AMERICAN LAW PROGRAM
The Catholic University of America, Columbus School of Law
Jagiellonian University, Faculty of Law and Administration
21st year, 2021-2022

ENTRANCE EXAM 2 – RULES

Dear American Law Program Candidate!

We are very happy with your willingness to join in the American Law Program. Also, we are impatiently looking forward to your participation!

At the same time, in order to let the American Law Program staff assess your English language skills and abilities to actively participate and benefit from the regular courses, we kindly ask you to take our Entrance Exam. As the amount of students willing to join the program exceeds the amount of students who can be admitted, it serves also the selection of the best candidates in an objective manner.

To make the assessment and competition both fair and reasonable, we kindly ask you to obey the following rules. The usual rules have been adjusted to the online format of the exam.

During the exam **you are supposed** to:

1. have a reliable computer with a stable Wi-Fi connection, and a working camera;

2. stay connected to a Zoom meeting during which the exam takes place;

3. stay in front of your computer in a chosen working place in a daylight or equally effective artificial light, with a computer camera permanently switched on;

4. download the .pdf materials with exam questions and .doc answer files

5. within the time frame for a particular question send the filled-in answer files, saved as .doc or .docx to wojciech.banczyk@uj.edu.pl;

6. mark your answers with your PESEL only (in the title of the file as well as in the header of each page).

During the exam **you are not allowed** to:

7. consult anyone nor any materials, except for the texts that we distribute and an online/paper dictionary; you can use your e-mail application to send the answer files only;

8. use any other electronic device except from the computer used for the exam aims;

9. leave the working place you were using at the beginning of the exam without permission.

Remember that:

10. **any breach** or attempt to breach the rules as in 7-9, as well as **any disconnection or lack of camera operation** during the exam, leads to the termination of the exam, and a failing grade for a candidate, unless immediately reconnected and excused from legitimate reasons. Whenever such termination takes place from different reasons than breach or attempt to breach the rules as in 7-9 at candidate's fault, the candidate may retake the exam at a later occasion.

Also, participating in the exam confirms that the candidate agrees that his **personal data** will be collected and stored for the recruiting aims for the period of one year after the exam. The candidate's

image will be seen by the participants of the exam Zoom meeting, but will not be stored, and the meeting will not be anyway recorded.

The exam contains of two parts and **altogether lasts 95 minutes**, and is taken according to rules as above.

The **first part**, is an **essay** part. Your task is to write an essay on the assigned topic, which is based on the text attached (.pdf) in order to inspire you. You are supposed to show us that you can discuss a general legal topic in an interesting manner and proper English. You may take notes on the computer, or on a separate sheet of paper. Your essay should not exceed two pages of the attached answer file (.doc). You have **50 minutes** to complete this part. After this time you must turn in your essay in the form of an answer file. This part is graded for 0-30 points.

The **second part**, which you are supposed to take later, is a **reading** part. You should read the attached text (.pdf) carefully. You may take notes on the computer, or on a separate sheet of paper. After **30 minutes** you receive the questions and answer file (.doc). You are supposed to answer five questions in form of a short notice (1-2 sentences long, about 10-20 words), for which you have **another 15 minutes**. After this time you must turn in your answers in the form of an answer file. This part is graded for 0-20 points (4 points per question).

The **results** should be available by July 15th, 2021. The results will be sent to you via e-mail and published on our website: http://www.okspo.wpia.uj.edu.pl/spa as well as on our Facebook: http://www.facebook.com/szkolaprawaamerykanskiego

Good luck!

AMERICAN LAW PROGRAM
The Catholic University of America, Columbus School of Law
Jagiellonian University, Faculty of Law and Administration
21st year, 2021-2022

ENTRANCE EXAM 2 – ESSAY QUESTION

The Reuters news article 1: *Brazil's Bolsonaro favors Trump win, refrains from cheering potential winner* refers to the reaction of J. Bolsonaro (president of Brasil) onto J. Biden's presidential victory; the next CNN news article 2: *Should Biden and Bolsonaro partner to protect the Amazon?* refers to further activities of J. Biden as a US president regarding international protection of Amazon forest:

1. Brazil President Jair Bolsonaro on Wednesday refrained from commenting on the potential winner of the tight U.S. election, but reiterated his support for President Donald Trump, and suggested Democratic challenger Joe Biden would interfere on issues like the Amazon rainforest if elected.

"You know my position, it is clear ... I have a good policy with Trump, I hope he will be reelected," he told supporters in Brasilia. "The Democratic candidate on two occasions talked about the Amazon. Is that what you want for Brazil? Interference from outside?"

If Biden is declared the winner of the presidential election after all the votes are counted, he could put the environment and human rights at the top of the U.S.-Brazilian agenda, complicating relations and jeopardizing trade.

2. The Bolsonaro administration's efforts to protect the Amazon until now might be generously termed ineffective; critics go so far as to cite its record as evidence of a deliberate intent to weaken environmental protections. In December, deforestation in the Brazilian Amazon -- often the result of illegal land-clearing operations -- surged to the highest levels in 12 years.

The Brazilian President has said the forest must be protected and passed multiple executive orders to that effect. However, he has simultaneously encouraged industrial development there, defunded agencies responsible for preventing illegal logging, ranching and mining, and backed legislation that would legalize extractive industries like oil and gas on indigenous lands.

Losing more of the Amazon could have global repercussions. As the world's largest rainforest, it is an vital defense from climate change. […] Biden has shown a keen awareness of the forest's importance to planetary health, vowing on the campaign trail last year to mobilize a global effort to pressure Brazil to protect the Amazon, including that $20 billion carrot for Brazil to "stop tearing down the forest" -- or face economic consequences. Bolsonaro, a fan of Biden's then-rival Donald Trump, took it poorly at the time, accusing Biden of "greed" for the Amazon and announcing that he would not accept "bribes" or "threats."

A significant disagreement between Bolsonaro and Biden, dated back to Biden's presidential campaign, regards the foreign interference into the protection of Amazon forest improperly (as said) protected by Bolsonaro. Do you agree with Bolsonaro's argument that this is Brazil's internal issue, and no foreign interference is acceptable (or welcome)? Or do you agree with Biden's argument that Amazon forest is the world's treasure and the world's responsibility, so that it must be globally protected? Is the foreign (international) involvement generally available regarding issues vital for protection of environment or e.g. of human rights? Should (not) it be?

AMERICAN LAW PROGRAM
The Catholic University of America, Columbus School of Law
Jagiellonian University, Faculty of Law and Administration
21st year, 2021-2022

ENTRANCE EXAM 2 – READING PART – TEXT

Read the text of the New Jersey Superior Court judgment in: *Matter of Will of Leibl*, 617 A.2d 266 (1992), in which the Court did not admit the son of the deceased person to probate [more or less equal to inheritance] as this son ineffectively challenged the deceased person's testamentary capacity and accordance with the public policy as well as raised that the deceased person was under undue influence, and in mistake as to his assets. When reading you may take notes. After 30 minutes you will receive short open questions to this text.

MICHELS, P.J.A.D.

Plaintiff Sidney Liebl, Jr. appeals from (1) a judgment of the Chancery Division, Probate Part, that dismissed his complaint seeking to set aside the judgment of the Bergen County Surrogate admitting to probate the Last Will and Testament of his father Sidney Liebl, Sr., deceased, and awarded defendant Arleen Backer costs against him, and (2) a post-judgment order denying his motion for rehearing or reconsideration.

On June 5, 1990, Sidney Liebl, Sr. died at age 82. Decedent was survived by his son, plaintiff; his granddaughter, defendant; and two great-grandchildren, Bryan and Brett Backer. On June 21, 1990, the Last Will and Testament of decedent, dated July 21, 1989, was admitted to probate by judgment of the Surrogate of Bergen County. The will named defendant as the primary beneficiary. Thereafter, plaintiff instituted this action in the Chancery Division, Probate Part, seeking to set aside the judgment of probate and to have a substitute administrator *pendente lite* appointed. Plaintiff claimed that decedent "was incompetent and could not have known the nature of his acts and was, therefore, incapable of making a Last Will and *523 Testament." The trial court held that decedent's July 21, 1989 will was properly admitted to probate and that "the proofs establish that there is no basis for a challenge to the admission of the Will to probate based upon lack of testamentary capacity, undue influence, or suspicious circumstance." This appeal followed.

Plaintiff seeks a reversal of the judgment, contending that (1) decedent did not comprehend the nature of his assets and, therefore, the distribution under his will was invalid; (2) the facts established that **268 there was undue influence by defendant upon decedent so as to invalidate the July 21, 1989 will; (3) the trial court should not have enforced the provisions of the will since the result is contrary to public policy, and (4) since the will of July 21, 1989 should not be probated, decedent's will of August 5, 1982 should be deemed uncancelled and unrevoked or, alternatively, the intestacy statute should apply. We disagree and affirm.

We are satisfied from our study of the record and the arguments presented that there is sufficient credible evidence in the record as a whole to support the findings and conclusions of the trial court and we discern no good reason or justification for disturbing them. *See Leimgruber v. Claridge Assocs. Ltd.*, 73 *N.J.* 450, 455–56, 375 *A.*2d 652 (1977); *Rova Farms Resort v. Investors Ins. Co.*, 65 *N.J.* 474, 483–84, 323 *A.*2d 495 (1974); *State v. Johnson*, 42 *N.J.* 146, 162, 199 *A.*2d 809 (1964). *See also R.* 2:11–3(e)(1)(A). Moreover, all of the issues of law raised are clearly without merit. *R.* 2:11–3(e)(1)(E).

1 Additionally, we point out that "[t]he findings of the trial court on the issues of testamentary capacity and undue influence, though not controlling, are entitled to great weight since the trial court

had the opportunity of seeing and hearing the witnesses and forming an opinion as to the credibility of their testimony." *Gellert v. Livingston,* 5 *N.J.* 65, 78, 73 *A.*2d 916 (1950); *In re Hoover,* 21 *N.J.Super.* 323, 328, 91 *A.*2d 155 (App.Div.1952), *certif. denied,* 11 *N.J.* 211, 93 *A.*2d 819 (1953). *524 *Cf. Dolson v. Anastasia,* 55 *N.J.* 2, 6–7, 258 *A.*2d 706 (1969). Such factual findings should not be disturbed unless they are so manifestly unsupported or inconsistent with the competent, reasonably credible evidence so as to offend the interests of justice. *Leimgruber v. Claridge Assocs., Ltd., supra,* 73 *N.J.* at 456, 375 *A.*2d 652; *Rova Farms Resort v. Investors Ins. Co., supra,* 65 *N.J.* at 484, 323 *A.*2d 495; *State v. Johnson, supra,* 42 *N.J.* at 162, 199 *A.*2d 809.

23 Furthermore, there is a legal presumption that "the testator was of sound mind and competent when he executed the will." *Haynes v. First Nat'l State Bank of N.J.,* 87 *N.J.* 163, 175–76, 432 *A.*2d 890 (1981) (quoting *Gellert v. Livingston, supra,* 5 *N.J.* at 71, 73 *A.*2d 916); *In re Hoover, supra,* 21 *N.J.Super.* at 325, 91 *A.*2d 155. The gauge of testamentary capacity is "whether the testator can comprehend the property he is about to dispose of; the natural objects of his bounty; the meaning of the business in which he is engaged; the relation of each of the factors to the others, and the distribution that is made by the will." *Gellert v. Livingston, supra,* 5 *N.J.* at 73, 73 *A.*2d 916; *see* 5 *Alfred C. Clapp, New Jersey Practice*—Wills *and Administration* § 36 at 150–56 (1982). Testamentary capacity is to be tested at the date of the execution of the will. *Gellert v. Livingston, supra,* 5 *N.J.* at 76, 73 *A.*2d 916. Furthermore, "[a]s a general principle, the law requires only a very low degree of mental capacity for one executing a will." *In re Rasnick,* 77 *N.J.Super.* 380, 394, 186 *A.*2d 527 (Cty.Ct.1962); *see Loveridge v. Brown,* 98 *N.J.Eq.* 381, 387, 129 *A.* 131 (E. & A. 1925); 5 *Clapp, supra,* § 36 at 153. "[T]he burden of establishing a lack of testamentary capacity is upon the one who challenges its existence [and] [t]hat burden must be sustained by clear and convincing evidence." *In re Hoover, supra,* 21 *N.J.Super.* at 325, 91 *A.*2d 155; *accord In re Rasnick, supra,* 77 *N.J.Super.* at 395, 186 *A.*2d 527. A testator's misconception of the exact nature or value of his assets will not invalidate a will where there is no evidence of incapacity. *See In re Livingston's* Will, 37 *A.* 770, 772 (Prerog.1897); *McCoon* *525 *v. Allen,* 45 *N.J.Eq.* 708, 719, 17 *A.* 820 (Prerog.Ct.1889); *Collins v. Osborn,* 34 *N.J.Eq.* 511, 520 (Prerog.Ct.1881); 5 *Clapp, supra,* § 36 at 151 n. 8.

"Even an actual mistake by a testator as to the extent of his property does not show as a matter of law that he was wanting in testamentary capacity." 79 *Am.Jur.*2d Wills § 72 at 331 (1975). Rather, a testator need only know that his property is worth some value and have a general estimate as to the nature of his estate. *Ibid.* "[I]t is not ignorance of the kind or amount of property owned by the **269 testatrix which invalidates [a] will, but ignorance resulting from a mental incapacity to comprehend the kind and amount of such property." *In re Livingston's* Will, *supra,* 37 *A.* at 772.

"Testamentary dispositions are required to be enforced unless contrary to public policy or a rule of positive law." *Alper v. Alper,* 2 *N.J.* 105, 114–15, 65 *A.*2d 737 (1949); *Girard Trust Co. v. Schmitz,* 129 *N.J.Eq.* 444, 453, 20 *A.*2d 21 (Ch.1941). "It is well settled in this State that every citizen of full age and sound mind has the right to make such disposition of property by will or deed as he or she in the exercise of individual judgment may deem fit." *Casternovia v. Casternovia,* 82 *N.J.Super.* 251, 257, 197 *A.*2d 406 (App.Div.1964); *Benedict v. New York Trust Co.,* 48 *N.J.Super.* 286, 289, 137 *A.*2d 446 (Ch.Div.), *aff'd o.b.,* 50 *N.J.Super.* 177, 141 *A.*2d 340 (App.Div.1958); *see In re Estate of Campbell,* 71 *N.J.Super.* 307, 310, 176 *A.*2d 840 (Cty.Ct.1961). Further, a testator is not required to divide his or her estate equally among his or her children. *See Casternovia v. Casternovia, supra,* 82 *N.J.Super.* at 257, 197 *A.*2d 406; 5 *Clapp, supra,* § 61 at 217 n. 31; 79 *Am.Jur.*2d Wills §§ 66, 67 at 324–26. Indeed, a testator "may even exclude one or more or all of the members of his own family." *Benedict v. New York Trust Co., supra,* 48 *N.J.Super.* at 289, 137 *A.*2d 446. "Our statute permits intentional disinheritance." *In re Estate of Campbell, supra,* 71 *N.J.Super.* at 310, 176 *A.*2d 840; *see Stevens v. Shippen,* 28 *N.J.Eq.* 487, 536 (Ch.1877), *aff'd,* 29 *N.J.Eq.* 602 (E. & A.1878), *aff'd sub nom.,* *526 *Clarkson v. Stevens,* 106 *U.S.* 505, 1 *S.Ct.* 200, 27 *L.Ed.* 139 1882); *N.J.S.A.* 3B:5–16. "A

will cannot be set aside merely because it is ‘unequal or unjust.’ ‘If capacity, formal execution, and volition appear, the will of the most impious man must stand, unless there is something, not in the motives which led to the disposition, but in the actual disposition, against good morals or against public policy.’ ” *In re Blake's* Will, 21 *N.J.* 50, 57, 120 A.2d 745 (1956) (quoting *Den D. Trumbull v. Gibbons*, 22 *N.J.L.* 117, 153 (Sup.Ct.1849)); *see* 79 *Am.Jur.*2d Wills § 65 at 324.

An unnatural will, that is, one which fails to provide for the natural objects of the testator's bounty, is sometimes characterized as a strong or formidable circumstance or as raising a suspicion of undue influence. However, mere inequality of benefit among those of equal degree of consanguinity will not of itself justify an inference of undue influence. It must be borne in mind that it is clearly lawful for a testator to make an unjust will; and that it is lawful, too, for a testator to entertain a prejudice or a partiality. [5 *Clapp, supra,* § 61 at 216–17 (footnotes omitted)].

“Any repugnance the court may feel at the unnaturalness of the testament cannot be permitted to influence it to frustrate the testator's legal right to dispose of his property as he willed.” *In re Petkos*, 54 *N.J.Super.* 118, 128, 148 *A.*2d 320 (App.Div.), *certif. denied*, 30 *N.J.* 150, 152 *A.*2d 170 (1959). “[T]here is no judicial superintendence of the reason and wisdom of the testamentary act, save as it offends against positive law or imperative public policy.” *In re Blake's* Will, *supra*, 21 *N.J.* at 57, 120 *A.*2d 745.

4 Applying these settled principles here, it is perfectly clear that decedent's will, dated July 21, 1989, was properly admitted to probate. The proofs show that decedent had sufficient mental capacity to draft his will. Indeed, both parties agree that “there was no question as to his capacity ...” Rather, relying on the testimony of an insurance agent, plaintiff challenged decedent's knowledge of the value of his business to invalidate the will. As appropriately noted by the trial court, the court is not presented with the situation where a business, which was once worth a substantial amount, suddenly decreased in value unbeknownst to the decedent. Rather, the trial court concluded that the business “never had a great deal *527 of value.” Furthermore, the trial court found the testimony of the insurance agent “a very thin lead” which “doesn't come close to demonstrating the kind of mistake and misapprehension and kind of awareness argued by plaintiff.”

**270 Further, decedent's estimate of his net worth was only an approximation and not very reliable given the purpose of the estimate coupled with the insurance agent's later statement to decedent that the estimate did not affect the annuity contract. Even if the business had suddenly declined, decedent's lack of knowledge was immaterial as there is no indication that decedent intended to distribute his estate evenly. The trial court, therefore, properly concluded that decedent had the requisite testamentary capacity in dismissing plaintiff's argument that decedent had misapprehended the value of the business.

Even assuming that decedent may have misapprehended the value of the business, decedent's will evidences an intent not to distribute his estate evenly. Decedent's prior will had divided the estate evenly between his two children. Upon the death of defendant's mother, decedent modified his will to divide the estate evenly between plaintiff and defendant. After a year of consideration, however, decedent returned to his attorney and requested that plaintiff receive only the business and defendant receive the residual estate. Paragraph Four of the will specifically provided for “no further provision for [decedent's] son Sidney Liebl, Jr. for reasons best known to him.” Furthermore, there was testimony which indicated that decedent and plaintiff may not have been getting along with each other. Indeed, even plaintiff stated that he no longer spent holidays with his father and that they did not exchange gifts or cards.

5 We are also satisfied that the trial court properly found that plaintiff failed to establish undue influence. “The burden of proving undue influence is upon the person asserting it and it must be clearly established.” *Gellert v. Livingston, supra,* 5 *N.J.* at 71, 73 *A.*2d 916. “ ‘Undue influence’ has

been defined as ‘mental, moral or physical’ exertion which has destroyed the *528 ‘free agency of a testator’ by preventing the testator ‘from following the dictates of his own mind and will and accepting instead the domination and influence of another.’ ” *Haynes v. First Nat'l State Bank of N.J., supra,* 87 *N.J.* at 176, 432 *A.*2d 890 (quoting *In re Neuman,* 133 *N.J.Eq.* 532, 534, 32 *A.*2d 826 (E. & A. 1943)). There are two elements necessary to give rise to a presumption of undue influence. First, there must be a “confidential relationship” between the testator and a beneficiary “where trust is reposed by reason of the testator's weakness or dependence or where the parties occupied relations in which reliance is naturally inspired or in fact exists....” *In re Hopper,* 9 *N.J.* 280, 282, 88 *A.*2d 193 (1952); *accord Haynes v. First Nat'l State Bank of N.J., supra,* 87 *N.J.* at 176, 432 *A.*2d 890. Second, there must be “the presence of suspicious circumstances which, in combination with such a confidential relationship, will shift the burden of proof to the proponent.” *Haynes v. First Nat'l State Bank of N.J., supra,* 87 *N.J.* at 176, 432 *A.*2d 890. “Such circumstances need be no more than ‘slight.’ ” *Ibid.; In re Blake's* Will, *supra,* 21 *N.J.* at 55–56, 120 *A.*2d 745.

6 However, not all influence is “undue” influence. Persuasion or suggestions or the possession of influence and the opportunity to exert it, will not suffice. It must be such as to destroy the testator's free agency and to constrain him to what he would not otherwise have done in the disposition of his wordly assets. The coercion or domination exercised to influence the testator may be moral, physical, or mental, or all three, but the coercion exerted upon the testator's mind must be of a degree sufficient to turn the testator from disposing of his property according to his own desires by the substitution of the will of another which he is unable to resist or overcome. *In re Brengel's* Will, 85 *N.J.Eq.* 487 [95 *A.* 750] (Prerog.1915); *In re Neuman, supra* [133 *N.J.Eq.*] *p.* 534 [32 *A.*2d 826]; *Schuchhardt v. Schuchhardt,* 62 *Id.* [*N.J.Eq.*] 710 [49 *A.* 485] (Prerog.1901). Each case of this nature must be governed by the particular facts and circumstances attending the execution of the will and the conduct of the parties who participated in order to determine if the coercion exerted **271 was “undue.” *In re Raynolds* [*Estate*] *supra,* [132 *N.J.Eq.* 141] p. 152 [27 *A.*2d 226]; *In re Nixon, supra* [136 *N.J.Eq.* 242] p. 245 [41 *A.*2d 119]. [*Gellert v. Livingston, supra,* 5 *N.J.* at 73, 73 *A.*2d 916].

While the proofs show that defendant had a close relationship with her grandfather, she did not exert undue influence upon *529 him. Clearly, her numerous visits and calls and even her discussions regarding her housing problems did not “destroy the testator's free agency.” Furthermore, a presumption of undue influence is unwarranted as neither a sufficient “confidential relationship” nor “suspicious circumstances” are evidenced from the record.

Additionally, the proofs indicate that decedent handled his own financial matters and prepared his estate without the presence of any undue influence. Decedent's attorney testified that he “did not see or hear anything from [decedent] to suggest ... any [undue] influence.” Rather, counsel always met with decedent alone, and had never spoken to plaintiff or defendant prior to decedent's death. Similarly, the insurance agent communicated only with decedent. Furthermore, neither plaintiff nor defendant knew about decedent's personal financial matters. In sum, the proofs established that decedent was, until his death, a very active and self-reliant individual.

78 Finally, we are satisfied that decedent's will does not violate any public policy of this state. First, this is not a case in which the testator placed restrictions or conditions upon the legacy that are contrary to public policy and thus invalid. *See e.g., Girard Trust Co. v. Schmitz, supra,* 129 *N.J.Eq.* at 451, 20 *A.*2d 21; *see also David v. Vesta Co.,* 45 *N.J.* 301, 311–12, 212 *A.*2d 345 (1965); 6 *Alfred C. Clapp & Dorothy G. Black, New Jersey Practice*—Wills *and Administration,* § 666 at 258 (1984). Rather, decedent merely limited the extent of his estate he gave to his son. As noted previously, a testator is not required to divide his or her estate evenly among his or her children and may even exclude a child or family member completely. *See Casternovia v. Casternovia, supra,* 82 *N.J.Super.* at 257, 197 *A.*2d 406; *Benedict v. New York Trust Co., supra,* 48 *N.J.Super.* at 289, 137 *A.*2d 446; 5 *Clapp, supra,* § 61; 79 *Am.Jur.*2d Wills §§ 66, 67.

9 “A will cannot be set aside merely because it is ‘unequal or unjust.’ ‘If capacity, formal execution, and volition appear, *530 the will of the most impious man must stand, unless there is something, not in the motives which led to the disposition, but in the actual disposition, against good morals or against public policy.’ ” *In re Blake's* Will, *supra,* 21 *N.J.* at 57, 120 *A.*2d 745 (quoting *Den D. Trumbull v. Gibbons,* 22 *N.J.L.* 117, 153 (Sup.Ct.1849)); *see* 79 *Am.Jur.*2d Wills § 65 at 324. “Any repugnance the court may feel at the unnaturalness of the testament cannot be permitted to influence it to frustrate the testator's legal right to dispose of his property as he willed.” *In re Petkos, supra,* 54 *N.J.Super.* at 128, 148 *A.*2d 320. “[T]here is no judicial superintendence of the reason and wisdom of the testamentary act, save as it offends against positive law or imperative public policy.” *In re Blake's* Will, *supra,* 21 *N.J.* at 57, 120 *A.*2d 745. “A will may be contrary to the principles of justice and humanity; its provisions may be shockingly unnatural and extremely unfair,” however, courts are bound to uphold the validity of a will if made by a person of sufficient age to be competent and if made while of sound and unconstrained mind.

In re Hoover, supra, 21 *N.J.Super.* at 325–26, 91 *A.*2d 155. “[A] will cannot be set aside on account of strong, violent and unjust prejudice of the testator ... if such prejudice be not founded on delusions and does not show mental incapacity ... [and] that the unreasonableness of testator's prejudice and unfairness in the disposition of his property will not alone avail the court to repudiate the will.” *In re Crotty,* 4 *N.J.Misc.* 745, 747–48, 134 *A.* 622 (Orphans Ct.1926) (citations omitted).

§ 82. Passions and prejudices; excitement: The existence of strong passions and prejudices on the part of a testator is not inconsistent with his possessing testamentary **272 capacity. The testator's prejudice against a child or other near relative is not in itself a ground for invalidating his will, notwithstanding that it is wholly unreasonable and illfounded. People may hate their relatives for bad reasons and yet not be deprived of testamentary power.

It is only where a prejudice borders upon a delusion by which the testator is rendered devoid of the power to realize the extent of his property, the natural objects of his bounty, and the business at hand, when he executes the will, that it incapacitates him to make a will. [79 *Am.Jur.*2d Wills § 82 at 336–37].

*531 1011 There is no claim here that decedent was under any insane delusions. Similarly, there are no conditions imposed by the will which violate public policy. Consequently, the trial court properly addressed the issue solely in terms of testamentary capacity. Even if decedent had totally disinherited his son due to an unreasonable discriminatory prejudice, this cannot be a ground to set aside the will.

Accordingly, the judgment and order under review are affirmed substantially for the reasons expressed by Judge Lesemann in his oral opinion of July 23, 1991.

AMERICAN LAW PROGRAM
The Catholic University of America, Columbus School of Law
Jagiellonian University, Faculty of Law and Administration
21st year, 2021-2022

ENTRANCE EXAM 2 – READING QUESTION – ANSWER FILE

Based on the read texts of the New Jersey Superior Court judgment in: *Matter of Will of Leibl*, 617 A.2d 266 (1992), including your notes as well as your understanding to the texts, answer the questions briefly (each answer should be 1-2 sentences long, about 10-20 words). You have 15 minutes to complete this part of the exam.

1. **What was the position of the Superior Court against the factual findings and legal argumentation of the trial court?**

   …

2. **Who needs to prove (bear the burden of proof) the issue of testamentary capacity and why?**

   …

3. **Is there any obligation of the testator to benefit his children? What is the borderline of this obligation (lack of obligation)?**

   …

4. **What is the significance of influence of other people on the testator from the perspective of the testament (last will)?**

   …

5. **Can an unjust will be subject to probate?**

   …