

COA Opinion: Individuals convicted of voluntary manslaughter forfeit all benefits from the decedent's estate under Michigan's "Slayer Statute"

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On November 23, 2010, the Michigan Court of Appeals published its opinion in *In re Nale*, No. 293082, the holding that a person convicted of voluntary manslaughter forfeits all benefits from the decedent's estate under Michigan's "Slayer Statute", MCL 700.2803.

Michael Stephen Nale was stabbed to death on September 13, 2007. His wife, Fayette Nale, was charged with the second-degree murder of her husband and was eventually convicted of voluntary manslaughter following a jury trial. Following Ms. Nale's conviction, the personal representative of Mr. Nale's estate, Julia Cook, filed a petition for forfeiture and revocation of benefits in Macomb Probate Court. Ms. Cook argued that Michigan's Slayer Statute prohibited Mrs. Nale from receiving the benefits of her late husband's estate. The probate court agreed granted Ms. Cook's petition.

On appeal, Ms. Nale argued that MCL 700.2803 did not apply to persons convicted of voluntary manslaughter. As the appellant suggests, the Slayer Statute states, in part, that "[a]n individual who feloniously and intentionally kills the decedent forfeits all benefits" of the decedent's estate to which he or she may be entitled. Because the statute only mandates forfeiture when a potential beneficiary commits an "intentional killing," the Court of Appeals evaluated whether voluntary manslaughter qualifies as an "intentional killing".

The court noted that the Michigan Supreme Court has defined voluntary manslaughter as an "intentional killing committed under the influence of passion or hot blood produced by adequate provocation and before a reasonable time has passed for the blood to cool." *People v Mendoza*, 468 Mich 527, 534-535; 664 NW2d 685 (2003). Further, the Court of Appeals noted that "the common law 'slayer' rule has never been limited to the crime of murder," and that voluntary manslaughter would trigger forfeiture under the common law. The legislature is presumed to know the common law when it enacts a statute, and did not mention a desire to depart from the common law when it enacted Michigan's slayer statute. Consequently, the court determined that the legislature intended voluntary manslaughter to trigger the statute's forfeiture provision.