine Ins. Co.*, 182 Pa. Super. 75, 125 A.2d 612 (1956); *Greifer's Estate*, 333 Pa. 278, 5 A.2d 118 (1939).

9. *Greifer's Estate*, 333 Pa. 278, 5 A.2d 612 (1939).

10. *Pennsylvania Turnpike Commission v. United States Fidelity and Guaranty Co.*, (Suretybonds), 412 Pa. 222, 194 A.2d 423 (1963); *Mineo v. Eureka Security Fire and Marine Ins. Co.*, (Fire insurance policy), 182 Pa. Super. 75, 125 A.2d 612 (1956).

11. Until this decision the trend in Pennsylvania appears to have been that such conviction constitutes only prima facie evidence and could be rebutted. See, *Pinder's Estate*, 61 Pa. D.&C. 193 (1947); *All States Insurance Co. v. Johnson*, 96 PCH. L.J. 193 (1946); 46 DICK. L. REV. 99 (1941); 17 U. PITT. L. REV. 494 (1956).

12. PENNA. ANN. STAT., *supra* note 4.

13. *Ibid.*