

Autoerotic Asphyxiation Ruling Brews Circuit Split on Coverage

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In *Tran v. Minnesota Life Insurance Co.*, the U.S. Court of Appeals for the Seventh Circuit ruled that an insured's death from autoerotic asphyxiation fell under the policy exclusion for deaths resulting from "intentionally self-inflicted injury" within the meaning of accidental death and dismemberment (AD&D) riders to two life insurance policies issued to the insured.

Minnesota Life paid the insured's widow the life insurance coverage but denied her claim for AD&D coverage because it concluded that the insured's death did not result from an accidental bodily injury. Although the insured's death was initially reported as a suicide, the medical examiner subsequently concluded from sexual paraphernalia on the insured's body that the insured died while performing autoerotic asphyxiation. The district court concluded that reasonable minds could disagree about whether the insured's intentional act to restrict blood flow to the brain to induce a feeling of euphoria was a self-inflicted injury within the meaning of the AD&D rider language. Construing the ambiguity in favor of coverage, the district court entered judgment in favor of the insured's widow.

On appeal, the Seventh Circuit first found that autoerotic asphyxiation is an injury. The court then applied a subjective-objective test to determine whether the autoerotic asphyxiation was accidental or intentional; that is, whether the injured individual had a *subjective* expectation of injuring himself, or whether an expectation of injury was *objectively* reasonable. The Seventh Circuit reversed the district court, concluding that the decedent's subjective intent was clear because "[s]trangling oneself to cut off oxygen to one's brain is an injury, full stop," and "[w]hen that injury kills, it is 'an intentionally self-inflicted injury which resulted in death,' regardless of whether it was done recreationally or with an intent to survive." The court concluded that under the plain and ordinary meaning of the AD&D riders, the insured's death was excluded from coverage, but cautioned that the opinion "does not purport to establish a *per se* rule on insurance coverage for autoerotic asphyxiation" because policy language and factual circumstances involved in death can vary.