

IN THE COURT OF APPEALS 04/23/96

OF THE

STATE OF MISSISSIPPI

NO. 94-CA-00212 COA

RONNIE C. COLLINS

APPELLANT

v.

**APRIL COLLINS; LACORA COLLINS; RONNIE TYRONE COLLINS; VAKERRI
COOKS; AND SHALETTA COOKS, BY AND THROUGH THEIR GUARDIAN AND
NEXT FRIEND, EDNA B. RUPERT**

APPELLEES

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. GEORGE D. WARNER, JR.

COURT FROM WHICH APPEALED: CLARKE COUNTY CHANCERY COURT

ATTORNEY FOR APPELLANT:

PETER K. SMITH

ATTORNEYS FOR APPELLEES:

MELVIN S. GRANBERRY; SORIE S. TARAWALLY

NATURE OF THE CASE: CIVIL: INSURANCE PROCEEDS

TRIAL COURT DISPOSITION: APPELLANT DENIED LIFE INSURANCE PROCEEDS OF
DECEDENT

BEFORE BRIDGES, P.J., COLEMAN, AND DIAZ, JJ.

BRIDGES, P.J., FOR THE COURT:

Ronnie C. Collins pled guilty to the manslaughter of his ex-wife, Annie Mae Collins. He was the named beneficiary of her life insurance proceeds. His conviction was found to render him ineligible to receive the proceeds of the policy. Collins now appeals maintaining that he should take under the policy because he shot his ex-wife accidentally instead of intentionally. We disagree, and affirm the decision of the lower court.

STATEMENT OF THE FACTS

On December 29, 1991, Ronnie C. Collins (Collins) called his ex-wife, Annie Mae Collins (Annie). His former stepdaughter, Vakkerri Cooks (Vakkerri), answered his call and informed Collins that her mother was in the bathroom. Within a few minutes, Collins drove over to his ex-wife's home in Quitman, Mississippi and pulled into her yard. Annie heard Collins drive up and yelled at Vakkerri to call the police. Vakkerri attempted to call the police, but Collins kicked open the door of the house and entered before she could make the call. Collins was carrying a "makeshift shotgun." Vakkerri grabbed her sister, and they ran into their mother's bathroom.

Collins followed the children into the bathroom and proceeded to look for Annie in her bedroom. He saw Annie standing by the window in her bedroom. The window was open, and the curtains were allegedly torn. Collins apparently believed that Annie's lover had just leapt through the window "pants in hand." Collins maintains that Annie then "rushed" at him and "seconds later the firearm he carried discharged and Annie fell face down." Collins' left thumb was dismembered by the discharge.

Collins then told Vakkerri to call the police and left. Vakkerri saw that her mother was not breathing and ran next door to call the police. Twelve hours later, Collins turned himself into the police department. He told the police that he had thrown the murder weapon into a pond on the DeSota-Vossburge Road. The Lauderdale County Emergency Department found the gun.

Dr. Steven Haye conducted the autopsy on Annie. He found that Annie had been shot at close range from a distance of "some 3 to 15 inches." He also found powder residue on Annie's hands, specifically on her thumb and palms. No pellet wounds were found on her hands.

Collins pled guilty to manslaughter and received the maximum sentence. While in prison, Collins learned that Annie had a \$90,000 life insurance policy in which he was the named beneficiary. He refused to release the money to Annie's children because he "knew [he] didn't do the crime intentionally, and [he] was trying to prove [his] innocence and get out and take care of [his] own kids."

Edna Rupert, Annie's mother and the appointed guardian of Annie's children, filed a complaint in the Clarke County Chancery Court to have the heirs of Annie's estate declared, alleging that Collins willfully caused Annie's death and could not lawfully receive the insurance proceeds. That court found that Collins wilfully and intentionally killed Annie and denied Collins any benefits from the proceeds. Aggrieved, Collins now appeals to this Court arguing that the lower court manifestly erred in finding that Collins intentionally killed Annie. Finding no error, we affirm the decision of the lower

court.

I. WHETHER THE LOWER COURT ERRED IN FINDING THAT ANNIE COLLINS' DEATH WAS INTENTIONAL AND AS SUCH, RENDERED COLLINS UNABLE TO BENEFIT FROM HER LIFE INSURANCE PROCEEDS.

Mississippi law provides:

If any person wilfully cause or procure the death of another in any way, he shall not inherit the property, real or personal, of such other; but the same shall descend as if the person so causing or procuring the death had predeceased the person whose death he perpetrated.

Miss. Code Ann. § 91-1-25 (1972). The Mississippi Supreme Court has, on public policy consideration, extended this ban on financial gain to life insurance beneficiaries. *Gholson v. Smith*, 48 So. 2d 603, 605-06 (Miss. 1950). Collins was found to have wilfully killed Annie Collins and as such, was found to be unable to benefit from her life insurance proceeds. He now argues that this finding was against the overwhelming weight of the evidence and was manifestly in error. We disagree.

Where the chancellor was the trier of facts, his findings of fact on conflicting evidence cannot be disturbed by this Court on appeal unless we can say with reasonable certainty that these findings were manifestly wrong and against the overwhelming weight of the evidence. *Travis v. Hartford Accident & Indem. Co.*, 630 So. 2d 337, 338 (Miss. 1993). Even if this Court disagreed with the lower court on the findings of fact and might have arrived at a different conclusion, we are still bound by the chancellor's findings unless manifestly wrong, as stated above. *Id*; see also *In re Estate of Varvaris*, 528 So. 2d 800, 802-03 (Miss. 1988). More specifically, this Court has also addressed the proper scope of review for judging the credibility of witnesses. In *Pellegrin v. Pellegrin*, 478 So. 2d 306, 308 (Miss.1985) the court wrote:

The credibility of the witness[es] and the weight of their testimony, as well as the interpretation of evidence where it is capable of more than one reasonable interpretation, are primarily for the chancellor as the trier of facts. The issue here was a factual one and the chancellor's decision will not be disturbed since it was not manifestly wrong.

These cases make clear that this Court gives great deference to the decisions of the chancellor concerning findings of fact and especially to the credibility of witnesses. Therefore, it has generally been held by this Court that unless we are of the firm opinion that the chancellor's decision was incorrect or "manifestly in error," the decision of the chancery court will not be overturned. *Travis*, 630 So. 2d at 338.

In the case sub judice, the chancellor held that based upon the facts of the case, Collins intentionally shot and killed Annie. The record shows that Collins admitted to killing Annie. In fact, Collins pled guilty to manslaughter before he found out that he was the beneficiary of a life insurance policy.

Vakerri testified that she saw Collins break into their home and shoot her mother. Collins admitted that he was angry when he broke into Annie's home because he thought that Annie was having sex with a boyfriend and would not answer his phone calls. Based on the testimony and evidence presented in the record, we cannot say that the chancellor was manifestly in error in so holding that Collins was not entitled to the proceeds. Accordingly, we affirm the decision of the lower court.

**THE JUDGMENT OF THE CLARKE COUNTY CHANCERY COURT IS AFFIRMED.
ALL COSTS OF THIS APPEAL ARE TAXED TO RONNIE COLLINS.**

**FRAISER, C.J., THOMAS, P.J., BARBER, COLEMAN, DIAZ, KING, McMILLIN, PAYNE,
AND SOUTHWICK, JJ., CONCUR.**