Does Golyadkin Really Have a Double?
Dostoevsky Debunks the Mental Capacity and Insane Delusion Doctrines

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I. Introduction

In Fyodor Dostoevsky’s novel, The Double, Mr. Golyadkin, a civil servant, meets his identical twin:

Sitting on his bed, also wearing a hat and coat, smiling slightly, puckering up his eyes and tipping him a friendly nod, was the stranger. Mr. Golyadkin wanted to scream, but could not—wanted to make some form of protest, but lacked the power. His hair stood on end, and he collapsed senseless with horror on the spot. And small wonder. He had fully recognized his friend of the night. It was none other than himself—Mr. Golyadkin . . . Another Mr.

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1 Because Fyodor Dostoevsky’s works have been translated from Russian to English, his name and his characters’ names are spelled differently among the various translations. This article refers to the author as “Dostoevsky,” however other acceptable spellings include “Dostoevskij” and “Dostoyevsky.” These alternates are displayed in the other sources referenced in this article. All variations refer to the same author. Further, this article refers to the main character as “Golyadkin,” while others translate his name to “Goljadkin.” Both are acceptable and refer to the same character.
Golyadkin, but exactly the same as him. . . . It was, in short, his double . . . [.] 2

_The Double_, only the twenty-four year old Russian genius’s second published work,3 was written during Dostoevsky’s pre-Siberian period, a time when he was shaping his own “personal and literary identity.”4 Although the author himself was not satisfied with _The Double_5—one of the great but lesser known Russian novels—it dispatches a timeless message that not only speaks to today’s lawyers, judges, and legal scholars, but could also conceivably transform traditional will and trust doctrines.

Although scholarship on Dostoevsky and the law is not new, most of it focuses on the post-Siberian period in which the author created some of his most famous masterpieces, such as _Crime and Punishment, The Idiot, Demons_, and _Brothers Karamazov_.6 Siberia was the turning point in

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3 Ronald Hingley, Introduction to GREAT SHORT WORKS OF FYODOR DOSTOEVSKY, at ix (1st Perennial Classics ed. 2004).
5 Dimitri Chizhevsky, The Theme of the Double in Dostoevsky, in DOSTOEVSKY: A COLLECTION OF CRITICAL ESSAYS 112 (1965) (discussing Dostoevsky’s disappointment with the form of the story); JOHN JONES, DOSTOEVSKY 83, 83–84 (1983) (discussing the author’s feelings of failure about the story); David Gasperetti, The Double: Dostoevskij’s Self-Effacing Narrative, 33 SLAVIC & E. EUR. J. 217, 217–18 (1989) (analyzing Dostoevsky’s “grave doubts” about the novel); Lonny Roy Harrison, Duality and the Problem of Moral Self-Awareness in Dostoevsky’s Dvoinik (The Double), 188–89 (2008) (unpublished Ph.D thesis, University of Toronto) (on file with author) (explaining that some of Dostoevsky’s discontent with the novel and desire to rework it was due to the critics’ unflattering assessments).
Dostoevsky’s career. Already a known novelist, Dostoevsky was arrested, tried, and sentenced to death for treason in 1849. After about eight months in prison, officials led him and others into a public square and tied them to execution posts before a firing squad. Just before discharging their shots, the soldiers received a halt command. Thus, by order of Nicholas I, the Russian novelist and fellow prisoners were spared and their death sentences commuted to terms of hard labor and exile in Siberia. After serving his term, Dostoevsky was permitted to return to St. Petersburg.
Petersburg where, in the wake of the traumatic ordeal, he would create some of his finest work.\(^\text{12}\)

Dostoevsky was not a lawyer and lacked formal legal training.\(^\text{13}\) However, his later novels—particularly *Crime and Punishment*, *The House of the Dead*, and *Brothers Karamazov*—display an uncanny insight not only into the law and the workings of the justice system but also into the very psyche of individuals who commit crimes.\(^\text{14}\) Even before Siberia, Dostoevsky—who suffered from nervous attacks, seizures, and hallucinations—acquired an expertise in mental illness and instability.\(^\text{15}\)

Psychological nuggets of wisdom surface in *The Double*, an important but sadly underrated novel.\(^\text{16}\)

*The Double* is an uncomfortable story, not only because it forces readers to experience the kind of living hell that most readers hope to avoid.

\(^\text{12}\) *See* Frank, *supra* note 7, at 3; Jones, *supra* note 5, at 3–4 (stating that “the young Socialist, the hospital doctor’s son who wrote about life in Petersburg’s attics and kitchens and those partitioned-off spaces they called corners, is not the man we are interested in,” and instead, “we are waiting . . . for him to get sent to Siberia so he can return in middle age and give the world *Crime and Punishment, The Idiot, The Possessed, The Brothers Karamazov*”); Ronner, *supra* note 6, at 89–90.  

\(^\text{13}\) Burnham, *supra* note 6, at 1227.  

\(^\text{14}\) *See* David McDuff, *Translator’s Introduction* to FYODOR DOSTOYEVSKY, *THE HOUSE OF THE DEAD* 7 (David McDuff trans., Penguin Books 2003) (1861) (noting that while in prison, Dostoevsky wrote to his brother Mikhail, “I had got to know something of the convict population back in Tobolsk; here in Omsk I was to live for four years in close proximity to it. These men were coarse, irritable and malicious”); Burnham, *supra* note 6, at 1228–29 (“[T]he experience in Siberia threw [Dostoevsky] together for several years with a wide variety of ordinary and political offenders. This experience undoubtedly informed him well and piqued his curiosity about the nature of both crime and its punishment.”).  

\(^\text{15}\) *See* Jones, *supra* note 5, at 107 (discussing how Dostoevsky “showed signs of being really ill” and stating that “the main reason why experts still argue about the origins of his epilepsy is that his own letters . . . and accounts of him by others, are strewn with references to nervous attacks spasms, seizures, fits, faintings, hallucinations”); Lawrence Kohlberg, *Psychological Analysis and Literary Form: A Study of the Doubles in Dostoevsky*, 92 Dædalus 345, 354 (1963) (discussing the potential effects of Dostoevsky’s severe epilepsy).  

\(^\text{16}\) *See* Chizhevsky, *supra* note 5, at 112. Despite Dostoevsky's friends' opinion that *The Double* was “a work of genius,” the story “received rather unfavorable criticism, and until recently was considered an unoriginal work.” *Id.*
but also because its thesis is something most people prefer to ignore. Despite the many debates over this enigmatic novel, commentators and scholars tend to concede that with respect to the protagonist (Golyadkin), they are never quite sure what is really happening and what is mere hallucination.\(^\text{17}\) Therefore, there is one big question: Does Golyadkin really have a double?\(^\text{18}\) Masterfully conjuring uncertainty, Dostoevsky leaves readers with an unquenched thirst for an answer.

Although The Double appears to have nothing to do with the law of wills and trusts and has not been redacted into even a note in the popular Dukeminier, Sitkoff, and Lindgren case book,\(^\text{19}\) it should claim an entire chapter on the mental capacity doctrine. The Double debunks, or at least sheds doubt on, basic mental capacity and insane delusion doctrines. This article, divided into four parts, explores Dostoevsky’s proposition that in

\(^{17}\) See, e.g., Gasperetti, supra note 5, at 225 (“The Double completely upsets normal reading strategies... [E]ach turn of the page leaves [the reader] more and more confused as to what, if anything, has really taken place.”); Rosenthal, supra note 4, at 78 (discussing the confusion in The Double about “what is real and what is not”); Nikolaj S. Trubeckoj, The Style of “Poor Folk” and “The Double”, 7 Am. Slavic & Eur. Rev. 150, 163 (1948) (“Real happenings and hallucinations are so mixed that one can no longer separate the two, cannot tell what really happened or what took place in the sick mind of [Golyadkin].”).

\(^{18}\) There are scholars who suggest that the Double exists partially or solely in Golyadkin’s consciousness. See, e.g., Jones, supra note 5, at 82–83 (“As the novel proceeds and ‘our hero’ and the Double sometimes become Messrs Golyadkin Senior and Junior respectively, Dostoevsky can be felt nudging [the reader] toward[] the conclusion that the two are also one and that the pinching and prodding register the pains of consciousness.”); Chizhevsky, supra note 5, at 115 (describing the Double as a “delusion” that “entered Golyadkin’s soul”); Gasperetti, supra note 5, at 222 (suggesting the possibility that the Double, along with everything else in the novel is all a dream or the result of Golyadkin’s “feverish imagination”); Kohlberg, supra note 15, at 350 (“[Dostoevsky] intended... [the Double] to be a hallucination representing the assertive, shameless impulses which first ‘propelled’ Golyadkin I into his patron’s ballroom...”). Others believe that the Double is objectively real. See, e.g., Harrison, supra note 5, at 121 (“The authenticity of the double is never called into question. All secondary characters acknowledge the presence of both Golyadkins.”); Hingley, supra note 3, at ix (“[T]he second Golyadkin... is treated entirely as a matter of course in the office where both Golyadkins work; no one is inclined to regard this [as] astonishing and impossible.”).

\(^{19}\) Jesse Dukeminier, Robert H. Sitkoff, & James Lindgren, Wills, Trusts, and Estates (8th ed. 2009).
many instances lawyers (or all mere mortals) are incapable of determining unsound mind and insane delusion.

Although the mental capacity concept arises in diverse areas of law, Part II focuses on wills and trusts, partly because it is manageable and partly because it boasts of having a sacrosanct policy in favor of testamentary freedom.20 Under that policy, aiming to protect individuals’ ability to control the disposition of their property upon death, courts are commanded not to impose their morals, biases, or preconceptions on wills or trusts.21 Courts are instructed to respect the testator’s judgment and refrain from either redoing a will or trust or supplanting it with one of their own.22

Despite the stronghold of testamentary freedom, some courts have limited or eradicated a decedent’s ability to direct the disposition of property upon death.23 One instance is where contestants successfully

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20 See Jane B. Baron, Empathy, Subjectivity, and Testamentary Capacity, 24 SAN DIEGO L. REV. 1043, 1043 (1987) (“The law of wills . . . is premised on the importance of effectuating a person’s wishes as to the disposition of his or her property after death. Courts may not judge the wisdom of those wishes because the testator’s ends are personal and individual to him or her alone.”); Susanna L. Blumenthal, The Deviance of the Will: Policing the Bounds of Testamentary Freedom in Nineteenth-Century America, 119 HARV. L. REV. 959, 966–76 (2006) (discussing the history of testamentary freedom from the Roman Republic to the present); Bradley E.S. Fogel, The Completely Insane Law of Partial Insanity: The Impact of Monomania on Testamentary Capacity, 42 REAL PROP. PROB. & TR. J. 67, 72 (2007) (“Testamentary freedom—the ability of a decedent to control the disposition of his property at death—is a fundamental tenet of American law.”); Ashbel G. Gulliver & Catherine J. Tilson, Classification of Gratuitous Transfers, 51 YALE L.J. 1, 2 (1941) (“One fundamental proposition is that, under a legal system recognizing the individualistic institution of private property and granting to the owner the power to determine his successors in ownership, the general philosophy of the courts should favor giving effect to an intentional exercise of that power.”); John H. Langbein, Substantial Compliance with the Wills Act, 88 HARV. L. REV. 489, 491 (1975) (“The first principle of the law of wills is freedom of testation.”); Melanie B. Leslie, The Myth of Testamentary Freedom, 38 ARIZ. L. REV. 235, 235 (1996) (“Courts and scholars often treat freedom of testation as if it were a fundamental tenet of [the] liberal legal tradition.”).

21 See Baron, supra note 20, at 1043 (“Courts may not judge the wisdom of those [testamentary] wishes.”).

22 Id. (noting “the importance of effectuating a person’s wishes”).

23 There are various limitations on testamentary freedom. See DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 469–539. For example, elective share statutes prohibit
argue lack of mental capacity, using a doctrine called “insane delusion” or “monomania” to invalidate wills that either omit them entirely or slight them as beneficiaries. While some commentators snipe at these doctrines, the mental capacity rule endures and remains indelibly ingrained in the law. Although in wills law sound mind and insane delusion are

testators from disinheriting their spouses and under certain circumstances, and pretermission statutes bar testators from disinheriting children. Id. at 476. See also Baron, supra note 20, at 1046 (discussing the “obvious and important limitations on the freedom granted the testator” which are “regulatory in purpose and effect” and “are designed not to effectuate private intent, but to defeat it in furtherance of explicitly identified social goals”).

See DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 168–79 (exploring the insane delusion doctrine); Baron, supra note 20, at 1055–56 (discussing the sound mind and insane delusion doctrines); Blumenthal, supra note 20, at 979 (discussing “monomania”); Fogel, supra note 20, at 102–11 (criticizing the doctrine of monomania or insane delusion, which permits a court to invalidate a will). But see infra notes 33 and 34 and accompanying text (discussing attempts to harmonize mental capacity and insane delusion doctrines with testamentary freedom). Wills may be challenged on other grounds, including failure to satisfy state statutory requirements. Lawrence A. Frolik, The Biological Roots of the Undue Influence Doctrine: What’s Love Got to Do with It?, 57 U. PITT. L. REV. 841, 847 (1966) (“Most fundamentally, a will can be challenged as being invalid because it does not meet the statutory technical requirements.”). See also DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 223–85 (exploring will formalities and forms, all of which may form the basis for a challenge). Wills can be challenged on the grounds of fraud, mistake, duress, lack of testamentary capacity, and undue influence. Id. at 159–67 (lack of mental capacity), 180–89 (undue influence), 207–15 (fraud and duress), 335–57 (mistaken or ambiguous language in wills). See also infra Part II (analyzing sound mind and insane delusion case law).

Several scholars have pointed out flaws in decisions based on the insane delusion doctrine and other challenges lodged in will contests. See, e.g., Pamela Champine, Expertise and Instinct in the Assessment of Testamentary Capacity, 51 VILL. L. REV. 25, 49 (2006) (discussing how some courts “identify whether the testator had the capability of exercising the requisite judgment to make a will . . . [by] examin[ing] the content of the will that the testator’s judgment produced,” which is “associated with the policy of protecting the testator’s family rather than fairness per se, because it is the closest family members who most typically will benefit from a successful will contest’’); Fogel, supra note 20, at 70–71 (arguing that the “standards for monomania . . . provide fact-finders—both judges and juries—with significant leeway to express their biases” and that “[g]enerally, these biases run in favor of traditional dispositive schemes, such as leaving property only to close family and treating all children equally”); Milton D. Green, Proof of Mental Incompetency and the Unexpressed Major Premise, 53 YALE L. J. 271, 278–79 (1944) (discussing cases in
legal constructs, this article, borrowing from the psychiatric definitions of “bizarre” and “non-bizarre,” cordons the legal constructs to Dostoevsky’s message in *The Double*.  

Shifting from law to literature, Part III summarizes *The Double* and the debate over not only the novel’s meaning but also Golyadkin’s mental condition. This part suggests that the controversy belies the fact that in *The Double*, readers cannot ascertain what is real and what is hallucination. Dostoevsky intentionally keeps his readers in limbo, leaving them to wonder if anything really happens to his hero Golyadkin. Dostoevsky thus compels his readers to surrender to what he suggests is an exercise in futility: the quest to discern a tidy demarcation between reality and delusion.

Linking Dostoevsky’s thesis to current mental capacity doctrines, Part III also suggests that Golyadkin, like many testators, would baffle courts if his psyche were under the will-contest microscope. Moreover, it seeks to show that the uncertainty in *The Double* resembles the disquieting dubiousness of will contests, particularly in litigation in which individuals are alleged to have non-bizarre delusions. This part does more than just complain. It takes a stab at a solution, proposing the sort of doctrinal revamping which would heed Dostoevsky’s wise admonition.

Part IV concludes by revisiting the one (or two) Golyadkin(s), who discloses the most deleterious effect of current capacity law. This ultimately demonstrates why it is so crucial to consider making a change.

II. TESTAMENTARY FREEDOM AND THE MENTAL CAPACITY DOCTRINE

Our legal system, based on the individualistic institution of private property, empowers property owners to determine their successors in ownership. At least in theory, testamentary freedom is sacrosanct; courts are told to give effect to the intent of decedents who dispose of property by will or will substitute. Courts are commanded not to impose their morals,

\[\text{which courts validated wills even when testators lacked mental capacity because the courts approved of the wills and found their contents to be reasonable); Leslie, supra note 20, at 236 (pointing out that will contest doctrines can end up defeating testamentary freedom when estate plans do not adhere to what courts feel is the normative disposition).}\]

\[\text{26 See infra Part II.B (defining “bizarre” and “non-bizarre”).}\]

\[\text{27 See Baron, supra note 20, at 1043; Blumenthal, supra note 20, at 975; infra Part II (discussing the theory and policies underlying testamentary freedom).}\]

\[\text{28 Baron, supra note 20, at 1043.}\]
biases, or preconceptions on wills.\textsuperscript{29} Instead, courts are ordered to honor the testator’s judgment and refrain from either rewriting a will or substituting it with their own.\textsuperscript{30}

Despite such apotheosis of freedom of testation (often denominated the “fundamental tenet of [the] liberal legal tradition”), the system has limited a decedent’s ability to direct the disposition of property upon death.\textsuperscript{31} Contestants can avail themselves of lack of mental capacity or insane delusion to invalidate wills that either omit them entirely or diminish their shares as beneficiaries.\textsuperscript{32} The law, straining to harmonize the mental capacity requirement with testamentary freedom, implies that when an unsound mind or delusions affect wills, the wills do not reflect, and in fact frustrate, true intent.\textsuperscript{33} Thus, in the name of testamentary freedom courts find and then effectuate what should have been the testator’s true intent if the testator had not been mentally infirm or deluded.\textsuperscript{34} Too often such rationalization is a lie and the court destroys a will to replace it with one of its own.\textsuperscript{35}

\begin{footnotesize}
\begin{enumerate}
\item[29] \textit{Id.} at 1049; Leslie, \textit{supra} note 20, at 235.
\item[30] See Baron, \textit{supra} note 20, at 1057.
\item[31] Leslie, \textit{supra} note 20, at 235.
\item[32] Frolik, \textit{supra} note 24, at 848–49.
\item[33] See Baron, \textit{supra} note 20, at 1048 (discussing how the mental capacity doctrine “can be understood [as] guaranteeing] that the testator is capable of forming the intent which the law is designed to protect,” and how that “perspective illustrates the individualism of wills law . . . [which] ensures that the wishes appearing in the will ‘truly’ are the testator’s own”); Frolik, \textit{supra} note 24, at 849–50 (“[C]ourts are justified in disallowing a will that reflects a serious misappreciation of reality since the delusion has caused an outcome that is inconsistent with the testator’s true intent (that is, what would have been the intent but for the insane delusion).”).
\item[34] See infra Part II.B.2.a (discussing how courts can be motivated by bias to invalidate wills).
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Other policies reside in the mental capacity requisite. The sound mind rule serves to protect the family.\textsuperscript{36} When relatives or children bestow resources, love, and comfort on a declining testator, the law impliedly reciprocates with remuneration.\textsuperscript{37} Further, the mental capacity rule aims to give testators peace of mind that their wishes will be honored if they try to undo their will or trust after their mental condition deteriorates.\textsuperscript{38} Moreover, the testamentary capacity doctrine recognizes that the elderly, especially the senile or incompetent, can be vulnerable to unscrupulous people who seek to exploit or unduly influence them.\textsuperscript{39}

Although the reasons behind the rule that testators be of sound mind and free of insane delusions are salutary, another goal, that of promoting

\textsuperscript{36} Dukeminier, Sitkoff & Lindgren, supra note 19, at 167.

\textsuperscript{37} See Baron, supra note 20, at 1050 (discussing how some individuals have suggested that the rule requiring mental capacity “has little to do with effectuating individual choices but instead is designed to protect the testator’s family from disinheritance”); Champine, supra note 25, at 44 (discussing the “norm of reciprocity” theory based on “implicit understandings between testators and beneficiaries involving reciprocal exchanges [that] should be enforced” and explaining that this norm “looks to the testator’s interactions with individuals rather than the familial relationship per se to define fairness”); Milton D. Green, Public Policies Underlying the Law of Mental Incompetency, 38 Mich. L. Rev. 1189, 1218 (1940) (“The argument that mental soundness as a prerequisite to testamentary capacity is bottomed upon the policy of the law to protect the family . . . .”); Leslie, supra note 20, at 246 (discussing the “unspoken presumption that a testator would always want to benefit family members as opposed to others . . . .”); Robert E. Mensel, Right Feeling and Knowing Right: Insanity in Testators and Criminals in Nineteenth Century American Law, 58 Okla. L. Rev. 397, 437 (2005) (“When insanity was raised to attack the testamentary capacity of a decedent who had disinherited the natural objects of his or her bounty . . . courts . . . incorporated in the standard of sanity the ability to feel the obligations of family.”); Amy D. Ronner, Homophobia: In the Closet and in the Coffin, 21 Law & Ineq. 65, 72 (2003) (explaining that “if the named beneficiaries are spouses, children, or other [traditional] family members, courts typically refrain from entangling themselves in the decedent’s motives or morals” and are less inclined to invalidate the wills).

\textsuperscript{38} Dukeminier Sitkoff & Lindgren, supra note 19, at 167.

\textsuperscript{39} Id. (“If the incompetent could make wills then many institutionalized people would be subject to imposition by the unscrupulous.”). But see id. (“Keep in mind, however, that what may look like exploitation to others may give the testator much pleasure.”).
public perception of the law as legitimate, is especially significant.\textsuperscript{40} There is an aspiration that the legal institutions, including those governing succession of property, be seen as sensible.\textsuperscript{41} People like to believe that courts are adept at rooting out things that simply do not and cannot have any basis in reality.\textsuperscript{42} Stated another way, people want to believe first that there is a distinction between what is real and what is not,\textsuperscript{43} and second that human beings are capable of making that distinction.\textsuperscript{44} Apparently, Dostoevsky is not convinced that either prong of that proposition has much credence.\textsuperscript{45}

Although the same policies minister to both mental capacity and insane delusion theories and contestants frequently lodge them together, courts treat them as two distinct attacks.\textsuperscript{46} If Dostoevsky were alive today, he would likely advocate a fusion of the two theories and give will contestants an additional hurdle to overcome before they achieve invalidation.\textsuperscript{47}

\textsuperscript{40} Id. at 168 (“[L]egitimacy cannot exist unless decisions are reasoned. . . . On this view, it is important that the succession to property be perceived as a responsible, reasoned act, according the survivors their just deserts.”).

\textsuperscript{41} Id.

\textsuperscript{42} See Grant H. Morris & Ansar Haroun, “God Told Me to Kill”: Religion or Delusion?, 38 SAN DIEGO L. REV. 973, 1012 (2001) (“The law presumes that everyone experiences the same reality. This presumption is only overcome by total cognitive impairment. . . . [T]he court examines the defendant’s subjective reality when it decides whether the defendant suffered from a mental disorder.”).

\textsuperscript{43} Id.

\textsuperscript{44} Id.

\textsuperscript{45} E.g., DOSTOEVSKY, supra note 2, at 171 (narrating a scene in which Golyadkin’s response to the inexplicable appearance of used dishware, serviette, and silverware is to exclaim, “[a]nything is possible”).

\textsuperscript{46} See, e.g., Breeden v. Stone (In re Estate of Breeden), 992 P.2d 1167, 1170 (Colo. 2000) (delineating and defining distinct tests for capacity and insane delusion). See also DUKEMINIER, SITEKOFF & LINDGREN, supra note 19, at 168 (“A person may have sufficient mental capacity generally to execute a will but be suffering from an insane delusion so as to cause a will to fail for lack of testamentary capacity nonetheless.”); Fogel, supra note 20, at 67–68 (addressing whether “a delusion about a specific subject [can] obviate testamentary capacity even though the testator is, in all other respects sane”).

\textsuperscript{47} See infra Part III.D (proposing a modification of current mental capacity law).
A. Lack of General Mental Capacity

The rule requiring a testator to be of sound mind to make a will has existed for about five centuries. In deference to testamentary freedom, the mental-capacity test is designed to be lenient:

[T]he testator or donor must be capable of knowing and understanding in a general way [1] the nature and extent of his or her property, [2] the natural objects of his or her bounty, and [3] the disposition that he or she is making of that property, and must also be capable of [4] relating

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48 See, e.g., Eunice L. Ross and Thomas J. Reed, Will Contests § 2:6 (2d ed. 1999) (“The first attempt to make a judicial synthesis and to develop a doctrinal test for testamentary capacity occurs in 1601 in Pawlet, Marquess of Winchester’s Case.”). In Pawlet, when the Marquess of Winchester’s will gave most of his property to illegitimate children, the legitimate son sued, arguing that his father was not sane when he executed his will. Id. Attorney General Lord Coke argued that courts should first decide whether a testator is mentally competent to make a will and the court agreed, announcing the rule by law it is not sufficient that the testator be of memory when he makes his will, to answer familiar and usual questions, but he ought to have a disposing memory so that he is able to make a disposition of his lands with understanding and reason; and that is such a memory which the law calls sane and perfect memory.


The modern test for testamentary capacity derives from two later English cases, Greenwood v. Greenwood, (1790) 163 Eng. Rep. 930 (K.B), and Harwood v. Baker, (1840) 13 Eng. Rep. 117 (P.C.); it is sometimes called the Greenwood-Baker rule. Thomas J. Reed, Breaking Wills in Indiana, 14 Ind. L. Rev. 865, 867 (1981). In Greenwood, Lord Kenyon charged the jury, requiring the testator to understand (1) what he possessed and (2) what were the natural objects of his bounty, while the court in Baker later added the third prong, that the testator be capable of forming an intelligent distribution plan. Ross & Reed, supra.

49 See Fogel, supra note 20, at 79 (“Courts have frequently stated that an individual may execute a valid will even though his capacity is significantly impaired.”).
these elements to one another and forming an orderly desire regarding the disposition of the property.50

The individual with sound mind does not have to be particularly bright, accurate, or unmistaken.51 Imperfect people with all sorts of quirks can pass the test with flying colors.52 A seminal case, In re Wright’s Estate,53 proclaimed that wills should not be invalidated simply because a testator is eccentric, nonconforming, or outlandish, and cemented that legal cliché in place.54

In Wright, the often drunk testator lived in a shack packed with dirt and junk, picked up trash and hid it in his house, falsely bragged of owning lots of homes, insisted on buying furniture that was not for sale, offered someone kerosene-soaked fish to eat, sporadically pretended to be dead, and failed to acknowledge his own granddaughter in the street.55 He “picked up paper flowers from garbage cans . . . and pinned them on rose bushes in his yard and took [a] witness to look at his roses.”56

The Supreme Court of California said that Wright had a sufficiently sound mind and found “no evidence that he did not appreciate his relations and obligations to others, or that he was not mindful of the property which he possessed.”57 It stressed that “[t]estamentary capacity cannot be destroyed by showing a few isolated acts, foibles, idiosyncrasies, moral or mental irregularities or departures from the normal unless they directly

50 Restatement (Third) of Prop.: Wills and Other Donative Transfers § 8.1(b) (2003).
51 See Dukeminier, Sitkoff & Lindgren, supra note 19, at 159 (explaining how “the requirements for mental capacity are minimal”).
52 E.g., Hindmarch v. Angell (In re Wright’s Estate), 60 P.2d 434, 436 (Cal. 1936) (describing the testator’s antics).
53 60 P.2d 434 (Cal. 1936).
54 Id. at 438; accord Breeden, 992 P.2d at 1168 (adhering to the basic dictate of the Wright court, the court upheld the holographic will of a testator whom the court found to be delusional).
55 Wright, 60 P.2d at 436–37. One witness said that Wright “often chased the children out of his yard and turned the hose on them and that children in the neighborhood were afraid of Mr. Wright.” Id. at 436.
56 Id. at 436. Further, Wright “went away with a blanket wrapped around him and was gone several days and made no explanation as to where he went . . . [and] took from his daughter’s house a radio which the witness said he had given to his daughter and granddaughter without making any explanation as to why he did so.” Id.
57 Id. at 438.
bear upon and have influenced the testamentary act. There are cases however, in which courts invalidate wills of people much less outlandish than Mr. Wright or deem the people to be insanely deluded.

**B. Insane Delusion**

An insane delusion can also nullify a will. The theory is that a testator may have adequate general mental capacity, but nevertheless suffers from a delusion or monomania which confines itself to and affects one or several aspects of a testator’s life. These cases involve testators who, purportedly without basis, believe family members are possessed by the devil or trying to kill them, spouses are cheating, their children are fathered by someone else, they have a wife and children when they do not, or FBI or DEA agents are monitoring their lives. Courts have held

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58 Id.
59 See infra Part II.B (discussing cases in which wills have been invalidated when it is not crystal clear that the testator was insanely deluded or whether the supposed delusions caused the disposition).
60 DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 168.
61 Blumenthal, supra note 20, at 979.
63 See, e.g., Benjamin v. Woodring, 303 A.2d 779, 783 (Md. Ct. App. 1973) (husband believed that wife was unfaithful and accused her of going to bars and picking up men); In re Kaven’s Estate, 272 N.W. 696, 697 (Mich. 1937) (testator believed that her husband was having extramarital affairs); In re Honigman’s Will, 168 N.E.2d 676, 677–78 (N.Y. 1960) (testator believed that his elderly wife was unfaithful and was hiding male suitors “in the cellar . . . in various closets, and under the bed”); Joslin v. Henry (In re Estate of Joslin), 89 N.W.2d 822, 823 (Wisc. 1958) (woman believed that husband was squandering money on other women and carrying on an adulterous affair with a neighbor).
64 See, e.g., Davis v. Davis, 170 P. 208, 210 (Colo. 1918) (father believed without a rational basis that his son was not his son).
65 See, e.g., Athey v. Rask (In re Estate of Rask), 214 N.W.2d 525, 529 (N.D. 1974) (testator, who was never married, believed that he had a wife and child and left his estate to his adoptive niece, whom he was convinced was his daughter).
that insanely delusional testators cannot execute valid wills if the wills are the product of the delusion. 67 This begs the question: What is an insane delusion?

Although delusion is a legal construct, psychiatry can help. 68 For a long time, mental health experts have tried to define delusional thought, which has been considered the core of insanity. 69 The Diagnostic and

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66 See, e.g., Petitioners-Appellants’ Opening Brief at 5, Breeden v. Stone (In re Estate of Breeden), 992 P.2d 1167 (Colo. 2000) (No. 98SC570) (arguing that an example of the testator’s delusional beliefs was his conviction that everyone was an FBI or DEA agent, that they were watching him, and that the FBI was working in partnership with the Public Service to tunnel into his house when new sewer lines were being installed).

67 To invalidate a will on this basis, contestants must prove that the testator suffered from an insane delusion. See Fogel, supra note 20, at 86. The contestant must also show that the will or part of the will contested was a product of the insane delusion. Id. at 96. A majority of courts will not invalidate a will unless the insane delusion also materially affected or influenced the will’s provisions. Dukeminier, Sitkoff & Lindgren, supra note 19, at 178; accord Breeden, 992 P.2d at 1174, 1176 (noting that although the testator suffered from insane delusions, they did not materially affect or influence the disposition of property in the will). The minority view, however, is that a will is invalid if the testator’s insane delusion “might have . . . caused or affected” the disposition. In re Honigman’s Will, 168 N.E.2d at 679 (quoting Am. Seaman’s Friend Soc. v. Hopper, 33 N.Y. 619, 625 (N.Y. 1865)). See also Fogel, supra note 20, at 95–96 (explaining that the “affected” standard in Honigman was a “much easier standard to meet than the standard required by most courts—including other New York courts—that the will be a product of the delusion”).

68 See generally Dukeminier, Sitkoff & Lindgren, supra note 19, at 168 (“An insane delusion is a legal, not a psychiatric, concept.”).

69 See Grant H. Morris & Ansar Haroun, supra note 42, at 1019 (“[D]elusional thought has been considered the very essence of insanity. . . . [P]sychiatrists today define delusion in much the same way they defined delusion in the mid-nineteenth century.”). Compare Rex v. Hadfield, (1800) 27 Howell’s St. Tr. 1281, 1313 (K.B.) (noting that after defendant entered a theatre and fired a shot at King George III, Hadfield’s barrister, Thomas Erskine, won an acquittal and argued that in madness, “reason is not driven from her seat, but distraction sits down upon it along with her, holds her, trembling, upon it, and frightens her from her propriety”) with Norman J. Finkel, Insanity on Trial 14–15 (1988) (describing how Hadfield had delusions and believed it was his mission to kill the King to pave the way for the second coming of Christ); J.C. Oleson, Is Tyler Durden Insane? 83 N.D. L. Rev. 579, 601 n.144 (2007) (discussing insane delusion test, Hadfield’s trial, and comparing
Statistical Manual of Mental Disorders (DSM),\textsuperscript{70} published by the American Psychiatric Association, and at times called “the psychiatric profession’s diagnostic Bible,”\textsuperscript{71} gives a definition of delusion that heeds today’s legal formula: “A false belief based on incorrect inference about external reality that is firmly sustained despite what almost everyone else believes and despite what constitutes incontrovertible and obvious proof or evidence to the contrary.”\textsuperscript{72} Unlike a mistake, an insane delusion cannot be corrected by presenting or even bombarding the afflicted individuals with evidence that their beliefs are false.\textsuperscript{73}

According to the DSM, there are two categories of insane delusions: the non-bizarre and the bizarre.\textsuperscript{74} Both categories present facts analogous to those in will contests. The non-bizarre encompasses “situations that occur in real life,” such as “being followed, poisoned, infected, loved at a distance, or deceived by one’s spouse or lover.”\textsuperscript{75} The bizarre, on the other hand, goes beyond the pale: they are “clearly implausible, not understandable, and not derived from ordinary life.”\textsuperscript{76} For example, a

Hadfield’s “fascinating delusions” to those of Unabomber Theodore Kaczynski, “who believed that his actions were necessary to save humanity from the evils of modernity”).


\textsuperscript{71} Morris & Haroun, supra note 42, at 1023 n.298. Morris & Haroun also explain that another definitive work used by psychiatrists (but not generally in the United States) is the World Health Organization’s International Classification of Diseases, which discusses and uses the term “delusion,” but does not define what a “delusion” is. Id. at 1022.

\textsuperscript{72} DSM, supra note 70, at 821. According to the DSM, a delusion is a belief not “ordinarily accepted by other members of the person’s culture or subculture . . . .” Id. See also Morris & Haroun, supra note 42, at 1025–26.

\textsuperscript{73} See DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 168 (“An insane delusion is a belief not susceptible to correction by presenting the testator with evidence indicating the falsity of the belief. A mistake is susceptible to correction if the testator is told the truth.”); DSM, supra note 70, at 821 (defining delusion as “[a] false belief based on incorrect inference about external reality that is firmly sustained despite what almost everyone else believes and despite what constitutes incontrovertible and obvious proof or evidence to the contrary”).

\textsuperscript{74} DSM, supra note 70, at 324. See also id. at 325 (describing subtypes of delusions including grandioses, persecutory, and somatic delusions); Morris & Haroun, supra note 42, at 1026 (listing thought broadcasting and thought insertion also).

\textsuperscript{75} DSM, supra note 70, at 324.

\textsuperscript{76} Id.
bizarrely delusional individual might believe “that a stranger has removed his or her internal organs and has replaced them with someone else’s organs without leaving any wounds or scars.”77 When they are shown that there are no wounds or scars and that what they believe is totally impossible, they nevertheless cling to their falsehoods.78

1. The Bizarre

The facts in Zielinski v. Moczulski 79 mirror the DSM description of bizarre.80 There, Cecilia Zielinski left everything to her sister Barbara and Barbara’s husband.81 When Cecilia excluded her only son, grandchildren, and great-grandchildren, the omitted beneficiaries opposed probate on insane delusion grounds.82

77 Id. See also Morris & Haroun, supra note 42, at 1031 (quoting the definition of bizarre delusion from the third edition DSM as “[a] false belief whose content is patently absurd and has no possible basis in fact”).

78 See, e.g., Baron, supra note 20, at 1055 (“A large number of the definitions . . . state that an insane delusion exists where there is no evidence to support the testator’s belief.”); Fogel, supra note 20, at 68 (giving an example of an insane delusion as the testator who believed she was the Holy Ghost). Despite the fantastic nature of the previous examples, a majority of courts find that “a delusion is insane even if there is some factual basis for it . . . [but] a rational person in the testator’s situation could not have drawn the conclusion reached by the testator.” Dukeminier, Sitkoff & Lindgren, supra note 19, at 169. The minority view is that “if there is any factual basis for the testator’s belief, it is not deemed insane.” Id. (citing Estate of Kottke, 6 P.3d 243 (Alaska 2000)).


80 See supra notes 73–78 and accompanying text (defining bizarre delusions).

81 Zielinski, 623 N.Y.S.2d at 654.

82 Id. In Zielinski, Cecilia Zielinski was admitted to the hospital and diagnosed with colon cancer. Id. While there, Cecilia’s sister Barbara and Barbara’s husband visited daily. Id. In the hospital and in Barbara’s presence, Cecilia executed her will, which provided for the distribution of her residuary estate in equal shares to Barbara and Barbara’s husband. Id. As it turned out, Cecilia’s assets were considerable: she had a house and about 200 savings bonds, which she purchased over a twenty year period and were payable to either a grandchild or great-grandchild. Id. As the court noted, however, “[n]o bonds were issued in the name of proponent, proponent’s husband, or any of decedent’s other siblings.” Id. On the day that Cecilia executed her will, she also signed a power of attorney in favor of her sister. Id. Barbara, acting pursuant to the power of attorney, redeemed as many of the savings bonds as she could and deposited the proceeds in a bank account in Cecilia’s name. Id. When Cecilia died, Barbara and her husband became entitled to the proceeds because (continued)
The Zielinski contestants possessed heavy artillery: the consulting hospital psychiatrist diagnosed Cecilia on the date of her admission with a delusional disorder relating to her son.\textsuperscript{83} Cecilia believed that her son, along with her husband and doctors, plotted to and did inject her in the buttocks.\textsuperscript{84} The psychiatrist “opined that patients with this disorder could be competent in some respects and delusional with respect to others.”\textsuperscript{85} According to another psychiatrist, Cecilia thought that “her husband [who was already dead] broke her legs” and that her son “was getting instructions from a ‘device’ that turned the world inside out.”\textsuperscript{86}

Other witnesses said that Cecilia believed that her son inserted balloons into her stomach, that her husband ran over her legs and replaced them with a stranger’s legs, that her son injected her with chemicals, and that her husband, son, and doctors were conspiring against her.\textsuperscript{87} She also thought that her husband and doctors shoved her eyes way back into her head.\textsuperscript{88} In an abundance of caution, Cecilia regularly spit into a jar to preserve evidence of these horrors.\textsuperscript{89} The trial revealed that twenty-five to thirty one-gallon jars, supposedly full of saliva, were stashed in Cecilia’s closet.\textsuperscript{90}

\textsuperscript{83} Id. at 655.
\textsuperscript{84} Id.
\textsuperscript{85} Id.
\textsuperscript{86} Id. Attending nurses also testified confirming “the delusional statements regarding [Cecilia’s] son” and “[t]wo additional psychiatrists, one proffered by proponent and the other by the challengers, confirmed such diagnosis after their review of the medical records.” \textit{Id.} Significantly, they bolstered the finding of causation by testifying that “such delusions may have directly affected decedent’s decision to exclude Zielinski from the will.” \textit{Id.}
\textsuperscript{87} Id.
\textsuperscript{88} Id.
\textsuperscript{89} Id.
\textsuperscript{90} Id. The son’s wife “testified that when she met [Cecilia] . . . , [Cecilia] told her about her legs being substituted and the balloons” and “confirmed prior testimony about the ‘devices’ and the spitting into a jar.” \textit{Id.} Significantly, all “witnesses . . . testified that there (continued)
Proponent Barbara lost in the trial court and again on appeal. The appellate court noted that the contestants bore the difficult burden of showing “that [Cecilia’s] mind was affected by an insane delusion regarding her son.” Nevertheless, the appellate court concluded that Cecilia suffered from an insane delusion which directly caused her to exclude her son. The court felt that “[e]ven if it could be said that decedent had general testamentary capacity, she could, at the same time, have an insane delusion which controlled her testamentary act, thus rendering it invalid.”

There are of course other cases like Zielinski in which people are inextricably wedded to sheer impossibility. For example, there is a case in which a headless wolf visited the testator while taking a stroll. In still another case, the testator believed that he had personally traveled to other planets, made friends there, and learned that he would run a stone quarry on Saturn post-death. The common thread in the Zielinski genre is an

was no basis for such statements and that there existed a good relationship between . . . [Cecilia and her son].” Id.

91 Id. at 656.
92 Id. at 654–55.
93 Id. at 655.
94 Id. at 656.
95 Masters v. Haywood (In re Haywood’s Estate), 240 P.2d 1028, 1032 (Cal. Ct. App. 1952). In Haywood, the evidence demonstrated that “during the psychiatric examination, the testator [said] . . . that . . . while he was walking on a road, a headless animal resembling a wolf appeared and then suddenly disappeared.” Id. Because this delusion or “hallucination was not related to the will in any way,” the court affirmed a finding of mental competency. Id. at 1034.
96 McReynolds v. Smith, 86 N.E. 1009, 1011 (Ind. 1909). The McReynolds court found that the evidence established insane delusion that the will was “at least in some measure, the result of such delusion” and elaborated:

[T]he testator believed that he was in direct and active communication with the spirit world; that he had . . . personally visited the planets, formed an acquaintance with their inhabitants, and had had it revealed to him that he should, after death, go to the planet Saturn and conduct a stone quarry, and furthermore, that he had been instructed from the spirit world by revelation, how he should make his will . . . .

Id. at 1012. See also Gulf Oil Co. v. Walker, 288 S.W.2d 173, 179 (Tex. Civ. App. 1956) (noting that testator fought with the devil, visited both heaven and hell, spoke with devils, (continued)
individual’s unshakable adherence to something that cannot occur.97 Most people (including The Double’s author) are likely to argue with the decisions in the bizarre cases.

2. The Non-bizarre

Most will contests tend to fall into the non-bizarre category.98 Non-bizarre testators do not adhere to total implausibility.99 Instead, what they perceive is possible, but the events may not be actually happening.100 Here, what decision makers must decide is whether the testators have a reasonable basis for their beliefs or perceptions. Dostoevsky, a psyche virtuoso, would likely chuckle and proclaim this task to be as futile as fetching water in a sieve.

The case law bears Dostoevsky out. The only consistency in the non-bizarre decisions is inconsistency, which commentators tend to pin on two reasons. Some commentators detect a proclivity on the part of judges and juries to invalidate wills when they dislike either a testator or the chosen beneficiaries.101 Other legal analysts attribute the conflicting results to the particular jurisdiction’s approach to the burden of proof.102 The decisions in will contests based on lack of general mental capacity are just as inconsistent, with results just as questionable, when they do not involve individuals with bizarre delusions.103 However, when a testator is suffering

imps, demons and angels, saw “the devil making candy out of plow points,” heard the devil “playing a tune on the fiddle,” and encountered “the devil’s horse, which was so big it had one foot in St. Louis and the other in California”).

97 See McReynolds, 86. N.E. at 1011; Gulf Oil Co., 288 S.W.2d at 179; In re Haywood’s Estate, 240 P.2d at 1032.
98 See supra note 62.
99 E.g., Benjamin v. Woodring, 303 A.2d 779, 783 (Md. Ct. App. 1973) (noting that the husband believed that his wife was unfaithful and accused her of going to bars and picking up men).
100 Id.
101 See, e.g., In re Strittmater’s Estate, 53 A.2d 205 (N.J. 1947) (invalidating will where testator overtly chose not to pick her family as primary beneficiaries); Sanford v. Freeman (In re Estate of Watlack), 945 P.2d 1154 (Wash. Ct. App. 1997) (invalidating will where nephews and nieces who never visited or went to decedent’s funeral took in lieu of decedent’s own children who cared for their father in his declining years).
102 See DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 178.
103 Compare In re Estate of Washburn, 690 A.2d 1024, 1026–27 (N.H. 2007) (upholding the probate court’s finding that the testatrix lacked capacity where she suffered (continued)
from bizarre delusions, society and the courts tend to be more accepting of the resultant invalidation.  

a. Blame It on Bias

There are non-bizarre cases in which decision makers invalidate wills, because they dislike either the testators or their chosen beneficiaries. According to Professor Melanie B. Leslie, the result in these cases ends up trumping testamentary freedom:

[C]ourts impose upon testators a duty to provide for those to whom the court views as having a superior moral claim

from “some degree of Alzheimer’s” and “lay witnesses indicated confusion, forgetfulness, and a lack of competency”) with Wilson v. Lane, 614 S.E.2d 88, 88–89 (2005) (disagreeing with the jury and instead agreeing with the trial judge that the testatrix had sufficient testamentary capacity even though “she was in some form of the early to middle stages of a dementia of the Alzheimer’s type,” “called the fire department to report a non-existent fire,” “had an irrational fear of flooding in her house,” “had dressing and bathing herself,” had “a guardianship petition filed” on her behalf only a few months after the will execution, and a physician’s letter stated that she “suffered from senile dementia”). The court upheld the validity of the will in Wilson where there was more evidence of incompetency than in Washburn, where the court invalidated the will. Here too, the seemingly inconsistent outcomes can be explained by the evidentiary burdens in each case. DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 165 (“Putting the burden of proof (or, more specifically, the burden of persuasion) on the proponent to show testamentary capacity, as in Washburn, is the minority rule” while “[t]he prevailing rule, as in Wilson . . . is that once the proponent adduces prima facie evidence of due execution, the party contesting the will on the grounds of lack of capacity has the burden of persuasion”). It is possible to say that decision-maker bias is at work here as well. In Washburn, the testatrix executed three wills, eventually leaving just about everything to her caretaker in lieu of her family members. Washburn, 690 A.2d at 1026. In Wilson, the testatrix left her property equally to seventeen beneficiaries, only one of which was a “non-relative” caretaker. Wilson, 614 S.E.2d at 88–89. It is thus possible that, unlike the Washburn court that might have sensed undue influence and felt that the distribution was not normative, the Wilson court was comfortable because almost all of the beneficiaries were blood-relatives.

104 See, e.g., Gulf Oil Corp. v. Walker, 288 S.W.2d 173, 179–80 (Tex. Civ. App. 1956). This was a case involving bizarre delusions, where testator believed, among other things, that he was “having a fight with the devil,” visited both heaven and hell, and “talked with the devil, imps, demons, and angels, . . .” and the court said that the evidence “[went] beyond a mere showing that [testator] . . . had insane delusions, and show[ed] evidence of an unsound mind generally.” Id.
to the testator’s assets, usually a financially dependent spouse or persons related by blood to the testator. Wills that fail to provide for those individuals typically are upheld only if the will’s proponent can convince the fact-finder that the testator’s deviation from normative values is morally justifiable. This unspoken rule, seeping quietly but fervently from the case law, directly conflicts with the oft-repeated axiom that testamentary freedom is the polestar of wills law.105

When courts prefer wills reflecting “prevailing normative views,” they can issue unpredictable and disingenuous decisions.106 Ironically, Dew v. Clark,107 the very decision that birthed the insane delusion doctrine, is at least questionable and probably wrong.108

The 1826 Dew case focused on Doctor Ely Stott, a vile man, who virtually disinherited his only child Charlotte.109 After Stott left the bulk of his estate to his nephews, Charlotte contested the will on the novel theory of insane delusion.110 Charlotte described how her father from her infancy exhibited an “insane aversion to [her]” and called her names such as “fiend,” “a very devil,” and the “special property of Satan.”111 Once, Stott locked her in an asylum for a night so that she could spend it with an

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105 Leslie, supra note 20, at 236.
106 Id.
108 Professor Fogel states that Dew III is “generally cited as the first monomania case.” Fogel, supra note 20, at 83 n.95; accord ISAAC RAY, A TREATISE ON THE MEDICAL JURISPRUDENCE OF INSANITY 181–83 (Winfred Overholser ed., 1962) (discussing Dew as the early recognition of “partial mania”).
110 Id. at 411–12, 414.
111 Id. at 427, 433. See also Ray, supra note 108, at 182 (“Repeatedly, and on the most trivial occasions, he struck her with his clenched fists, cut her flesh with a horsewhip, tore out her hair, and once aimed at her a blow with some weapon which made a dent in a mahogany table and which must have killed her, had she not avoided it.”).
insane female patient. The contestants’ corroborators portrayed Charlotte as an “unexceptional character,” while they contrasted her with Stott, a “deranged . . . monster.” Charlotte did not challenge her father’s general testamentary capacity; instead, she argued that Stott’s insanity was solely fixated on her.

The proponents tried to rebut Charlotte’s case with a conflicting narrative. They did not dispute the fact that the testator was repulsive, but argued that the will was rational and consistent with Stott’s rigid Calvinism and vision of “human nature” as “total[ly] and absolute[ly] deprav[ed].” As the proponents argued, Stott was a man of “irritable and violent temper; of great pride and conceit; very precise in all his domestic and other arrangements; very impatient of contradiction; and embued [sic] with high notions of parental authority.” The proponents, painting Charlotte as “disobedient” and “very perverse, sullen, and idle,” implied that her father’s treatment of her was justified, or at least comprehensible. Pounding the pulpit of testamentary freedom, they asserted that insanity did not affect the estate plan and should not strip Stott of the right to choose the beneficiaries of his property.

Sir John Nicholl, the decision’s author, saw it as a “perfectly novel case,” pointed to “delusion” as “the true test . . . of the absence or presence of insanity.” He elaborated:

Wherever the patient once conceives something extravagant to exist, which has still no existence whatever but in his own heated imagination; and wherever, at the same time, having once so conceived, he is incapable of being . . . permanently [] reasoned out [of] that conception;

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114 Dew I, 162 Eng. Rep. at 100 (“[S]he can only prove it by making out a case . . . that the deceased was insane as to her, notwithstanding his general sanity.”).
116 Id. at 420.
117 Id.
118 Id. at 425.
119 See id. at 434 (arguing that the testamentary choice was instead a result of Charlotte’s choice of a husband).
120 Id. at 412, 414.
such a person is said to be under a delusion, in a peculiar, half-technical, sense of the term.\textsuperscript{121}

Sir Nicholl concluded that Charlotte established not only insane delusion but also requisite causation, and said that Stott’s will was “the direct unqualified offspring of that morbid delusion.”\textsuperscript{122} Although Sir Nicholl admitted that there was some factual basis for Stott’s hatred of his daughter, he made a point of praising Charlotte and vilifying the testator.\textsuperscript{123} Sir Nicholl, noting that a jury would likely be sympathetic to Charlotte, \textsuperscript{124} “protested” (and perhaps too much) that sentiment did not drive his opinion.\textsuperscript{125}

The Dew case inaugurated not only the doctrine but also the nimbus of doubt that hovers over the non-bizarre landscape today. Although most readers would likely dislike Stott and of course censure child abuse, it is not a given that reprehensibility warrants nullification. Stated otherwise, as bad as Stott was, he should retain the right to disinherit a child he happens to detest. Was Stott really sick with an aversion to Charlotte, or was his dead hand desperately (and even maliciously) contriving to flog a “disobedient” and “perverse, sullen, and idle” daughter?\textsuperscript{126} It is at least conceivable that Sir Nicholl, understandably repulsed by Stott and desirous of rescuing Charlotte, tweaked the estate plan to benefit one whom he designated the natural object of the testator’s bounty.\textsuperscript{127}

\textsuperscript{121} Id.
\textsuperscript{122} Id. at 456.
\textsuperscript{123} Id. at 444.
\textsuperscript{124} Dew II, 162 Eng. Rep. at 236–37 (“It [was] said that the plaintiff was naturally anxious to submit her case . . . to a jury, that with such a case she had a much better prospect of succeeding with a jury through the medium of their feelings than of obtaining the sentence of a Court . . . . The Court . . . avow[ed] that it participate[d] to some extent in the feeling with which a British jury may be supposed to have looked at [the] case . . . .”). Id.
\textsuperscript{125} Dew III, 162 Eng. Rep. at 456 (“[T]he Court has only again to protest that its feelings in this case have been suffered to bias in its judgment.”). See also Fogel, supra note 20, at 84–85 (discussing the court’s protestations that sympathy did not “cloud its judgment”).
\textsuperscript{126} Dew III, 162 Eng. Rep. at 425.
\textsuperscript{127} See, e.g., Fogel, supra note 20, at 70–71 (discussing how the doctrine allows for “significant leeway” for courts to invalidate wills that do not comport with their own notions of family or to give property to those who the courts designate the natural objects of the testators’ bounty).
Another classic case, *In re Strittmater’s Estate*,128 displays bias even more blatant than it is in *Dew* and corroborates Professor Leslie’s thesis that courts reject wills that deviate from “prevailing normative views.”129 In *Strittmater*, the New Jersey Court of Errors and Appeals (now the Supreme Court of New Jersey) declined to probate the will of Louisa Strittmater, who left her property to the National Woman’s Party.130 Louisa, who never married, lived with her parents until their death.131 Although she had a “normal childhood” and loved her parents, she turned against them after their death: she called her father “a corrupt, vicious, and unintelligent savage, a typical specimen of the majority of his sex” and wrote “[b]last his wormstinking carcass and his whole damn breed.”132 Louisa, who apparently reviled her mother as well, denominated her the “[m]oroncic she-devil.”133

The trial revealed that Louisa once smashed a clock, killed a kitten, and used foul language.134 Doctor Smalley, Louisa’s general practitioner, was the only medical expert.135 Even though he was not a psychiatrist, he said that Louisa “suffered from paranoia of the Bleuler type of split personality.”136 Although the court “regret[ted] not having had the benefit of an analysis of the data by a specialist in diseases of the brain,” it nevertheless rubber-stamped Smalley’s opinion.137

What apparently irritated the court was Louisa’s chosen beneficiary,138 the National Woman’s Party (the Party), a feminist organization.139 When

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129 Leslie, *supra* note 20, at 236.
130 *Strittmater*, 53 A.2d at 205–06.
131 Id. at 205.
132 Id.
133 Id.
134 Id.
135 Id.
136 Id.
137 Id.
138 See id. at 206 ( dismissing the long-lasting nature of Louisa’s dedication to the beneficiary, the National Woman’s Party).
139 The National Woman’s Party was founded in 1916 by Alice Paul, who drafted the Equal Rights Amendment in 1921 and fought to have sex discrimination added to the protections of Title VII in the 1964 Civil Rights Act. Jo Freeman, *How “Sex” Got into Title VII: Persistent Opportunism as a Maker of Public Policy*, 9 LAW & INEQ. 163, 165 (1991).
Louisa was about twenty-nine years old she joined the Party’s local branch and for several years before her death she volunteered in its New York office.\textsuperscript{140} During this period, Louisa talked about leaving her estate to the Party.\textsuperscript{141} The trial revealed that, despite testimony supporting the claim of insanity, she had “entirely reasonable and normal” relations with both her lawyer and bank.\textsuperscript{142} When Louisa died, she left everything to the Party and “some cousins of whom she saw very little during the last few years of her life” challenged the will on insane delusion grounds.\textsuperscript{143} Although the will was initially admitted to probate, the intermediate court reversed and sided with the cousins.\textsuperscript{144} In affirming the decision not to probate the will, New Jersey’s highest court noted that “the proofs demonstrated ‘incontrovertably [sic] her morbid aversion to men’ and feminism to a neurotic extreme.”\textsuperscript{145} The court felt that Louisa, who “regarded men as a class with an insane hatred[,] . . . looked forward to the day when women would bear children without the aid of men, and all males would be put to death at birth.”\textsuperscript{146} The court felt that Louisa’s “paranoic condition, especially her insane delusions about the male . . . led her to leave her estate to the National Women’s Party.”\textsuperscript{147}

Under a modern lens, Louisa’s chosen beneficiary could be seen as the “natural [object] of . . . her bounty.”\textsuperscript{148} Louisa devoted almost two decades of her life to the Party and gave it her labor.\textsuperscript{149} For Louisa, the Party became a surrogate family, one to whom she chose to transmit her property.\textsuperscript{150} The court, disliking the National Woman’s Party and damning

\begin{footnotes}
\footnote{\textsuperscript{140} Strittmatter, 53 A.2d at 205.}
\footnote{\textsuperscript{141} Id.}
\footnote{\textsuperscript{142} Id.}
\footnote{\textsuperscript{143} Id.}
\footnote{\textsuperscript{144} Id.}
\footnote{\textsuperscript{145} Id.}
\footnote{\textsuperscript{146} Id.}
\footnote{\textsuperscript{147} Id. at 206.}
\footnote{\textsuperscript{148} RESTATEMENT (THIRD) OF PROP.: WILLS AND OTHER DONATIVE TRANSFERS § 8.1(b) (2003).}
\footnote{\textsuperscript{149} Strittmatter, 53 A.2d at 205.}
what it saw as man-hatred,\footnote{Strittmater, 53 A.2d at 205.} did not feel (in the words of Professor Leslie) that Louisa’s “deviation from normative values was morally justifiable.” While a contemporary court might have seen things differently and probated the Strittmater and Dew wills, there are more recent analogues in which contestants win not because a testator is genuinely deluded, but because of the mindset or bias of a jury or judge.\footnote{See, e.g., Sanford v. Freeman (In re Estate of Watlack), 945 P.2d 1154 (Wash. Ct. App. 1997). In that case, the will disinherited the children and left everything to collateral relatives. \textit{Id.} at 1155. The jury found, and the appellate court agreed, that the testator, who thought that his daughter was plotting to steal his money, suffered from an insane delusion which caused the testamentary disposition. \textit{Id.} at 1155–56. In \textit{Watlack}, the testator’s will gave reasons for the disinheritance and the evidence further showed that there was quite a bit of truth to these statements. \textit{Id.} Watlack had already given his car to his daughter and after he was divorced, “maintained only sporadic contact with his two children . . . .” \textit{Id.} at 1155. The court, brushing facts aside, said that the father’s pretexts were not real. \textit{Id.} at 1157. In \textit{Watlack}-like cases, courts stretch to find insane delusion when they do not approve of the disposition or when they want to protect family members. See Baron, \textit{supra} note 20, at 1049 (“Courts repeatedly criticize juries’ tendencies to strike down, on mental competency grounds, wills of which they disapprove. If the wishes set forth in the will are deemed to be the testator’s own, they may not be judged by others.”); \textit{supra} note 37 and accompanying text (discussing the views of various commentators who have pointed out the bias on the part of judges and juries in will contests and how they tend to favor traditional families and disfavor dispositions that depart from what they feel is normative).}
b. Blame It on Burdens of Proof

In addition to bias, differing approaches to burdens of proof are also to blame for inconsistencies in the case-law.\textsuperscript{154} For example, divergent causation tests might account for the ostensible irreconcilability of \textit{In re Honigman’s Will},\textsuperscript{155} in which a sharply divided court denied probate, and \textit{Breeden v. Stone},\textsuperscript{156} in which a court probated a will despite a more viable challenge.\textsuperscript{157}

In \textit{Honigman}, Frank and Florence had a childless but “congenial and harmonious” marriage for almost four decades.\textsuperscript{158} They worked together as business partners and amassed a “substantial fortune.”\textsuperscript{159} Some time before his death, however, Frank felt that his wife was unfaithful and ranted about it to “friends and strangers alike . . . using obscene and abusive language.”\textsuperscript{160} For Frank, the proverbial villain was Mr. Krauss, a mutual friend, whom Frank believed was having a tawdry affair with his wife.\textsuperscript{161} He claimed that his wife was misbehaving herself in a most unseemly fashion, by hiding male callers in the cellar of her home, in various closets, and under the bed; . . . hauling men from the street up to her second-story bedroom by use of bed sheets; . . . making contacts over the household telephone; and . . . passing a clandestine note through the fence on her brother’s property.\textsuperscript{162}

\textsuperscript{154} See generally DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 165 (discussing the evidentiary burdens with respect to testamentary capacity), 178 (discussing the majority and minority standards for causation in insane delusion contests).

\textsuperscript{155} 168 N.E.2d 676 (N.Y. 1960).

\textsuperscript{156} \textit{(In re Estate of Breeden)}, 992 P.2d 1167 (Colo. 2000).

\textsuperscript{157} See DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 178 (suggesting that the “outcome in \textit{Honigman} [would] have been different if the court applied the \textit{Breeden} . . . approach to causation”).

\textsuperscript{158} \textit{Honigman}, 168 N.E.2d at 677.

\textsuperscript{159} \textit{Id.}

\textsuperscript{160} \textit{Id.}

\textsuperscript{161} \textit{Id.} at 678.

\textsuperscript{162} \textit{Id.}
When Frank died, he left his wife Florence the minimum amount necessary to satisfy her elective share and essentially gave the rest to siblings.\textsuperscript{163}

After Florence argued insane delusion, the will proponents tried to prove that there was a reasonable basis for Frank’s belief: they had an anniversary card from Krauss, which bore “a printed message of congratulation in sweetly sentimental phraseology . . . addressed to the wife alone and not received on the anniversary date.”\textsuperscript{164} For Frank, this confirmed his suspicions.\textsuperscript{165} Evidence existed that whenever the phone rang, Florence would rush to grab it.\textsuperscript{166} For Frank, this fueled his notion that Florence was cavorting with Krauss and prompted him to forbid his wife from answering the phone.\textsuperscript{167} There was also an episode in which Florence asked her husband as he was walking out the door when she could expect him home.\textsuperscript{168} Frank, again enraged, “secreted himself at a vantage point in a nearby park and watched his home.”\textsuperscript{169} From this vantage point, Frank witnessed Krauss entering his home!\textsuperscript{170} This story emerged in a statement that Frank had allegedly made to one witness, but Florence claimed at trial that none of this ever happened.\textsuperscript{171}

The jury found that Frank “was suffering from an unwarranted and insane delusion that his wife was unfaithful to him, thereby affecting the disposition made in the will.”\textsuperscript{172} The surrogate denied probate and the court of appeals ultimately approved the jury’s decision.\textsuperscript{173}

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\textsuperscript{163} Id. at 676–77 (“[J]ust one month before his death, [Honigman] gave $5,000 to each of three named grandnieces, and cut off his wife, with a life use of her minimum statutory share plus $2,500, with direction to pay the principal upon her death to his surviving brothers and sisters and to the descendants of any predeceased brother or sister, per stirpes. The remaining one half of his estate was bequeathed in equal shares to his surviving brothers and sisters and to the descendants of any predeceased brother or sister, per stirpes, some of whom resided in Germany.”).\
\textsuperscript{164} Id. at 677–78.\
\textsuperscript{165} Id. at 678.\
\textsuperscript{166} Id.\
\textsuperscript{167} Id.\
\textsuperscript{168} Id.\
\textsuperscript{169} Id.\
\textsuperscript{170} Id.\
\textsuperscript{171} Id.\
\textsuperscript{172} Id. at 677.\
\textsuperscript{173} Id. The appellate division reversed the surrogate court, but the court of appeals reversed that ruling, upholding the jury’s decision.
\end{flushright}
appeals, opining that “[t]he jury had the right to disregard the proponents’ proof, or to go so far as to hold that such trivia afforded even additional grounds for decedent’s irrational and unwarranted belief,” found that Florence had met the burden of proving incapacity.174

The Honigman proponents’ best argument was lack of causation: they contended that even if Frank had an insane delusion, there were sound alternative reasons for his disposition.175 After all, Florence was independently wealthy, and the chosen beneficiaries, Frank’s brothers and sisters needed the gift.176 In rejecting this argument, the court applied a minority causation test that a will is ineffective when “its ‘dispository provisions were or might have been caused or affected by the delusion.’”177 The Honigman court essentially assumed causation and shifted the burden to the proponents to prove that Frank’s will did not ensue from delusion.178

The holding in Honigman is debatable. Its tortuous procedural path—with the surrogate denying probate,179 an appellate division reversing,180 and a court of appeals reversing once again181 (but with three dissenters)—leads to doubt. The court of appeals framed the legal issue as “not whether Mrs. Honigman was unfaithful, but whether Mr. Honigman had any reasonable basis for believing that she was.”182 In spite of that technically legal instruction, fact finders (and even professional case readers) cannot resist tasting the juicy non-issue of whether Florence was actually having that affair or whether, in Sir Nicholl’s language, it was “the direct unqualified offspring of . . . morbid delusion.”183 Readers of this case

174 Id. at 678.
175 Id. at 679.
176 Id.
177 Id. (quoting Am. Seaman’s Friend Soc’y v. Hopper, 33 N.Y. 619, 625 (N.Y. 1865)). Judge Fuld, authoring the dissenting opinion in which two other judges joined, said: “I share the Appellate Division’s view that other and sound reasons, quite apart from the alleged decision, existed for the disposition made by the testator. Indeed, he himself had declared that his wife had enough money and he wanted to take care of his brothers and sisters living in Europe.” Id. at 680.
178 Id. at 678.
179 Id. at 677.
180 Id.
181 Id.
182 Id. at 678.
183 Dew III, 162 Eng. Rep. at 456. See also supra Part II.B.2.a (discussing Sir Nicholl’s decision in Dew).
cannot help but wonder whether Krauss clandestinely slipped Florence that sugary note, whether Florence jumped up each time the phone rang hoping to intercept her paramour’s call, and whether Florence and Krauss actually had that tryst as Frank peered out from the shrubbery.

Although some of Frank’s indictments are more plausible than others, none of the episodes exceed the realm of possibility. The proponents’ presentations included things that can and do happen and might have been happening in the Honigman marriage. Of course, the Honigman decision could also overlap with the bias cases. That is, the Honigman court, sub silentio, likening the task to equitable distribution. The court did what it felt was normatively fair by bestowing an intestate share on a spouse who, for almost forty years, co-partnered in the home and in business. Legal training, however, inclines those in the field to chiefly attribute the Honigman result to the judicial adoption of a minority causation test.

Breeden v. Stone, another delusion case, is in contrast to Honigman as the court there upheld the will. The rich testator, Spicer Breeden, shot himself two days after a hit-and-run accident in which he killed the other car’s driver. Breeden left behind a holographic will excluding family members and igniting a contest. The probate court found that the decedent had used cocaine and alcohol proximate to the time of his death. Based on the testimony of Breeden’s friends, “the court found that the decedent’s moods were alternately euphoric, fearful, and depressed, and that he was excessively worried about threats against himself and his dog from government agents, friends, and others.”

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184 See, e.g., Ronner, supra note 37, at 72 (2003) (discussing the judicial predilection to favor spouses and traditional families in will contests).
185 See DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 179 (suggesting that the court’s approach to causation explains why the Honigman case came out the way it did).
186 (In re Estate of Breeden), 992 P.2d 1167 (Colo. 2000).
187 Id. at 1168.
188 Id.
189 Id. His will stated, “I want everything I have to go to Sydney Stone—‘houses,’ ‘jewelwry,’ [sic] stocks[,] bonds, cloths [sic]. P.S. I was Not Driving the Vehical—[sic].” Id. Breeden printed “SPICER H. BREEDEN” at the bottom and signed below the printed name. Id.
190 Id. at 1169.
191 Id.
Breeden’s allegedly delusional state. On one occasion, Breeden was “so delusional as a result of cocaine and alcohol that he called [his friend] Chelwick, insisting that she come over to his house because he was covered with bugs and needed to be taken to the emergency room.” Chelwick responded by rubbing Benadryl on Breeden’s body to calm him down. A month later, the delusions escalated:

[Breeden] thought that people were watching him, following him and that everyone was a FBI agent or DEA agent. [Breeden] received a VCR rewinder as a gift which he promptly stomped, destroyed and threw away because he thought that Chelwick had planted a listening device in it. [Breeden was also] . . . convinced that the FBI was working in conjunction with Public Service to tunnel into his house when new sewer lines were being installed in his neighborhood, that people could monitor his behavior through his television set so he climbed up on the roof and destroyed the antenna, that the cable company could monitor him through the cable wires so he cancelled his cable service, that the FBI could use information against him so he shredded bills, cards and letters, that he had individuals search his house for listening devices, and that he had friends drive by his house to ensure that he was not being ‘watched.’

Breeden also thought that a friend was the Unabomber, that the friend put a bomb in his house, that his father had planted drugs in his Porsche, and that another friend had swiped his car keys to copy them for use against him. Breeden “spread[] corn flakes in the hall outside his bedroom to ‘crunch’ if someone sought to accost him when he slept,” and he frequently changed the locks to his house “to ensure no one had access to his house.” In his last months, Breeden thought that his father, his sister, and friends “were spying on him, planting drugs, bombs or listening

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192 Id.
194 Id.
195 Id. (citations omitted).
196 Id. at 6.
197 Id.
devices in his house or cars, or otherwise threatening his life or freedom.”

Despite this showing of extreme behavior, the Breeden contestants lost. In affirming probate, the Supreme Court of Colorado found that Breeden met the sound mind test and that although he did have insane delusions, they “did not materially affect or influence the disposition made in the holographic will.” The Supreme Court of Colorado, employing the majority causation test, noted that there had been testimony in the probate court that Breeden was estranged from family members and had little contact with them. Breeden also once said that he thought his father was “irresponsible with money,” that he “disliked his sister’s husband, and that his relationship with his brother was distant.” Further, Breeden had not put his father or sister in an earlier will. Consequently, the court approved the most threadbare holograph—an undated, scribbled note, omitting not just the word “will” but also any reference to death—and said that the delusions were not causal.

Like most non-bizarre cases, Breeden is debatable. Although the alleged delusions in Breeden might seem more severe than those of Ely Stott, Louisa Strittmater, and Frank Honigman, Breeden’s will is nevertheless honored. This occurs even though the will is haphazard and the court found Breeden delusional.

The Breeden court’s finding of delusion, however, is not impervious to refutation. Although some of Breeden’s beliefs were pretty peculiar (to say the least), most were things that could have happened. People can and do experience the sensation of bugs crawling on their skin, and bed bugs,
which can precipitate this, are not uncommon. In fact, at least one of Breeden’s horrors turned out to be true: his close friend, Michael Crow, was indeed an FBI informer. Moreover, a rational person in Breeden’s shoes could feel that people are out to get him. It is not difficult to imagine that some affluent people, with Breeden-esque lifestyles, replete with a fleet of elite cars, a stash of recreational drugs, and a flair for hosting wild parties, might be encircled by false friends and flatterers, who, while using them, secretly wish them ill. Although Breeden was eccentric and perhaps even a bit “touched,” not all would agree that he was insanely deluded under a legal definition.

The Breeden court’s determination that the disposition was not the product of insane delusions is just as debatable. In Honigman, the contestant won despite countervailing proof that the insane delusion did not affect the will. In Breeden, however, the contestants lost despite convincing evidence of a causal nexus between Breeden’s delusions and his will. That is, quite a few of Breeden’s putative delusions were directed at his family, the very people excluded from the will. Breeden thought that his father had planted drugs and that family members spied on him, and hid drugs, bombs, and listening devises in his house and cars. Even without resorting to the less demanding Honigman approach to causation, the Breeden court could have easily opined that Breeden’s

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207 See Donald G. McNeil, Jr., They Crawl, They Bite, They Raffle Scientists, N.Y. TIMES, Aug. 31, 2010, at D1 (discussing delusions formed by people who have come into contact with bed bugs).


209 See Respondent’s Answer Brief at 22 n.8, Breeden v. Stone (In re Estate of Breeden), 992 P.2d 1167 (Colo. 2000) (No. 98 SC 570), 1999 WL 33748234 at * 5. In that filing, the proponents of Spicer Breeden’s holographic will argued that Breeden’s delusions were not so bizarre, noting that “[m]edia reports since Spicer Breeden’s death have confirmed, however, that Michael Crow was indeed a government informant at all times when the Breedens allege that Spicer’s ‘insane delusions’ about Michael Crow occurred.” Id.

210 Honigman, 168 N.E.2d at 679.

211 Breeden, 992 P.2d at 1174.

212 Id.

213 Id.
delusions induced him to disinherit his family. In the non-bizarre cases, the decision makers reach inconsistent and questionable results. Readers are as uncomfortable with these as they are with Dostoevsky’s protagonist, Golyadkin.

III. DOSTOEVSKY DEBUNKS THE MENTAL CAPACITY AND INSANE DELUSION DOCTRINES

Golyadkin could be a typical testator in one of the sound mind or delusion cases. In The Double, Dostoevsky makes the readers into effectual fact-finders, charged with the task of deciding whether his “hero” is mentally ill or insanely deluded. The author intentionally dooms the readers to shake their heads, admit defeat, and concede inability to reach a unanimous verdict.

A. The Double: The Story

For those who have not read The Double, what follows is a summary, preceded by an apology: namely, all or some of the events in the story might not have happened. In short, there might be no story at all.

In the novel, Golyadkin is a “minor civil servant,” with two “love” interests—one past, one present. In the present is Klara Olsufevna, the daughter of a high official and a woman who appears unattainable. She seems to prefer and even be engaged to someone else, who happens to be the nephew of Golyadkin’s superior. In the murk of Golyadkin’s past there is Karolina Ivanovna, a German woman. What is not clear, but only hinted at, is that Golyadkin had been Karolina’s tenant. It seems that after promising to marry her, Golyadkin absconded and remained in her debt. This scandal, which Klara and her father might have known,

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214 Dostoevsky repeatedly calls Golyadkin “our hero.” DOSTOEVSKY, supra note 2, at 30, 31, 57, 81, 90, 116, 144.
215 See Gasperetti, supra note 5, at 225–26 (“Despite repeated textual assurances that the story unfolds over the course of four days, day four looks suspiciously like day one.”).
216 DOSTOEVSKY, supra note 2, at 3, 17, 26.
217 Id. at 36–37.
218 Id. at 28, 118.
219 Id. at 17.
220 Id. at 89.
221 Id.
could be one of the reasons why Golyadkin is disqualified as Klara’s potential suitor.222

The story, spanning a mere four days, opens with Golyadkin waking up in a dingy room, one prefiguring a Raskolnikov chamber.223 That morning, Golyadkin hires a carriage, visits his physician Doctor Rutenspitz, and complains, “I have enemies. I have deadly enemies who have sworn to ruin me . . . .”224 Doctor Rutenspitz tells him not only to take his medicine but also to get out more, to “[g]o to theatres, go to a club, and in any case don’t be afraid of an occasional glass.” 225

After leaving Doctor Rutenspitz, Golyadkin decides to attend Klara’s birthday party and “shops” for the party at the arcade.226 Darting from store to store he fondles all sorts of expensive merchandise and promises various shop keepers that he will return later or send for the coveted item.227 Golyadkin ends up with a pair of gloves and a bottle of perfume, costing just one and a half roubles.228

222 Id. at 119.

223 Id. at 3. (describing the room as “messy green walls . . . begrimed with soot and dust, . . . [a] mahogany chest of drawers, . . . imitation mahogany chairs, . . . red painted table, . . . reddish oilcloth-covered ottoman patterned with sickly green flowers, and lastly the clothing he had hastily discarded the night before and thrown in a heap onto the ottoman”). In Crime and Punishment, Raskolnikov’s room is “a tiny little cell, about six paces long, and it presented a most pitiful aspect with its grimy, yellow wallpaper that was everywhere coming off the walls; it was so low-ceilinged that to a person of even slightly above-average height it felt claustrophobic, as though one might bang one’s head against the plaster at any moment.” Fyodor Dostoyevsky, Crime and Punishment 35 (David McDuff trans., Penguin Books 2003) (1866). See also Ronner, supra note 6, at 111 (2010) (“This hovel, in fact, takes on a life (or rather death) of its own: [Dostoevsky] reminds [the reader] repeatedly of the tomb’s stifling wretchedness and we see that it is something that Raskolnikov detests and yet clings to for refuge.”); Gary Saul Morson, Axes to Grind: A Russian Literature Scholar Reflects on the Interiors of Crime and Punishment, INTERIORS, May 1999, at 142 (asserting that the “awful room” equals Raskolnikov’s “sordid state of mind” and that “[i]n Dostoevsky, dirty yellow is the color of mental illness, and lying on the couch feeds Raskolnikov’s nervous, irritable condition and his mad dreams”).

224 Dostoevsky, supra note 2, at 14.

225 Id. at 11.

226 Id. at 18–19.

227 Id. at 19.

228 Id. at 20.
Klara’s party is a big event and anyone of importance will attend. Although Golyadkin was not invited, he shows up in formal attire with a rented carriage, two horses, and a livery for his servant, Petrushka. The footman who opens the door, however, tells Golyadkin that he is not welcome. After a bout of indecision, Golyadkin enters, marches up to Klara, and brazenly insists on dancing with her. When Klara screams, others rush to extricate her, and Golyadkin is ignominiously ejected into the “chill blast” of the street.

From there, Golyadkin’s evening proceeds to get worse. As he wanders in anguish and even considers suicide, he has an uneasy feeling that someone is stalking him. When he gets a better look, he sees someone “dressed and muffled exactly like him” from head to foot... scuttling along... with the same short rapid step. When Golyadkin corners this “late-night companion” and tries to initiate conversation, the stranger initially rebuffs him but later ends up in Golyadkin’s flat “sitting on his bed.”

The plot is interrupted and jumps to Golyadkin waking up in the morning. The Double is gone. Despite his “strong presentiment of something being not quite right,” Golyadkin nevertheless dons his “uniform jacket” and goes to work. At work, he sees a new clerk who happens to be his Double from the night before. As it turns out, the...
Double’s name is also Golyadkin. At the end of the work day, the Double introduces himself to Golyadkin and is invited for dinner.

Petrushka admits both master and guest, helps them off with their coats, and serves them a meal. Golyadkin, who had been quite fearful and suspicious of the Double, is now “moved” and “genuinely touched” by his guest’s sad story. Golyadkin, “[f]or getting his recent misgivings,” becomes drunk, confesses his darkest secrets to the Double, and lets him sleep over. The next morning, the Double is gone and Golyadkin regrets his effusive divulgence of the night before.

When Golyadkin goes to work the next day he meets the Double in the antechamber, but now things have changed, including the Double. The Double is no longer the modest, grateful guest of the night before, but has become icy and indifferent. Not only does the Double snub Golyadkin, but he bustles about the office like an arrogant, ruthless careerist. The Double plays devious tricks on Golyadkin and recruits colleagues to witness the “perfidious[] abuse.”

The next day, Golyadkin awakens “stark frozen with horror”; he heads off to the office, but decides not to enter. Instead, Golyadkin, meeting a colleague outside, learns that he is going to lose his job and that another official occupies his desk. It is almost dark when Golyadkin ventures into his office. When he approaches his co-workers he is “unpleasantly struck by a certain iciness, abruptness,” and the Double, now the popular fixture, again “treacherously insult[s]” and humiliates Golyadkin.

the author refers only to Golyadkin and the Double. Other quoted and translated material may reference other names to be applied accordingly.

242 Id. at 50.
243 Id. at 55–56.
244 Id. at 56–59.
245 Id. at 59.
246 Id. at 59, 61–62.
247 Id. at 64–65.
248 Id. at 66.
249 Id. at 66–67.
250 Id.
251 Id. at 70, 72–73.
252 Id. at 95, 97.
253 Id. at 97, 100.
254 Id. at 103.
255 Id. at 104–05.
While wandering around later, Golyadkin discovers a love letter from Klara Olsufevna in his pocket. In her letter, Klara begs Golyadkin to “save” her and meet her at her house so that they can elope. In obedience, Golyadkin hires a carriage and goes to Klara’s house, where another party is taking place. When Klara fails to appear, Golyadkin waits outside under the “soothingly protective shadow of the woodstack.” Suddenly, house curtains are drawn back and Golyadkin, who is noticed, is led inside. While the Double gives Golyadkin a “treacherous friend smile” and a “quick mischievous wink to all around,” others stare at Golyadkin with curiosity, kindness, and compassion. The guests are all expecting someone who is supposedly en route. That man happens to be Doctor Rutenspitz, who arrives, guides Golyadkin by the hand, puts him in a closed carriage, and whisks him off to an insane asylum. Golyadkin “[gives] a scream and clutche[s] his head.”

B. The Double: The Critics

_The Double_ has ignited debate and Golyadkin’s mental condition is the big question mark. What many critics ask is whether there exists an objectively real Double. While some vote “yes” and others “no,” the lack of consensus fits the author’s subject: indeterminate truth.

Some literary critics, seeking to place _The Double_ in temporal context, try to explain why the novel was not well received at first, and some even view it as a setback in Dostoevsky’s early career. In 1845, Dostoevsky

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256 Id. at 118.
257 Id.
258 Id. at 126, 131–33.
259 Id. at 137.
260 Id. at 137–39.
261 Id. at 142.
262 Id. at 141.
263 Id. at 142–43.
264 Id. at 144.
265 See supra note 18 and accompanying text (discussing the scholarly debate over the existence of the Double).
266 See supra note 18 and accompanying text.
267 See, e.g., Jones, supra note 5, at 48 (speaking of the pre-Siberia period, he states that although “Poor People[ had] relative success—critics loved it, the general public enjoyed it moderately— . . . _The Double’s_ discipline was stricter, and it failed”); Chizhevsky, supra note 5, at 112 (“The first version . . . received rather unfavorable criticism, and until (continued)
made his debut with *Poor Folk*, an epistolary novel featuring Devushkin, a poor government clerk, and Varenka, a younger woman who is an impoverished orphan. Although Devushkin and Varenka are neighbors, they communicate in letters through which readers share their past melancholy lives, unrequited yearnings, and dire poverty.

This first novel was rooted in the naturalistic tradition of the 1840s and instantly became a hit, with critics deifying its young author as a nouveau Nicolai V. Gogol. Before Gogol, the fictional underdog had been stereotyped as a buffoon, the subject of ridicule, and an object of charity. Gogol, however, broke ground with *The Overcoat* by portraying such poor souls as human beings worthy of dignity in their own right. With the
publication of Poor Folk, the critics, especially renowned Visarion Belinsky, felt that it tipped its hat to the Gogolian conception of literature as capturing society and disclosing social ills.273 Poor Folk thus installed Dostoevsky—at the tender age of twenty-four—as hero, master, and head of a literary school.274

After Poor Folk “giveth,” The Double, “taketh away,” and thus, in artistic peripeteia, The Double catapulted to failure.275 Many readers hated it and Belinsky, in his 1846 review, felt it was boring and redundant.276 Although initially deflated, a more mature Dostoevsky conceded that he himself had qualms about The Double.277 Approximately thirty years later in Diary of a Writer, Dostoevsky said:

This story positively didn’t succeed for me, but the idea was rather lucid, and I have never pursued anything in literature more serious than this idea. But the form . . . didn’t succeed at all. I revised it completely externally as a comic figure. Gogol’s ‘Cloak’ discovered a new side to this figure, one that aroused pity. As a poor human being, socially neglected but pitiable, he appeared in a new light.”.

273 See David McDuff, supra note 270, at xi (describing Belinsky’s enthusiasm over Poor Folk).

274 See, e.g., Harrison, supra note 5, at 77–78 (describing Poor Folk as a “resounding success with readers and critics who saw the author as the new herald of Natural School social realism”). But see id. at 78 (explaining that the “praise of [Poor Folk] was not unmitigated”); McDuff, supra note 270, at xiv (“When Poor Folk was finally published in the St. Petersburg Almanac for January 1846, its reception by the critics was far less positive than might have been expected after the furore of interest and publicity that had been whipped up by Belinsky’s sudden enthusiasm.”).  

275 See, e.g., Chizhevsky, supra note 5, at 112 (discussing the “unfavorable criticism” of The Double and how it was considered “an unoriginal work, influenced either by Gogol’s Overcoat or his Nose”). See also supra note 267 and accompanying text (noting the critics that viewed it as a setback).

276 Jones, supra note 5, at 48 (pointing out that readers were “puzzled or bored”); Gasperetti, supra note 5, at 217 (“In a February 1846 review of The Double for Notes of the Fatherland, Visarion Belinskij criticized the redundancy of Dostoevskij’s tangled web of dreams, impostors, and mirror images. While expressing admiration for individual incidents in the novel, he declared that . . . [it] wearies and bores.”).  

277 See Gasperetti, supra note 5, at 218.
fifteen years later . . . but even then I was again convinced that it wasn’t successful.278

Later critics also flummoxed by the novel’s form and trying to get a handle on that “serious” idea fall into four overlapping categories. In the first category, there are scholars such as Professor Victor Terras who see *The Double* “as a psychological experiment concerning some problem of human existence.”279 For Professor Terras, the main character “in Poor Folk is cast in the role of a sentimental lover,” while the “thoroughly prosaic, ‘ordinary,’ trivial Golyadkin in *The Double* develops a Doppelgänger complex” which flouts romantic conventions.280 Professor Terras sees the Doppelgänger complex as Dostoevsky’s portrayal of “[h]uman existence . . . [which is] a loud and ugly dissonance between what man is trying to be and what he is.”281 *The Double* may also subsume another broader, unresolved “dissonance” between subjective and objective “facts.”282

In the second category, there are scholars who see *The Double* as commentary on literature, or more precisely, as an insult to the votaries of naturalism. According to Professor David Gasperetti, early critics such as Belinsky misunderstood when they “failed to see . . . that there indeed is a method to the madness of *The Double*” and that the novel “succeeds quite

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278 Gasperetti, supra note 5, at 217–18 (quoting FYODOR DOSTOYEVSKY, *Diary of a Writer* (November 1877)). See also Jones, supra note 5, at 83–84 (discussing Dostoevsky’s dissatisfaction with the novel and the entry in his *Diary*). Dostoevsky, dissatisfied with the novel, tried to revise it and produced another version in 1866. Id. at 60–65 (discussing differences between the 1846 and 1866 versions); Harrison, supra note 5, at 195–211 (analyzing the projected revisions to *The Double*). The 1866 version was subtitled *A Petersburg Poem* and Dostoevsky “removed the summarizing sentences at the beginning of each chapter,” but “[i]n the final accounting, few changes were made to the test itself.” Id. at 202–03.

279 Terras, supra note 270, at 80.

280 Id. at 79. Terras states: “[W]here the struggle between truly ‘romantic’ Doppelgängers would reflect a struggle between heaven and hell, the struggle between the two Goliadkins is only a wretched intrigue, carried on by two underlings for nothing more than a snug little job. What difference does it make, which of the two—or if either—occupies a desk at the ‘department’ . . . ?” Id. at 84. See also Harrison, supra note 5, at 18–29 (discussing the “Doppelgänger Motif”).

281 Terras, supra note 270, at 90.

282 See DOSTOEVSKY, supra note 2, at 44–45 (describing that Golyadkin questions whether the appearance of his Doppelgänger was “a delirious fancy” or objectively real).
well if [viewed] as a challenge to the literary competence demanded of those who read the fiction of the Natural School.

Dostoevsky was not just a writer, but also a voracious reader, immersed in literature from all over the globe. Professor Gasperetti suggests that in *The Double* Dostoevsky exploited and parodied naturalist devices to intentionally agitate readers and dare them to reassess their own literary values. Although this analysis is quite sensible, it too could be expanded. Dostoevsky sought to provoke readers to not only question *literary* “allegiances” but also to mistrust their allegiance to the existence of an objective reality.

In the third category, some scholars foist Golyadkin’s distraught psyche under a microscope. They disagree not only on the name tag to pin on Golyadkin’s inner demons but also on the degree of blame to impute to the oppressive social order of the day. Some Dostoevsky scholars suggest that *The Double* depicts middle-class socio-economic striving, which inevitably leads to the pulverization of human consciousness. For Nikolaj S. Trubeckoj, Golyadkin’s flaw is “ambition”—his burning desire “to get ahead in his career, climb higher, be more than he actually is”—which collides with his inferiority complex. Lonny Roy Harrison, labeling Golyadkin’s stress as “moral

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283 Gasperetti, supra note 5, at 217.
284 Id.
285 Id. (“Confronted with a set of literary conventions that seem to be as empty as [Golyadkin] himself, readers are forced to re-evaluate their allegiance to the fiction of the Natural School.”).
286 See, e.g., Jones, supra note 5, at 70 (calling *The Double* “a study in selfhood” and stating that “[t]he affair of Golyadkin [] and [the Double] . . . can be transposed into the language of self-identity and self-alienation”); Kohlberg, supra note 15, at 350 (analyzing how *The Double* “offers a compelling picture of psychopathology”); Rosenthal, supra note 4, at 59 (“*The Double* is about an individual’s failure to develop and maintain his own sense of himself”); Trubeckoj, supra note 17, at 162 (Golyadkin’s “whole state of mind is that of a diseased person” and “[h]is illness develops further, and soon he suffers from hallucinations”).
287 Compare, e.g., Harrison, supra note 5, at ii (calling the problem “moral self-awareness” and ascribing its source to the pressures of nineteenth century social and work politics) with Kohlberg, supra note 15, at 350 (describing the problem as one of persecution, or dualism, personal to the author).
288 See infra notes 289–90 and accompanying text.
289 Trubeckoj, supra note 17, at 161–62.
self-awareness,” says “that the protagonist’s will to succeed in the civil bureaucratic order of nineteenth-century Petersburg is incompatible with his implicit need to find moral rectitude.” Harrison further claims that Golyadkin’s “[e]go-driven motivations provide contrapuntal tensions to exacerbate his experience of inner division.” These analyses, parsing the tension between inner desires and the social order, are illuminating and interesting. What they fail to do, however, is locate a fence between the inner and outer, between Golyadkin’s illusions and actual occurrences. In short, these critics do not attempt to do what Dostoevsky claims is impossible.

The last category of critics brand Golyadkin “insane” and either track his descent into madness or psychoanalyze him. In an early article, Otto Rank, a Freud disciple, saw The Double as a “classic portrayal of a paranoid state.” Decades later, Doctor Lawrence Kohlberg, dissenting from Rank and the “popular-psychiatry” concept of “split personality,” diagnosed Golyadkin with “autoscopic syndrome.” Doctor Kohlberg illustrates the syndrome by recounting an interview with an autoscopic patient, Mrs. A., who communes with her duplicate:

[S]he had been visited almost daily by her “astral body,” as she called it, mostly at dusk when she was alone. Of the double she says, “In a detached intellectual way I am fully aware that my double is only a hallucination. Yet I see it; I hear it; I feel it with my senses. Emotionally I feel it as a living part of myself. It is me split and divided.”

290 Harrison, supra note 5, at ii. Temira Pachmuss calls the combatants “the spiritual” and “animal” facets of human nature. Temira Pachmuss, The Theme of Vanity in Dostoevskij’s Works, 7 THE SLAVIC AND E. EUR. J. 142, 142 (1963). For her, The Double reflects a “[a] main concern in Dostoevskij’s fiction . . . [w]ith the moral decay of the individual which springs from the neglect of his spiritual being.” Id. She concludes that Golyadkin’s ensuing insanity is a result of his neglect of “all interests other than the gratification of his ambitious ego.” Id. at 144.

291 Harrison, supra note 5, at ii.

292 See infra notes 293–99 and accompanying text.


294 Kohlberg, supra note 15, at 352–53.

295 Id. at 354.
Doctor Kohlberg links Golyadkin’s double to those envisioned by “autoscopic patients” which he, in turn, ties to autoscopic episodes sometimes experienced by individuals “with severe epilepsy of the sort known to have affected Dostoevsky.”

Unlike Doctor Kohlberg, who finds biographical support for his diagnosis, Doctor Richard J. Rosenthal, confining himself to the four corners of the novel, turns to Freudian and post-Freudian psychology. For Doctor Rosenthal, projection is the novel’s central metaphor, which he defines as a mechanism where “unacceptable aspects of the self are disavowed and attributed to some person or group or some other part of the external world.” Doctor Rosenthal delves into Golyadkin’s narcissistic nightmare “in which his every step produces yet another Golyadkin until there is a multitude of doubles mocking and displacing him,” which is a “descriptive-representational dream of ego disruption and fragmentation.”

These takes on The Double, rooted in psychiatry and Freud, are fascinating but leave much unsaid. Yes, Golyadkin could be mad, paranoid, schizophrenic, bipolar, or split. Yes, he could suffer from autoscopic syndrome, be projecting, or jousting with oedipal rivals who menace his paternal fiefdom. On the other hand, Dostoevsky informs his readers that little to nothing is clear-cut and that mental anguish defies nomenclature. The author purposely leaves open the most terrifying prospect of all—namely, that nothing is wrong with Golyadkin. In short, through the literary techniques of intentional obfuscation and retraction,

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296 Id.
298 Id. at 61 (“It’s not I who is ambitious, angry, unfaithful, etc. it is he.”).
299 Id. at 65. Doctor Rosenthal also sees The Double as a “story of intrusiveness and usurpation [that] can also be taken up from an oedipal point of view.” Id. at 73. He notes that while the oedipal myth entails a “child’s precocious intrusion into parental territory,” it houses a subset “of retaliatory fantasies, one of which is of a younger sibling coming along and usurping the child’s place with the beloved parent.” Id. According to Doctor Rosenthal, Golyadkin’s former benefactor is one of Golyadkin’s “symbolic fathers,” and Klara, along with Semyonovich, the soon to be son-in-law, become symbolic “sibling rivals” in Rosenthal’s analysis. Id. After the symbolic father’s rejection, Golyadkin tries to reconstruct the lost relationship with the Double, who, now the persecutor, “lives on as an object of terror” and mutates into the “ultimate rival,” accelerating Golyadkin’s disintegration. Id. at 74–75.
300 See supra notes 294–99 and accompanying text.
Dostoevsky creates a character who is the unremarkable homo sapiens doubling as sane-insane.

C. The Double: Indeterminate Reality

Although some critics see The Double as an individual’s progressive descent into madness, a close read reveals stasis in that Golyadkin does not change: he is the same Golyadkin before he meets his Double, when he meets his Double, and after he meets his Double. In all three stages, Dostoevsky compels readers to endure (not just read about) stagnation and agonizing uncertainty in a world lacking demarcations between reality and hallucination.

1. Pre-Double

When readers first meet Yakov Petrovich Golyadkin, “a minor civil servant,” the author uses the devices of intentional obfuscation and redundant retraction, which persist throughout the novel. Dostoevsky muddles facts, and when something appears to happen he instantly takes it back, leaving readers to wonder if it or anything happened at all.

When his hero first opens his eyes, he is “like a man as yet uncertain whether he is awake or still asleep, whether all at present going on about him is reality or a continuation of his disordered dreams.” The first clue is that the awakened and dream states blend, thus undermining assumptions that these are separate domains. The Double, however, goes further than that by dissolving any boundary between the inner life of the mind and objects of the outside world.

Dostoevsky essentially used and collapsed a poetic device later coined the “objective correlative.” According to T.S. Eliot, “[t]he only way of expressing emotion in the form of art is by finding . . . a set of objects, a situation, a chain of events, which shall be the formula of that particular emotion.” Golyadkin’s room in the tenement house in St. Petersburg is an “objective correlative” where furnishings, and even daylight, comprise the “formula [for his] particular emotion.”

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301 DOSTOEVSKY, supra note 2, at 3.
302 See id.
303 Id.
305 Id.
306 Id.
personified as objects that “look[] back at him familiarly,” and “the foul murky, grey autumnal day peer[s] in at him through the dirty panes in . . . a sour, ill-humoured way.” Dostoevsky anthropomorphizes the surroundings, which reflect Golyadkin’s reluctance to leave “recently-ended slumbers” and the fact that “something untoward had happened.” Typically, though, objective correlatives are tied to the premise that inanimate things out there do exist, and for this reason they can symbolize something separate but inner, such as emotions or moods. The Double, however, obliterates the underlying premise. Exterior and interior, no longer distinct components in a poetic equation, become inextricably conjoined for Golyadkin.

Golyadkin has radical mood swings. On day one, Golyadkin embarks in a “sky-blue carriage” in mirth, emitting a “gleeful outburst” of laughter, which “immediately” shifts into “a most unpleasant sensation.” Although this shift may seem inexplicable, it could be explained as a stroke of bad luck. At the time, Golyadkin is engaged in a charade in which he is all gussied up with new boots, “an almost new pair of trousers, a shirt front with little bronze buttons, . . . a waistcoat brightly adorned with nice little flowers . . . [and] a speckled silk cravat.” He hired a ritzy carriage “emblazoned with some sort of coat of arms” and plays his fantasy role of the respected gentleman, the sort of man he envies and would like to be. In the throes of his “high,” however, an incident whacks him over the head, reminding him of his own limitations.

The incident is especially traumatic because Golyadkin is plagued with unrequited ambition. He, like others, is driven to excel and rise above his station, but he cannot realize this. While Golyadkin desperately wants to be confident, assertive, popular, glib, and slick, he is shackled to his own nature, which is shy, modest, cautious, irresolute, fearful, and

307 DOSTOEVSKY, supra note 2, at 3.
308 Id.
309 Cf. ELIOT, supra note 304, at 48 (defining objective correlative).
310 DOSTOEVSKY, supra note 2, at 6–7.
311 Id. at 6.
312 Id.
313 Id. at 7 (Golyadkin encounters two colleagues who call out to him in a “very unbecoming” and “[u]ncouth” fashion just as Golyadkin’s superior passes in his own coach).
314 Trubeckoj, supra note 17, at 161–62.
embarrassed. As Trubeckoj puts it, this is the “cleavage [that] leads to a constant inner struggle, a struggle against his inferiority complex,” which is “the strongest motivating force in his life.” Golyadkin can only attain his lofty aspirations through costumes, props, hired coaches, and make believe.

Golyadkin’s spirits plummet on day one when he is caught red-handed in his masquerade. Two work colleagues and Andrey Filippovich, his department head, spot the underling in his highfalutin garb and hired coach. Golyadkin, who is “suddenly petrified,” turns red “up to the ears,” gropes for a response, and then, tipping his hat to Andrey Filippovich, says, “It really isn’t me, it isn’t me, and that’s all there is to it.”

Golyadkin’s utterance is both a literal-figurative double entendre and key to the novel. On one level, it conveys to Filippovich that the uppity specimen in the carriage is a sham and not the person he really is. On another level, it suggests that perhaps no one is who they say they are. More broadly, it intimates to readers that the novel contains no tangible reality and that what readers think they see or know, they might not actually see or know. Right after his words to Filippovich, the author suggests that there was silence because Golyadkin regrets the fact that he did not respond or did not speak to his department chief. There may have been talk, or there may have been silence. If readers are to enter the world of The Double, they must cede to the tension of equal, coexisting, antipodal “realities."

After the chance encounter with Fillipovich, Golyadkin, “for his own peace of mind,” visits Doctor Rutenspitz, his “confessor.” In this meeting, Golyadkin, the embodiment of contradiction, rebuts himself at every turn. Golyadkin (whose Russian name means “naked”) aims to

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315 Id.
316 Id. at 162.
317 Id.
318 DOSTOEVSKY, supra note 2, at 7.
319 Id. at 7–8.
320 Id. at 8.
321 Id.
322 Id. at 8–9.
bare his soul to the doctor but cloaks himself in fictive frocks. 323 The very Golyadkin who had just been frolicking as gentry, defines himself as “straight and open[]” and states, “[t]he only time I put on a mask is when I go to a masquerade.” 324 In a self-contradiction, Golyadkin tells Doctor Rutenspitz that he does and does not wear masks.

The session proceeds as a protracted oxymoron. Golyadkin informs Doctor Rutenspitz that he is “just like anyone else” but soon after professes, “I am not as other people.” 325 Readers look to the objective eye of Doctor Rutenspitz for a clarification, an anchor on reality, or at least a preliminary diagnosis. Here too, Dostoevsky purposely disappoints. Doctor Rutenspitz does not appear beset by Golyadkin and dismissively recommends medicine, an occasional drink, and fun with friends. 326 Doctor Rutenspitz also appears vexed, shoots his patient a “searching inquisitorial gaze,” says, “[y]ou seem to have wandered a little off the subject,” and “unpleasantly grimace[s] . . . as if preoccupied with a presentiment of some sort.” 327 After Golyadkin “quite unexpectedly . . . bursts into tears” with his head “bobbing . . . up and down, beating his breast with one hand and clutching at the lapel of [Doctor] Rutenspitz’ coat,” the surprised doctor tries to pacify him. 328

Just when the readers think that Doctor Rutenspitz put it in writing that Golyadkin is mentally ill, Dostoevsky erases it as easily as chalk on a blackboard. The outburst ends as suddenly as it began, Golyadkin bows politely, leaves the doctor’s home smiling, and decides he is “the happiest of mortals.” 329 Once again, it is as if nothing happened. The author, not content to leave it at that, goes further: he retracts the retraction, and when Doctor Rutenspitz is seen next, he is at his window “gazing rather curiously at our hero,” possibly thinking that Golyadkin is either mad or en route to madness. 330

323 JONES, supra note 5, at 49 (“The novel’s verbal and formal economy is stated in its first sentence through its hero’s name, Mr. Golyadkin, Mr. Naked (gol’). But the Russian word also suggests destitution . . . .”).
324 DOSTOEVSKY, supra note 2, at 13.
325 Id. at 10–11.
326 Id. at 10–11, 15.
327 Id. at 10, 12.
328 Id. at 14.
329 Id. at 18.
330 Id.
Obfuscation and retraction also operate in Golyadkin’s shopping spree. Golyadkin, who is not wealthy, somehow has a “pleasant sum” of “[s]even hundred and fifty roubles in notes”—but that too changes.\(^{331}\) While in Nevsky Prospect, Golyadkin gets smaller denominations from a money changer.\(^{332}\) Although he loses value on the transaction, “[he] acquir[es] nevertheless a great number of small notes to swell his pocket-book, which evidently afford[s] him the keenest satisfaction.”\(^{333}\) Professor Jones observes: “The standpoint from which there is now more money in that wallet may not strike the [the reader] as rational, but it happens to be Mr. Golyadkin’s, and he is pleased, and presumably his money is worth the pleasure it gives him.”\(^{334}\) As Professor Jones concludes, “[h]owever irrational, his standpoint has its rationale.”\(^{335}\) What Golyadkin did here (lose money) is not economically sound, but it is defensible as Golyadkin’s fair price for his pageant, in which the “poor” clerk struts with an impressively engorged wallet. Professor Jones is correct that “the objective sense of money and money’s worth is being undermined,” and thus, readers must accept the antinomy that the hero is both poorer and richer at once.\(^{336}\)

For Golyadkin, shopping is about posturing. As he runs from shop to shop, pretending to be “a man with his hands full and a terrible amount to get through,” he settles on random expensive items.\(^{337}\) After such frenetic activity, Golyadkin has little to show for it, and it is as if the shopping spree never occurred.\(^{338}\)

\(^{331}\) Id. at 4.

\(^{332}\) Id. at 19.

\(^{333}\) Id. at 19.

\(^{334}\) Id. at 19.

\(^{335}\) Id.

\(^{336}\) Id. Professor Jones states: “As the book proceeds and Mr. Golyadkin begins seeing and hearing and touching things that are unapparent to other people, one recalls the seven hundred and fifty roubles . . . [Dostoevsky] is relying on his readers to keep the question alive, and to return to it with the thought that the money may not exist outside Mr. Golyadkin’s fancy.” Id.

\(^{337}\) DOSTOEVSKY, supra note 2, at 19–20. He apparently orders “a complete tea and dinner service for one thousand five hundred roubles, together with a fantastically-shaped cigar-case and a complete shaving outfit in silver for a similar sum,” plus “furniture for six rooms, and admire[s] an intricately designed ladies’ dressing-table in the latest style.” Id.

\(^{338}\) Id. at 20.
Lunch follows in a similar vein. Golyadkin, now hungry, dines at a fine restaurant where he poses at an empty table with a newspaper. Then, when “he decide[s] that it was not proper just to sit there, . . . [he] order[s] a chocolate [drink] that he [does] not particularly want.” In what is the author’s retraction, Golyadkin eats, but neglects to eat. While “lunching,” Golyadkin bumps into his two office colleagues. Feeling embarrassed, in part because he is putting on airs, Golyadkin delivers a diatribe which echoes what he might have earlier said to Filippovich: “You all know me, gentlemen, but up to now you have only known one side of me, . . . up to the present you have not really known me, gentleman.” Reminiscent of his words to Filippovich, “it really isn’t me, it isn’t me,” Golyadkin implies that what one sees they might not see. Here, Dostoevsky, developing that “serious” idea, intimates not only that one might not know his hero but also that one might never really know anyone.

Before the Double appears, the climax is Klara’s birthday party. When Golyadkin crashes this “brilliant ball,” the narrator’s voice intercedes: “Let us rather return to Mr. Golyadkin, the true hero of my veracious tale . . . [whose] present position . . . is curious to say the least.” Equivocation follows: “[Golyadkin] also was there, ladies and gentleman—not at the ball, that is, but very nearly.” Here the author casts doubt on whether Golyadkin is present or “nearly” present or whether there even exists a party at which he or anyone can be present. After it appears that Golyadkin is hiding for “nearly three hours on a cold dark landing,” Dostoevsky, through his narrator, notes that “to explain exactly what had been happening to him is difficult.” The author asks his readers to accept inexplicability and inexactitude.

Once Golyadkin enters the ballroom, retraction propels and freezes the narrative. Golyadkin “[sees] one or two other people . . . [or] rather—he

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339 Id.
340 Id.
341 Id.
342 Id.
343 Id. at 20–21.
344 Id. at 8, 20–21.
345 Id. at 26–27, 30.
346 Id. at 30.
347 Id. at 30–31.
When he clumsily jolts various guests, he, “noticing none of this, or, more accurately, noticing it,” looks at no one but finds “himself face to face with Klara.”

Almost every sentence has in its wake an equal and opposite jolt of erasure. When Golyadkin makes a fool of himself, he blurs out, “It’s nothing, nothing, gentleman,” which could also translate into nothing happened.

In fact, the whole party could be ersatz. For example, a man with a proud head of hair could really be “wearing a wig,” which if ripped off, could expose a head as bare as “a billiard ball.”

After the servant tries to cajole Golyadkin into leaving on his own accord by telling him that someone needs to talk to him, Golyadkin says, “No . . . you are mistaken.” Mistaken becomes the buzzword, which Golyadkin repeats as “unpardonably mistaken.”

Through this, Dostoevsky suggests that life is one big illusory event in which all people “unpardonably mistaken,” feign a chuckle and a waltz.

2. Meeting the Double

Some scholars, like Trubeckoj, feel that Golyadkin only “thinks that he meets his double,” because “Golyadkin is insane.” For Trubeckoj, Golyadkin is hallucinating: “The cleavage existing in his inner self materializes,” and the “whole tragedy really takes place in [Golyadkin’s] consciousness.”

Although there is good corroboration for his view, there is equal proof of its diametric opposite—the Double’s authenticity.

After Klara’s party, Dostoevsky hints at an impending mental breakdown: the weather is “driving [Golyadkin] . . . out of his mind” while he seeks to “annihilate himself completely, to return to dust and cease to be.”

Sensing that “someone had just been standing right there beside him,” Golyadkin asks, “[w]hat’s wrong with me . . . [h]ave I gone mad or

348 Id. at 32.
349 Id.
350 Id. at 33.
351 Id. at 34.
352 Id. at 36.
353 Id.
354 Id. at 36–37.
355 Trubeckoj, supra note 17, at 162.
356 Id.
357 See supra note 18 and accompanying text.
358 DOSTOEVSKY, supra note 2, at 39.
something? As soon as the author makes a case for insanity though, he recants, because as he first appears, the Double is not a madman’s vision. He is plainly “illuminated by a nearby lantern,” and when Golyadkin tries to initiate conversation, he interacts like an extant being. That evening, when the Double heads for Golyadkin’s home, concrete details such as the ringing of a bell and the sound of an “iron bolt grat[ing] back,” establish that a corporeal form is crossing the gate enclosing Golyadkin’s building.

Then, just when the readers start to credit the Double as genuine, Dostoevsky reverses. It is a near Herculean task to navigate up Golyadkin’s dark staircase without “breaking a leg” and then the Double “dart[s] lightly up the stairs, encounter[s] no difficulties, and show[s] perfect knowledge of the ground.” The Double, who did the impossible, might be nothing but a phantom. Dostoevsky, however, dispels that instantly when the Double sits squarely on Golyadkin’s bed as real as real could be.

The next morning, skepticism presides. The narrator refers to “the almost impossible adventures of the whole incredibly strange night” that “was all so peculiar, incomprehensible and absurd, it all seemed so impossible even, that really one could hardly credit it.” Golyadkin thinks that “the whole thing . . . [was] a delirious fancy, a momentary derangement of the imagination or a clouding of the mind”; but then, in a retractile flash, he feels that “[t]he reality of last night’s walk and to some extent of what had occurred during that walk, was, moreover, confirmed . . . .” It appears that Petrushka, Golyadkin’s servant, might have also seen the visitor, because something is eating away at him: “squint[ing]” around the flat, he seems “even more sullen and uncommunicative than usual.” It is just as feasible, however, that Petrushka is upset because, having noticed abnormal behavior, he fears his master’s mental degeneration.

359 Id. at 40–41.
360 Id. at 42.
361 Id. at 44.
362 Id.
363 Id.
364 Id. at 45.
365 Id.
366 Id.
As Golyadkin learns that the Double is the new hire in his office, Dostoevsky strings the readers along with refutation. Golyadkin takes one look at his twin and thinks, “[t]he reality of the thing speaks for itself,” and then concludes he is dreaming.\textsuperscript{367} Significantly, the Double is both “different” from and “identical” to Golyadkin, which causes Golyadkin “to doubt his own existence.”\textsuperscript{368} Here what the readers yearn for is an objective lens and Dostoevsky responds by teasing his readers with a mixed messenger, Anton Antonovich.

Antonovich tells Golyadkin that the new man’s name is also Golyadkin and admits detecting a mere “family resemblance.”\textsuperscript{369} What this implies is that the Double and Golyadkin are not identical, but just a tad similar. Pondering “[h]ow could anyone speak of a family resemblance when here was a mirror image[,]” a dissatisfied Golyadkin presses his friend to reconsider.\textsuperscript{370} Only when pushed, Antonovich changes his mind: “Yes. Quite right. Really, the resemblance is amazing, and you’re perfectly correct—you could be taken for one another. . . . Do you know, it’s a wonderful—it’s a fantastic likeness, as they sometimes say. He’s you exactly . . . .”\textsuperscript{371} The implication here is that the Double and Golyadkin are veritable clones. Which of Antonovich’s conflicting impressions is accurate? Dostoevsky leaves that, like everything else, unresolved.

At the end of the work day, the Double, wearing the same outfit as Golyadkin, follows him home.\textsuperscript{372} Golyadkin, believing it to be an “illusion” but deciding that “[i]t was no illusion,” admits that “he had no idea what was happening to him” and “could not trust his own senses.”\textsuperscript{373} When they get to Golyadkin’s home, the two clerks sound the same and even share the Christian name, “Yakov Petrovich.”\textsuperscript{374} Because of such coincidences, some critics, such as Mikhail M. Bakhtin, describe the evening as an inner dialogue where “[t]he [D]ouble speaks in Golyadkin’s own words, bringing with him no new words or tones,” and echoes “the

\begin{thebibliography}
\bibitem{367} Id. at 48.
\bibitem{368} Id. at 48–49.
\bibitem{369} Id. at 50.
\bibitem{370} Id.
\bibitem{371} Id. at 51.
\bibitem{372} Id. at 55.
\bibitem{373} Id. at 55–56.
\bibitem{374} Id. at 57.
\end{thebibliography}
cringing and self-effacing Golyadkin.  Professor Terras similarly claims
solipsism in the “unspeakable horror about that scene in which Goliadkin
thinks he is entertaining a visitor (the other Goliadkin) and is entertaining
himself!” These are viable theories, but Dostoevsky discourages his
readers from taking refuge in them.

Rather, the author makes his readers crave a neutral party to give at
least a hint about whether Golyadkin is talking to a guest or himself.
Unfortunately, the only witness here is the unreliable drunkard Petrushka.
When they both get home, Golyadkin searches Petrushka’s face for a
reaction, but poker-faced Petrushka treats the duplicates as humdrum: he
“show[s] no surprise,” helps both men with their coats, and asks casually
whether he should “bring dinner for two.” Conterminously, a distraught
Petrushka is initially “in the doorway, his eyes fixed on the opposite corner
of the room to that in which his master and the guest were sitting,” and
later insubordinately refusing to go to bed. Readers cannot tell whether
Petrushka sees dual diners or his boss chirping away at an invisible pal.

3. Post-Double

In stage three, the Double becomes increasingly evasive, and letters to
and from Golyadkin appear and then vanish. In doing so, Dostoevsky
unveils his subject—naked incertitude.

When Golyadkin wakes up to “find not only the guest but also the bed
on which he had slept, gone,” readers suspect that the evening was a
figment of Golyadkin’s imagination or a dream. The rebuttal to that
suspicions is Petrushka, who confuses the Double with Golyadkin and
informs his master that “his master . . . [is] not at home.” When
Golyadkin rebukes, “I’m your master, Petrushka, you fool,” the servant,
backing off, “announce[s] that the other had left about an hour and a half
ago . . . .” Just when the readers feel momentarily secure in assuming

375 MIKHAIL M. BAKHTIN, PROBLEMS OF DOSTOEVSKY’S POETICS (Caryl Emerson trans.,
University of Minnesota Press 1983), reprinted as The Dismantled Consciousness: An
Analysis of The Double, in DOSTOYEVSKY NEW PERSPECTIVES 19, 24–25 (Robert Louis
376 Terras, supra note 270, at 85.
377 DOSTOEVSKY, supra note 2, at 56–57.
378 Id. at 57, 63.
379 Id. at 64.
380 Id. at 64–65.
381 Id.
that Golyadkin entertained a guest, Dostoevsky injects doubt in the form of spooked Petrushka’s “offensive look” and surly tone.\textsuperscript{382}

At the office, the Double, radically different from the humble, self-deprecating house guest, embodies what Golyadkin had said to the clerks earlier in the restaurant: “[U]p to now you have only known one side of me.”\textsuperscript{383} Office Double—now cold, unfriendly, and “official and business-like”—snubs Golyadkin, which makes his “flesh creep.”\textsuperscript{384} Golyadkin says to Antonovich, “I’m merely developing the theme, putting forward the idea that people who wear masks are no longer uncommon, and that it’s difficult nowadays to recognise the man underneath.”\textsuperscript{385} Golyadkin’s comment doubles as Dostoevsky’s gnomic epiphany about the masked, indiscernible quality of all people and life itself.

The author’s voice intercedes again after boss Filippovich asks Golyadkin for documents.\textsuperscript{386} The Double, cunningly duping Golyadkin into believing that there is a blemish on the paper, offers to extract it for him with a pen-knife “out of friendship and pure goodness of heart.”\textsuperscript{387} Instead, the Double snatches the documents, delivers them to the boss, and garners credit for Golyadkin’s work.\textsuperscript{388} Golyadkin reflects:

\begin{quote}
 Anything as black as this [is] really quite inconceivable. It’s nonsense. It can’t happen. It’s probably been some sort of an illusion—either something different happened from what actually did—or it was me who went, and somehow I took myself for someone else. To put it briefly, the whole thing is impossible.\textsuperscript{389}
\end{quote}

This encapsulates the theme. Dostoevsky conveys that events equal “inconceivable . . . nonsense,” that what happens might not happen or could be “different . . . from what actually did” happen, and that certainty spells illusion.\textsuperscript{390} Going even further, Dostoevsky implodes the paradox, because as soon as Golyadkin “decide[s] that the whole thing was

\begin{itemize}
  \item \textsuperscript{382} Id.
  \item \textsuperscript{383} Id. at 21.
  \item \textsuperscript{384} Id. at 66–67.
  \item \textsuperscript{385} Id. at 68.
  \item \textsuperscript{386} Id. at 69.
  \item \textsuperscript{387} Id. at 69–70.
  \item \textsuperscript{388} Id. at 70.
  \item \textsuperscript{389} Id. at 71.
  \item \textsuperscript{390} Id.
\end{itemize}
impossible,” the Double arrives “with papers in both hands and under both arms” and affirms the possibility or that what happened actually did happen.\footnote{id. at 74–75.}

Uncertainty intensifies as the Double exploits his popularity to torment Golyadkin. Golyadkin yearns to revisit the warm “friendship” and “cordial relationship of the night before.”\footnote{id. at 76–77.} Golyadkin, lonely, pines not just for an ouster of solitude, but also for a ratification of his reality.\footnote{id. at 81.} His hunger, however, is left unsated as the Double’s skittishness increases, so much so that he personifies evasive reality. For example, when the Double tricks Golyadkin into paying for ten fish pasties at the restaurant, the cagey Double “look[s] as though he might at the least provocation disappear into the next room and slip out by a back way, foiling all attempts at pursuit.”\footnote{id. at 81.}

Each time Golyadkin manages to grab and seize the Double, the Double, as slippery and protean as truth itself, squirms free to defeat capture.\footnote{id. at 66 (where Golyadkin “seiz[es] [the Double] by the hand,” the Double darts away).}

Another scene further dashes all hope of certitude or clarification. Trying to mingle with his “icy” colleagues Golyadkin spies the popular Double who is “[g]ay, smiling, full of beans as ever, nimble-footed, nimble-tongued” as he “frolick[s], toadie[s], gambol[s], and guffaw[s].”\footnote{id. at 104.} Working the room like a seasoned politician the Double turns to shake Golyadkin’s hand, “tearfully grasp[ing] it in the firmest and friendliest manner.”\footnote{id. at 105.} For a split second, this looks like that coveted change of heart, a gesture of inclusion. When the Double “brazenly, callously . . . snatch[es] his hand away,” the other shoe drops:

Not satisfied with that, . . . [the Double] shook . . . [Golyadkin’s hand] as if it had been contaminated. Even worse, he spat, and made a most offensive gesture! And worst of all, taking out his handkerchief, he wiped each finger that had momentarily rested in the hand of Golyadkin [.]. All the while he looked about him deliberately, in his usual blackguardly way, so that all should see what he was doing, and looked everyone in the
face in an obvious attempt to convey to them most unpleasant things about Golyadkin . . . 398

This poses a multi-faceted quandary. Did their friendship and bonding ever happen? Did the handshake or its retraction even occur?

Elusiveness builds when Golyadkin tries to placate the Double in a coffee shop. Initially, the Double greets Golyadkin as a “dear good friend,” shooting him a winning smile.399 Instantly, doing his characteristic about-face, the Double taunts Golyadkin with allusions to his past, resumes his “former heinous trick of pinching—regardless of his resistance and subdued cries—the indignant Mr. Golyadkin’s cheek,” and replays the retracted handshake.400 Just when it seems that Golyadkin managed to get him to sit still, the Double bolts, sticks Golyadkin with the bill, and slips away.401

Flighty malice continues after the Golyadkins leave the coffee shop. Golyadkin frantically chases his Double and successfully “clamber[s] onto the carriage, while [the Double] did his utmost to fight him off.”402 At one point Golyadkin, by “gripping the moth-eaten fur collar of . . . [the Double’s] overcoat,” has the Double trapped.403 Losing hold once again, Golyadkin is hurled “from the carriage like a sack of potatoes.”404 The Double, like a fugitive, repeatedly evades capture.

In the novel, letters similarly materialize and vanish, leaving the readers to wonder if they ever existed.405 Golyadkin begs the Double to “restor[e] the status quo ante” in a letter, but when Golyadkin orders Petrushka to deliver it, Petrushka laughs and then denies laughing.406 Later, when Petrushka returns and his master inquires about the letter,
Petrushka insists that a letter never existed. Readers cannot be sure of that, however, because the Double mentions the letter while berating Golyadkin in the coffee shop. Occluding truth, Dostoevsky also sheds doubt on the letter’s recipient. Specifically, when Golyadkin asks his servant to divulge the Double’s address, Petrushka gives Golyadkin’s address. Golyadkin replies, “[t]hat’s me you’re talking about. There’s another Golyadkin, and I mean him, you twister!” Just as the readers are on the brink of concluding that Petrushka does not believe in the Double, Petrushka tells his master that he is quitting so that he can work for “nice people,” because “[n]ice people don’t live falsely and don’t have doubles.” According to Petrushka, the Double does and does not have authenticity.

Another apparitional letter suddenly appears. Golyadkin, at first “[d]reading that it might prove an illusion or figment of his imagination,” later decides it is “no illusion, no figment of the imagination.” This letter, from colleague Vakhrameyev, condemns Golyadkin’s behavior, calls him a “moral menace,” and severs ties with him. Pushing Golyadkin’s paranoiac buttons, the letter engenders “hideous visions” and nightmares. When Golyadkin awakens, he discovers that the letter is gone, making the readers doubt that it had ever arrived.

Still another letter comes and goes. When a porter delivers it to Golyadkin, he stuffs it in a pocket. Later, Golyadkin seats himself at an inn table and extracts what turns out to be Klara’s elopement letter. Klara begs Golyadkin to rescue her from her enemies and tells him: “Await me in your carriage outside Olsufy Ivanovich’s windows tonight at nine

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407 Id. at 86.
408 Id. at 115.
409 Id. at 87.
410 Id. at 87.
411 Id. at 88.
412 Id. at 89.
413 Id.
414 Id. at 89–90.
415 Id. at 93–95.
416 Id. at 96.
417 Id. at 109, 133.
418 Id. at 109.
419 Id. at 118.
exactly. We are having another ball.\textsuperscript{420} While several critics agree that Klara’s letter is climactic and that Klara herself did not write it, they disagree over the author’s identity.\textsuperscript{421} As Professor Jones points out, “[t]he letter is a noveletteish farrago which suggests the escapist reading of half-educated clerks like Mr. Golyadkin and Mr. Devushkin,” while it could also have been the Double or some other clerk’s nasty prank.\textsuperscript{422} Also, because Golyadkin habitually talks to himself and the letter mimics his erratic tone, he could have composed it himself. Another possibility is that the letter, along with the elopement plot, is totally imagined.\textsuperscript{423} Dostoevsky ensures that nothing about the Klara letter makes sense. When Golyadkin “drag[s] out the letter[,]” he, “dazed and incapable of thought or action,” is “unable to read it.”\textsuperscript{424} When Golyadkin gropes in his pocket later, “to his amazement[,] the letter [is] not there.”\textsuperscript{425} It, like everything else, disintegrates. The events linked to the letter are equally mind-boggling. If indeed Klara had connived a secret rendezvous, it is illogical for her to select the time and venue of a formal ball with so many guests present.\textsuperscript{426} Also, nothing appears to go according to plan, which might be indicative of no plan. Golyadkin waits while Klara fails to show.\textsuperscript{427}

Significantly, when Golyadkin reads the Klara letter, Dostoevsky accelerates the obfuscation and retraction, so much so that the narration becomes feverish. At the inn, Golyadkin does not appear to order food, yet on his table appear “plates . . . [,] a dirty serviette, and a recently-discarded knife, fork and spoon.”\textsuperscript{428} Golyadkin asks himself, “Who’s been eating

\textsuperscript{420} Id.
\textsuperscript{421} See, e.g., Jones, supra note 5, at 88 (“[I]n The Double Mr. Golyadkin has to mount his own Double Act, which is why the elopement letter is both the novel’s climax and its central inspiration, embracing the nowhere of the hut on the shore and the nobody of Sir Golyadkin to the rescue.”).
\textsuperscript{422} Id. at 54.
\textsuperscript{423} See Gasperetti, supra note 5, at 226 (suggesting that “[d]ay four for [Golyadkin] is actually day one for everybody else” and that much of the story, including Klara’s letter, is imagined).
\textsuperscript{424} Dostoevsky, supra note 2, at 123.
\textsuperscript{425} Id. at 133.
\textsuperscript{426} See Gasperetti, supra note 5, at 226 (“[W]hy choose a time when so many people are present to foil their elopement?”).
\textsuperscript{427} Dostoevsky, supra note 2, at 137.
\textsuperscript{428} Id. at 119.
here? . . . Could it have been me?” Golyadkin and the readers are unsure whether their hero actually ate or whether tragically, he offered to pick up someone else’s tab. As Golyadkin admonishes, “[a]nything is possible.”

In the muddle, Golyadkin thrusts his hand into his pocket and extracts a vial purportedly prescribed by Doctor Rutenspitz, which inexplicably makes him “shudder[,] and almost scream[,] with terror.” The vial, like just about everything else, “slip[s] from his grasp” and smashes to the floor. Professor Gasperetti asserts that this scene supports his theory that “[d]ay four for [Golyadkin] is actually day one for everybody else” and that all in the interstices is imagined. Dostoevsky answers, “maybe,” in lieu of a committal “yes.” The vial, a metaphor for shattered reality, correlates with the author’s postulate that truth (temporal and spatial) is nothing but a dollop of splintered shards on an eating house floor.

When Golyadkin is later led into Klara’s party, he drifts into a haze: “To say that he went is not, however, strictly accurate, for he had little idea what was happening to him.” When the Doctor Rutenspitz of day one arrives, he reminds his patient that he is “an old friend,” and Golyadkin confirms, “I have complete faith in Doctor Rutenspitz.” Seconds later, the reader—leery about the doctor with his “eyes burning with evil and infernal glee” and who out of the blue speaks with a German accent—wonders if he is Doctor Rutenspitz. Golyadkin expresses his (and the readers’) thoughts: “This wasn’t [Doctor] Rutenspitz! Who was it? Or was it him? It was! Not the earlier [Doctor] Rutenspitz, but another, a

429 Id.
430 Id.
431 Id.
432 Id. at 120.
433 Id.
434 Gasperetti, supra note 5, at 225–26 (“No time has elapsed . . . [t]he credibility of Klara’s declaration of love, the appearance of the double, and even [Golyadkin’s] blunder at the party is shattered just as completely as the vial of medicine that bursts on the floor.”).
435 DOSTOEVSKY, supra note 2, at 139.
436 Id. at 143.
437 Id. at 144. See also JONES, supra note 5, at 103 (“[I]n his first meeting with Mr. Golyadkin . . . he spoke rather colourless but correct Russian. Whereas now . . . he speaks the broken Russian of a member of the Petersburg German Colony: ‘You vill official quarters haf, vith firewood and Licht and service, the vich you deserf not.”’).
terrible [Doctor] Rutenspitz!" Even Doctor Rutenspitz may have a double.

D. The Double: Does the Double Truly Exist?

If Golyadkin were a testator in a will contest, charged with having insane delusions, how might the court rule? Under the majority test, a delusion is insane even if there is some factual basis for it if a rational person in the testator’s position could not have drawn the same conclusion. Under the minority view, which is more protective of testamentary freedom, a delusion is not insane if there is any factual basis at all for the testator’s belief. Although Golyadkin is more likely to fare better under the minority test, that is not a forgone conclusion. Under either approach, Golyadkin could get a clean bill of health or an insanity diagnosis. Stated otherwise, one could argue either for the proponents or contestants but the outcome is unpredictable.

In the hypothetical Golyadkin matter, readers of this article (the fact-finders) could understandably balk at the assigned task because a chunk of the puzzle—the will itself—is missing; thus, they could object on the basis that ignorance of the chosen disposition is fatally disabling. If that is what is stopping the fact-finders from opining on Golyadkin’s mental state, it substantiates the chief complaint of the critics of the capacity doctrine: the reason the cases are inconsistent and often skewed is because decision-makers tend to approach it backwards. Rather than deciding the issue of whether the testator has the requisite sound-mind, they side-step it by preliminarly (and often clandestinely), fixating on the will contents. Then, only after doing that, they predicate their testamentary capacity finding on whether the will itself coddles their hearts or comports with normative values. The current task, however, is a will contest without a

438 DOSTOEVSKY, supra note 2, at 144. See also JONES, supra note 5, at 104 (exploring the possibility that “the second [Doctor] Rutenspitz is a different man”).
439 See generally DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 169 (citing RESTATEMENT (THIRD) OF PROP.: WILLS AND OTHER DONATIVE TRANSFERS § 8.1, cmt. s (2003)).
440 See DUKEMINIER, SITKOFF & LINDGREN, supra note 19, at 169 (citing Enders v. Parker (In re Estate of Kotke), 6 P.3d 243 (Alaska 2000)).
441 See, e.g., Champine, supra note 25, at 49.
442 Id.
443 See supra notes 20, 441; Part II.B.2 and accompanying text (discussing the bias and inconsistency in the non-bizarre delusion cases).
will; such a scenario forces the readers to relinquish this impulse and enables the fact-finders to isolate and confront the real issue of whether Golyadkin is insanely deluded. If the fact-finders stubbornly refuse to play along, what holds them back is something different. This something is the real impasse, the one the fact-finders deny, sugarcoat, or repressively inter in the unconscious vault. It is the one that *The Double* shoves right in the fact-finders’ faces.

If Golyadkin even has delusions, they at best fit into the non-bizarre category. ‘None of his beliefs are “clearly implausible,” but rather they embrace “situations that [can] occur in real life.”’ ⁴⁴⁴ In making his hero’s life so drably prosaic, Dostoevsky has taken great pains to tell his readers that his “minor clerk,” who visits a doctor, shops, dines, goes to work, and crashes a party, is not some freakish anomaly. ⁴⁴⁵ Unlike Cecilia Zielinski, he does not think that people are getting orders from a machine that turns the world inside out, are sticking balloons in his belly, are pushing his eyes back into his head, or are breaking his legs and replacing them with someone else’s legs. ⁴⁴⁶ Unlike the testator in *McReynolds v. Smith*, ⁴⁴⁷ he is not zipping off to other planets, befriending aliens, and planning a stone quarry franchise on Saturn. ⁴⁴⁸

The most aberrant event in Golyadkin’s life is his encounter with the Double, and even that is not “clearly implausible.” ⁴⁴⁹ In real life, such an event transpires more than one might expect. The accounts of identical twins separated at birth who suddenly meet for the first time are plentiful. ⁴⁵⁰ Cognizant of such encounters, Dostoevsky even has his

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⁴⁴⁴ See *supra* notes 70–72 and accompanying text (discussing the DSM definitions of bizarre and non-bizarre).

⁴⁴⁵ DOSTOEVSKY, *supra* note 2, at 3 (noting that Golyadkin is “so insignificant a character as to be certain of commanding no great attention at a first glance”).


⁴⁴⁷ 86 N.E. 1009 (Ind. 1909).

⁴⁴⁸ *Id.* at 1012. The *McReynolds* court found that the evidence established insane delusion and that the will was “at least in some measure, the result of such delusion.” The testimony showed that the testator believed, among other things, that he “had personally visited the planets, formed an acquaintance with their inhabitants,” and learned that “after death, [he would] go to the planet Saturn and conduct a stone quarry . . . .” *Id.*

⁴⁴⁹ See *supra* notes 76–78 and accompanying text (defining bizarre delusions).

⁴⁵⁰ See, e.g., Thomas Catan, *Spanish Twins Separated at Birth By Mistake Are United By Chance*, *The Times* (May 28, 2008), http://www.timesonline.co.uk/tol/news/world/ (continued)
character Antonovich elaborate on the phenomenon. Antonovich, referring to the generosity of Mother Nature, speculates that both Golyadkins might come “from the same parts” and says: “[D]on’t you worry. It’s a thing that does happen. Do you know, I must tell you this, the very same thing occurred to an aunt of mine on my mother’s side. She saw her own spit and image before she died . . . .”

In The Double, Dostoevsky supplies at least a “reasonable basis” for the belief that the Double is genuine. Regarding this issue (the one that sows the most discord), some scholars such as Harrison feel that the “[t]he authenticity of the double is never called into question,” and that “[a]ll secondary characters acknowledge the presence of both Golyadkins, and . . . do not consider it incredible that the original Golyadkin should have a perfect double.” While equally compelling opponents insist that the Double is imaginary, a mere hallucination, or projection, scholar

europe/article4016045.ece (detailing a story of twins mistakenly separated at birth who suddenly meet after a shopkeeper was “taken aback by the unfriendly manner of the woman who she thought was her friend . . . .”); Rebecca Leung, Twist of Fate, CBS NEWS (Feb. 11, 2009, 8:24 PM), http://www.cbsnews.com/stories/2003/11/04/48hours/main581771.shtml (detailing a story of woman, who for twenty years, did not know that she had a twin sister until they met in a fast food parking lot); Becky Sheaves, The Twins Brought Up On Either Side of the Iron Curtain . . . But Who Lived Identical Lives, MAIL ONLINE (Dec. 20, 2007, 10:54 PM), http://www.dailymail.co.uk/femail/article-503775 (describing identical twins who met after the fall of the Berlin Wall); Elizabeth Wolf, Dual Lives of Twins Separated at Birth, N.Y. POST (Sept. 23, 2007, 5:00 AM), http://www.nypost.com/f/print/regional/item_4AFadAQePr4GNZdswlhpZM (detailing a story of twins, separated at birth, adopted by different families, and made the subjects of a secret mental illness study, who thirty-five years later met in a cafe). See also Rosenthal, supra note 4, at 59 (describing a news story about a man who strangled his twin brother because he was impersonating him). Rosenthal opines that this story, published 130 years after The Double, “would have probably pleased [Dostoevsky], who avidly read the papers of his day for things to write about . . . .” Id.

See supra notes 369–71 and accompanying text (describing the dialogue between Golyadkin and Antonovich in the office).

DOSTOEVSKY, supra note 2, at 51 (emphasis added).

See In re Honigman’s Will, 168 N.E.2d 676, 678 (N.Y. 1960) (The court emphasized that the issue was “not whether Mrs. Honigman was unfaithful, but whether Mr. Honigman had a reasonable basis for believing that she was.”); Part II.B.2.b (discussing the Honigman case in greater depth).

Harrison, supra note 5, at 121–22. See also supra note 18 and accompanying text (discussing the scholarly debate over the existence of the Double.).
Deborah Martinsen hits the nail on the head by accepting that the “text[ ] . . . contain[s] evidence on both sides.”455

The problem is that each of the novel’s impartial witnesses gives conflicting testimony. Petrushka, for example, takes two coats and serves two meals.456 He confuses Golyadkin with the Double and quits because “[n]ice people . . . don’t have doubles.”457 In contrast, Petrushka, corroborating the hypothetical contestants’ contention that the Double is imagined, considers the task of taking Golyadkin’s letter to the Double to be a joke and claims that both Golyadkins have the same address.458 Witness Antonovich also speaks to both sides by detecting a slight “family resemblance” between the two and then anointing them veritable clones.459 The very reason the readers cannot confidently convict or acquit the author’s hero is because objective reality simply does not exist.

Reader discomfort throughout The Double replicates the reaction legal commentators have to the mental capacity and delusion cases, especially those that fall into the non-bizarre class. As discussed, unanimous ratification of the reasoning and result in cases such as Dew, Strittmater, Honigman, and Breeden is lacking.460 All readers are not wholeheartedly convinced that Ely Stott, who detested his daughter; pioneer Louisa Strittmater, who championed feminism; Frank Honigman, who dreaded cuckoldry; and Spicer Breeden, who was mortified by spying eyes, were insanely delusional.461 In seeking the cause of their discontent, readers like to blame the dubious results on differing evidentiary burdens or on judges

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455 Martinsen, supra note 18, at 1. For those commentators that see the Double as a figment of the imagination or a projection of Golyadkin’s anxieties, see, for example, Chizhevsky, supra note 5, at 115 (asserting that the Double is “conditioned psychologically” and “rises from the depths of Golyadkin’s soul”). See also supra note 17 and accompanying text (discussing the debate over the authenticity of the Double).

456 DOSTOEVSKY, supra note 2, at 56–57, 63 (describing Petrushka’s conflicting reactions to the Double).

457 Id. at 88.

458 Id. at 83, 86–88. See also supra Part III.C.3 (discussing the vanishing letters).

459 DOSTOEVSKY, supra note 2, at 50–51. Similarly, when Golyadkin later treats himself to just one “fish pasty,” he is charged for eleven. Id. at 80. It turns out that the Double ate the other ten fish pasties, but the waiter thought it was Golyadkin himself. Id. This, of course, suggests that if this happened and if there is a double, they do indeed look alike.

460 See supra Part II.B.2 (discussing these non-bizarre cases).

461 See supra Part II.B.2 (discussing the uncertainty in the non-bizarre cases).
or juries who let their own biases and prejudices affect their decisions.\textsuperscript{462} By implying that such excuses are vacuous, \textit{The Double} exposes the true source of such vexation.

\textit{The Double} dispatches the bitter dictum that when it comes to the realm of the non-bizarre, the lawyers and proverbial reasonable men and women are neither capable of defining delusion nor finding that a delusion caused or might have caused a disposition. The legal profession brainwashed itself into believing that lawyers can do what Dostoevsky knew (and was big enough to admit) is not humanly possible. The reason these cases and the inept stabs at justifying them ring false is because the lawyers are the ones who are not just deluded, but bizarrely deluded. This is unfortunate because one salutary goal behind the sound mind requirement is to promote the perception of law as legitimate.\textsuperscript{463} The hope is that the current legal institutions, including those governing succession of property, will be seen as rational and fairly predictable.\textsuperscript{464} Specifically, practitioners would like to be able to sit down with clients and help them navigate through choices by giving them not just the pros and cons of venturing forth but also giving them tentative forecasts of closure. When a potential contestant or proponent walks through the law office door, however, it is the non-bizarre case that inevitably hobbles the profession and undermines legitimacy.

Professor Bradley E.S. Fogel, one of the few to offer a respectable solution, proposes abolishing the insane delusion doctrine altogether and retaining just the traditional mental capacity test.\textsuperscript{465} Fogel thinks that even absent a distinct insane delusion or monomania doctrine, extreme cases like \textit{Zielinski} would still result in invalidation.\textsuperscript{466} He aptly points out that in cases with people like Cecilia, who falsely believe that those “closest to [them]” are trying to hurt them in “bizarre ways,” there will likely be a sufficient showing of their inability to know the natural objects of their bounty.\textsuperscript{467} It is worth highlighting that the delusional Cecilias of the world relentlessly adhere to total impossibility.

\textsuperscript{462} See supra Part II.B.2 (discussing the bias and the putative effect of different evidentiary burdens).

\textsuperscript{463} See supra notes 40–41 and accompanying text.

\textsuperscript{464} See supra notes 40–41 and accompanying text.

\textsuperscript{465} Fogel, supra note 20, at 108–09.

\textsuperscript{466} Id.

\textsuperscript{467} Id. at 109 (“In Zielinski, testator’s paranoia seems to have prevented the testator from appreciating her relationship with her son or understanding her obligations to him.”).
Because there is a discernible tying arrangement between a truly unsound mind and bizarre delusions, Professor Fogel’s solution does not go far enough.\textsuperscript{468} Incorporating DSM science into the mental capacity inquiry could better safeguard testamentary freedom. Professor Fogel is correct that instead of jettisoning insane delusion as a distinct basis for will invalidation the legal system should instead install the sound-mind test as sole dictator. Going further, it should also engraft onto the old \textit{Greenwood-Baker} test an added mandate that a mentally incompetent testator must also suffer from what the DSM defines as bizarre delusions.\textsuperscript{469} In doing so, the law would at least honestly stipulate to its own limitations and concede that the whole \textit{Stott-Strittmater-Honigman-Breeden}, and even Golyadkin non-bizarre, group of testators tends to throw a wrench in the works.\textsuperscript{470}

This suggested revision would continue to minister to the policies behind the testamentary capacity doctrine.\textsuperscript{471} As amended, the doctrine would still aim to ensure that a will speaks true intent, protects the family, grants peace of mind, and helps shield the elderly from exploitation and undue influence.\textsuperscript{472} Additionally, by ousting the inconsistent, unpredictable, and disingenuous culprit—the non-bizarre delusions—the updated test would also more effectively help foster the perception of law as legitimate and essentially rational.\textsuperscript{473}

\textsuperscript{468} \textit{Id.} at 418 (suggesting that some delusions can be so “clearly implausible” and “not understandable” that they can only originate in an unsound mind). \textit{See, e.g.,} Gulf Oil Corp. v. Walker, 288 S.W.2d 173 (Tex. Civ. App. 1956) (dealing with a testator who had bizarre-delusions and the court held that the evidence sustained finding that the decedent lacked testamentary capacity).

\textsuperscript{469} \textit{See supra} note 48 and accompanying text (discussing the \textit{Greenwood-Baker} test and its origins); \textit{supra} notes 48–51 and accompanying text (discussing the sound-mind rule and how it is designed to be lenient); \textit{supra} note 69 and accompanying text (describing the core of insanity as delusion).

\textsuperscript{470} \textit{See supra} Part II.B.2 (discussing the body of non-bizarre cases).

\textsuperscript{471} \textit{See supra} notes 33–41 and accompanying text (discussing the policies underlying the testamentary capacity requirement).

\textsuperscript{472} \textit{See supra} notes 33–41 and accompanying text (discussing the policies underlying the testamentary capacity requirement).

\textsuperscript{473} \textit{See supra} notes 40–41 and accompanying text (discussing the goal of legitimacy behind the testamentary capacity rule).
IV. CONCLUSION

When a decedent’s will is the product of a bizarre delusion its resultant invalidation is not particularly earthshaking, and often times most can agree with the decision.474 For non-bizarrely deluded decedents, however, the fact-finding task is formidable and the fact-finders (and at times the courts themselves) cringe at decisions that effectively obliterate a will.475 The general testamentary capacity cases are rife with the same defects—inconsistency and dubious results—when the contest focuses on an individual without bizarre delusions.476 For too long, this area of the law has spawned controversy and discontent.477

From the instant Dostoevsky created The Double, it too brought controversy and discontent.478 Part of this is attributable to the author’s use of devices such as intentional obfuscation and retraction, along with his creation of a world in which the readers cannot be sure what is really happening and what is mere hallucination. It is not just the uncertainty that upset readers for more than a hundred and fifty years though. Russian literature scholars have struggled to explain exactly what it is about this pre-Siberian masterpiece that makes the readers’ skin crawl. Professor Gasperetti notes that “this experience of reader discomfort and alienation . . . lies at the heart of [Dostoevsky’s] self-effacing discourse” and that “[i]f The Double is successful at no other level, it certainly invites readers to see themselves in [Golyadkin].”479 Similarly, psychiatrist Rosenthal allies Golyadkin with the whole human race:

To some extent we all struggle against deep urges to yield up our identities, to erase separations and differences, and

474 See supra Part II.B.1 (discussing the bizarre cases).
475 See supra Part II.B.2 (discussing the non-bizarre cases).
476 See supra note 103 and accompanying text (giving an example of inconsistency with respect to general mental capacity decisions).
477 See supra note 25 and accompanying text; supra Part II.B.2 (giving examples of questionable non-bizarre cases).
478 See supra notes 17–18 and accompanying text (discussing scholarly response to and dispute over the novel); supra Part III.B (discussing the critics’ reactions to the novel).
479 Gasperetti, supra note 5, at 231. See also Elliott D. Mossman, Dostoevskij’s Early Works: The More than Rational Distortion, 10 SLAVIC AND E. EUR. J. 268, 272 (1966) (explaining that the novel, which “is a split vision [where] [the readers] see both the external and the internal at the same time . . . unsettles [the readers] because [they] can never be quite sure which is which”).
to get others to think and feel and act for us; sometimes, like Golyadkin, we try to clothe ourselves in an omnipotent other self, a self we could have been or secretly believe we someday still will be, a self who is free of the painful awareness of just those limitations which define our boundaries and make us who we are.\textsuperscript{480}

Before Doctor Rutenspitz carts Golyadkin off to the asylum, Golyadkin, scanning the attendees at the party, sees “[a] whole procession of identical Golyadkins . . . bursting loudly in at every door.”\textsuperscript{481} Noting that everyone is Golyadkin, Dostoevsky compels his readers to see not some peculiar anomaly, but rather just the normative self. The novel forces the readers to examine doubly both Golyadkin’s “struggle against deep urges,” as well as their own and to endure that all too familiar “painful awareness” of their “limitations.”\textsuperscript{482} Like it or not, the readers meld with Golyadkin and his fate becomes their own.

The novel began with Golyadkin meeting his double; when he “wanted to scream, [he] could not.”\textsuperscript{483} In the end, Golyadkin succeeds at emitting that blood-curdling shriek while being whisked away.\textsuperscript{484} Doctor Rutenspitz’s “stern and dreadful . . . sentence” does not merely exile Golyadkin from society, but also strips him of the power to make his own choices and extinguishes his human dignity.\textsuperscript{485} To make matters worse, the readers entertain the disturbing prospect of a wrongful conviction. Even Golyadkin’s own concession, that “[h]e had felt this coming on for a long time,” does not truly persuade the readers that banishment is kind or appropriate.\textsuperscript{486} The same is true of the results in the mental capacity cases that divest testators of their testamentary freedom without proof that their take on reality is bizarre or clearly implausible.

\textsuperscript{480} Rosenthal, \textit{supra} note 4, at 83.
\textsuperscript{481} DOSTOEVSKY, \textit{supra} note 2, at 142.
\textsuperscript{482} Rosenthal, \textit{supra} note 4, at 83.
\textsuperscript{483} DOSTOEVSKY, \textit{supra} note 2, at 44.
\textsuperscript{484} Id. at 144.
\textsuperscript{485} Id.
\textsuperscript{486} Id.