

## **Accompanying deceased to Swiss clinic does not amount to assisting suicide**

Synopsis: A recent case in which the England and Wales High Court have ruled that a widower is to be allowed to inherit the residue of his late wife's estate even though he admitted assisting her death by suicide at a clinic in Switzerland.

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The assisted suicide provisions of s.2(1) of the Suicide Act 1961 mean that, in principle, the forfeiture rule, as codified in the Forfeiture Act 1982, can prevent an individual from inheriting assets the deceased left to them. However, this England and Wales High Court (EWHC) judgment confirms that the mere act of accompanying a person to a place where they intend to end their own life does not amount to assisting a suicide ([Morris v Morris, 2024 EWHC 2554 Ch](#)).

Myra Morris died on 5 December 2023 aged 73 at the Pegasos clinic in Liestal. For two years, she had been suffering from the incurable degenerative neurological disorder Multiple System Atrophy. The coroner, at her inquest, noted that Mrs Morris' condition had deteriorated to the point where she had little enjoyment from life, was in constant pain and found it very difficult to cope.

It was accepted by all parties that Mrs Morris ended her own life by self-administration of an overdose of pentobarbital. To do so, she had obtained assistance from Pegasos clinic staff and from her husband, Philip Morris, who had accompanied her along with their two adult children and Mrs Morris' sister. Mr Morris had also assisted his wife in making the necessary administrative arrangements for her to travel to the clinic.

Mrs Morris had made a will on 9 December 2021. It left a number of pecuniary legacies to members of her extended family: her sister Susan Moss, Susan's two adult children, Benjamin Moss and Hana Freyd, to her great niece, a minor, and to each of her grandchildren living at the date of her death, all of whom were minors. The will left her residuary estate to be held on trust for Mr Morris absolutely and, subject to that, for their two adult children, Jamie and Katie, in equal shares absolutely.

Section 2(2) of the Forfeiture Act allows applications for relief modifying the effect of the forfeiture rule so as to allow a claimant to inherit from the deceased. Philip Morris brought such an application.

The EWHC was given a detailed account of Mr Morris' conduct in the affair, including a witness statement made by Mrs Morris shortly before she died. This was supported by a witness statement made at the same time by her solicitor, who assessed Mrs Morris as having the mental capacity to make an informed and voluntary decision to end her own life according to the principles contained in the Mental Capacity Act 2005. The solicitor said that she was satisfied that Mrs Morris was able to understand the decisions she was making and was under no undue influence, pressure or encouragement when she did so.

The court also considered the Policy for Prosecutors in Respect of Cases of Encouraging or Assisting Suicide, issued by the Director of Public Prosecutions in February 2010 and updated in October 2014. This listed the public interest factors which tend in favour of and against prosecution. The judge examined each of the 16 factors which tend in favour of prosecution and concluded that none of them were present in this case.

The EWHC concluded that Mrs Morris had made a voluntary, clear, settled and informed decision to die by suicide before Mr Morris started to take any steps capable of amounting to assistance. It also found that Mrs Morris had full capacity and maintained that decision throughout the period up to her death and that Mr Morris was wholly motivated by compassion, had never encouraged his wife to take her own life and, indeed, had sought to dissuade her from doing so. The court also noted that Mr Morris had reported the death to the police and offered to assist them in any enquiries. In the event, the police took no further steps.

Citing the statement of principle in the judgment from *Dunbar v Plant* (1998 Ch 412), the EWHC concluded that there was no evidence of Mr Morris' moral culpability for what had happened. Strong grounds therefore existed for relieving him from all effects of the forfeiture rule. In addition, all beneficiaries of Mrs Morris' will consented to the relief Mr Morris sought. The EWHC duly granted that relief, fully excluding the application of the forfeiture rule.

There was a remaining issue that had arisen in a previous hearing, being whether their two children and Mrs Morris' sister, by travelling with Mrs Morris to the Swiss clinic, had rendered themselves open to forfeiture. The possibility had been originally raised in the case of *Ninian v Findlay* (2019 EWHC 297 Ch), which suggested that, on the facts of that case, the very act of travelling to Switzerland in the company of the deceased was of itself an act of assistance within the meaning of section 2(1) of the 1961 Act.

The EWHC decided that it was not, saying that although: "The question for the court is always whether any particular acts, whether or not part of a course of conduct, are "capable of encouraging or assisting the suicide". This is an objective question, and it is, of course, correct that accompanying a person to a clinic in Switzerland in the knowledge that they intend to take their own life is capable of being part of a course of conduct which constitutes assistance within the meaning of section 2(1)(a). Indeed, and depending on the circumstances and what occurred on the journey, the mere act of accompaniment may in itself need to be construed as an act of encouragement or assistance." it was wrong to conclude that this will always be the case.

He said: "In particular, I do not think that the use of the word "capable" is intended to mean that the court is only required to consider whether accompaniment might in some theoretical circumstances constitute an act of assistance. In my view, the act of accompanying may or may not be assisting the suicide depending on the circumstances. Doubtless it often will, more particularly where the only way in which the deceased is able to travel is with the person who is said to have given the assistance."

The judge was satisfied that all of the arrangements were made by Mr Morris (who accepted that he assisted) and that their children and Mrs Morris's sister did not, and did not need to, participate in that process. The EWHC was satisfied that the resources available to the Morris family meant that the means by which they travelled, including those who assisted during the course of the journey, meant that the children and Mrs Morris's sister were not themselves required to take any steps to assist Mrs Morris during that process, nor did they do so. It added that those who did assist were either Mr Morris, who accepted that he assisted with intent, or third parties against whom no allegation of intent could possibly be made.

In short, the children and Mrs Morris' sister were there as comforters and were concerned to be there with her when she died, but they did not commit acts capable of assisting, because they did not have to.

The judge was also satisfied that the way in which they behaved could not properly be treated as acts capable of encouraging Mrs Morris' suicide, saying that, indeed, it was quite the contrary and it was clear that Mrs Morris would have gone anyway whether or not they had come as well and to an extent she encouraged them not to do so. They were on the journey as Mrs Morris's children and sister, concerned to provide support to their terminally ill mother and sibling at the end of her life. Throughout their time with her at the end of her life, they continued to hope that she would not bring it to an end and continued to make that clear by what they said and did. On the evidence, nothing they did was capable of encouraging her suicide.

Accordingly, the court concluded that the evidence established that Jamie and Katie's interests in their mother's estate were not forfeit as a result of anything they did before she took her own life (and nor was her sister Susan's more remote interest). The judge added that, whatever the position may have been when the papers were first considered by the court, it was now clear to him that, by travelling with Mrs Morris to Switzerland, Jamie, Katie and Susan did not encourage or assist her suicide nor was anything they did during the course of the journey intended by any of them to have that effect.

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