



# What's Age Got to Do With It?: Elder Investment Fraud and Financial Exploitation

National Association of Women Judges' Annual Conference

October 13, 2017

Sherry Boston

District Attorney

Stone Mountain Judicial Circuit

# Elder Population

Beginning in 2012, Baby Boomers began turning 65 at a rate of one every 10 seconds (10,000/day).

That trend will continue for 20 years.

Georgia has the 11<sup>th</sup> fastest growing population of people age 60+

U.S. Census Bureau. (2011)

# Alzheimer's Disease

Most common type of dementia that accounts for 60-80 percent of cases

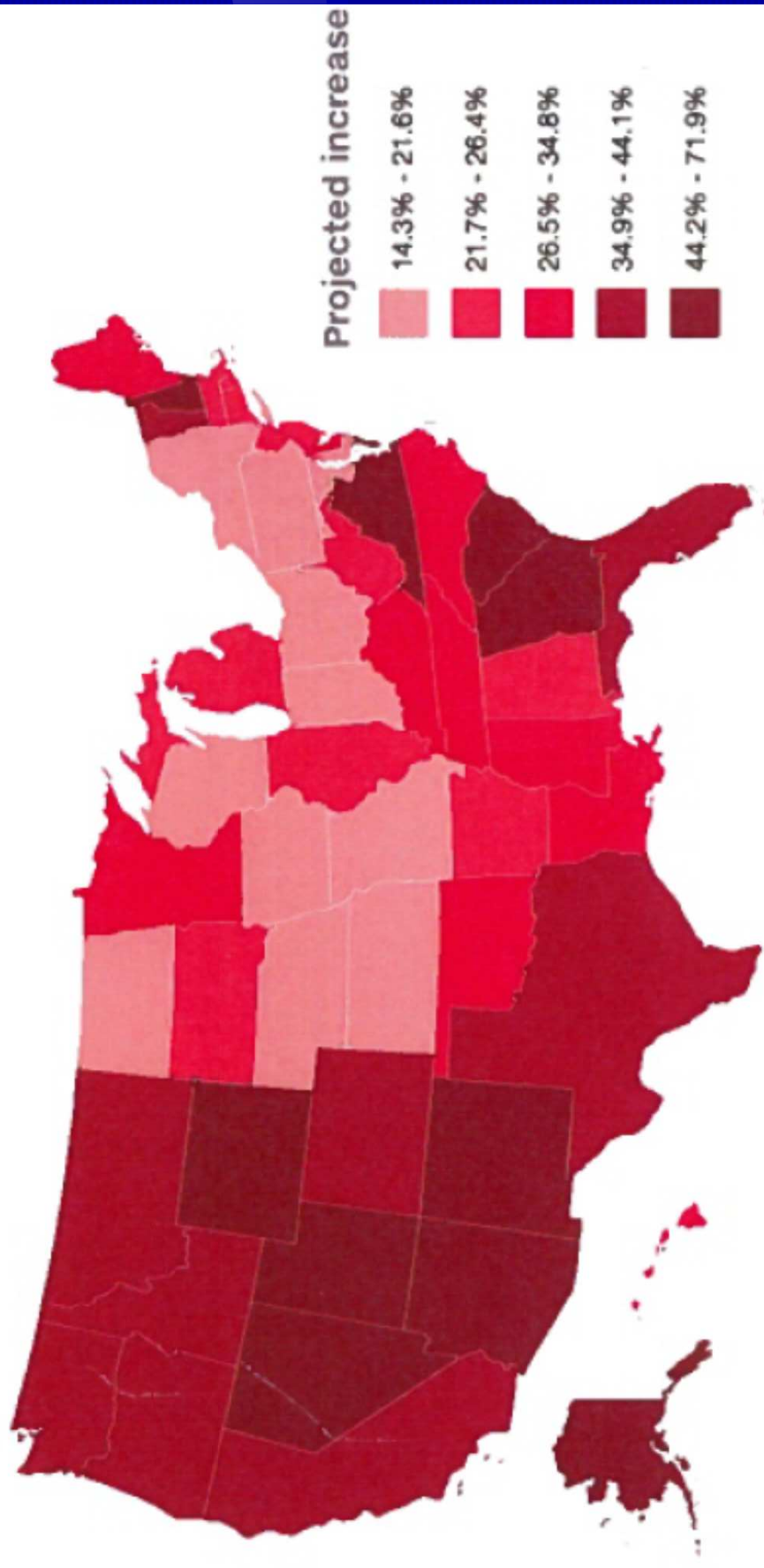
The greatest risk factor is advancing age; 43% of people over 85 have Alzheimer's Disease

## Alzheimer's Disease

More women than men have Alzheimer's Disease

The number of people 65+ with Alzheimer's disease is estimated to reach 7.7 million in 2030

# PROJECTED RISE IN ALZHEIMER'S CASES BY 2025



SOURCE: Alzheimer's Association

# Why are Elders Vulnerable?

- Dementia – the odds increase with age.
- Physical limitations – can require reliance upon others to help with banking, shopping.
- Isolation – loss of friends, spouse can leave an elder person without support.

# Elders are at Financial Risk

- Fixed income
  - Social Security check, pension payments
  - Savings account
- Rising expenses
  - Health maintenance costs
  - Grandparents raising children
  - Home repair
  - Transportation
  - Housekeeping help

The background of the slide is a dark blue gradient. In the lower half, there is a faint, semi-transparent image of two hands shaking, symbolizing agreement or partnership. The hands are rendered in a lighter shade of blue, creating a subtle watermark effect.

# Georgia Elder Exploitation Law

## §16-5-102 Prohibits the Exploitation of Elder Persons

A person may not knowingly and willfully exploit an elder person (65 years of age or older.)

Exploit – the illegal or improper use of an elder person's resources through undue influence, deception, coercion, harassment, duress, false representation or similar means for another person's profit or advantage.

Penalty is 1 to 20 years and/or \$50,000 fine.



# A Power of Attorney is Not a License to Steal

- A POA empowers the grantee to make financial decisions
- for the benefit of the grantor.
- Grantee enriching himself = exploitation.
  
- Defense attorneys will argue that theft by a POA is “a civil matter.” NOT TRUE.  
See Ware v. State, 305 Ga. App. 229 (2010)

# Special Strategies Used by Elder Abuse Prosecutors

- Obtain a medical waiver from the victim so doctors can share information.
- Depose witnesses of advanced age.
- Freeze bank accounts if stolen funds are present.
- Expedite the indictment – and the trial.

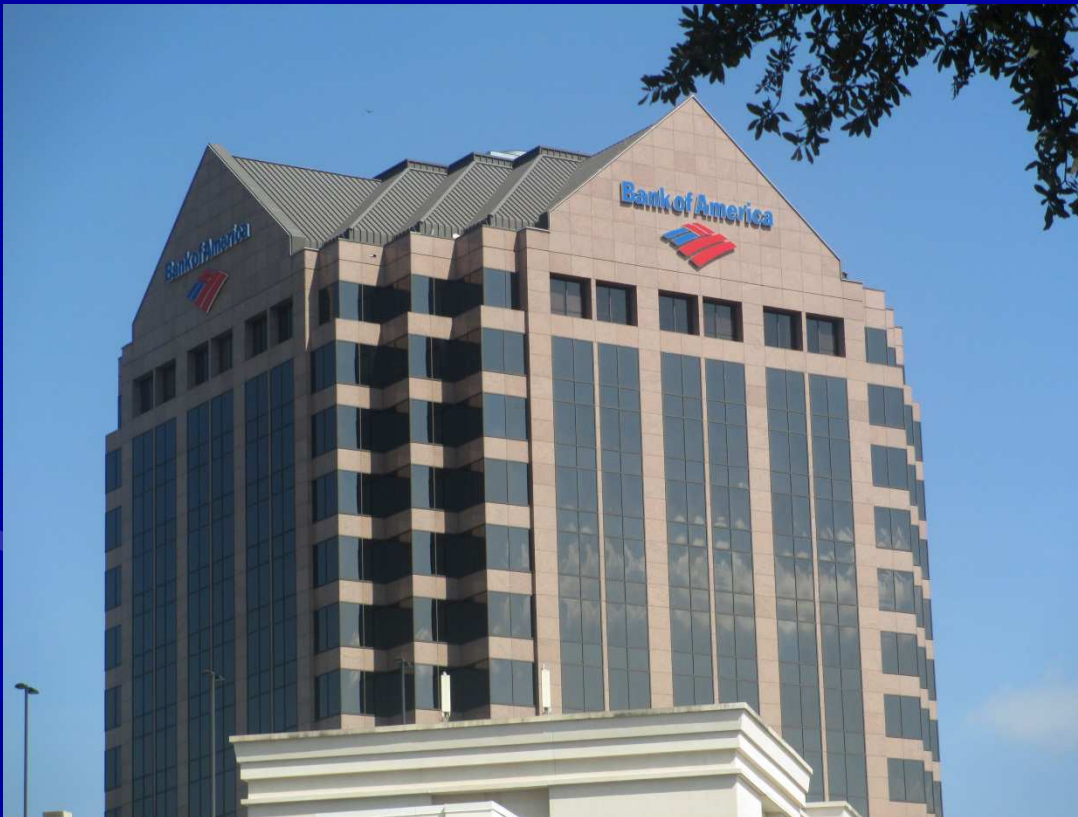
# Depositions



# Why Do Depositions?

- Crawford v. Washington – excludes testimonial statements, even when a witness is unavailable.
- Elder victims may become unavailable due to:
  - sudden illness or death, or
  - loss of mental acuity.
- In Georgia, any material witness **over 72 years of age** can be deposed. O.C.G.A. §24-13-130

# Freezing Bank Accounts



# Freezing Funds

- A direct connection between the crime and bank deposits is required.
- A freeze order is a search warrant.
- The suspect's money is "seized" but it remains in the bank while case is pending.

# Sentencing Recommendations

- Restitution
  - Accelerated timeframe – elderly victims can't wait.
  - Lump-sum payments at time of sentencing (in exchange for less time in custody.)
- Special conditions – to prevent future crimes.
  - Def. may not solicit work from elder persons.
  - No employment in a nursing facility.
  - Def. may not be a representative payee (for social security checks) for an unrelated elder person.

# Case Examples





# State v. Bridgette Chapple



- Wells Fargo called A.P.S. because a caregiver (Chapple) presented a \$4,000 check.
- Victim was 88 years old, lived with her blind son.
- Chapple's salary was \$10 an hour.
- She cashed over \$67,000 in checks in 2 months.
- The son signed the checks - he could not see the amounts but he trusted Chapple.

## Coordinated Effort

- A.P.S. contacted police and D.A.'s Office.
- Police arrested Chapple.
- D.A.'s Office subpoenaed bank records, reviewed Chapple's work schedule.
- A.P.S. case manager testified at the trial.
- Chapple claimed that she earned the money.
- The alleged work hours were placed on a calendar -- they exceeded 24 hours a day.
- The defense did not hold up.

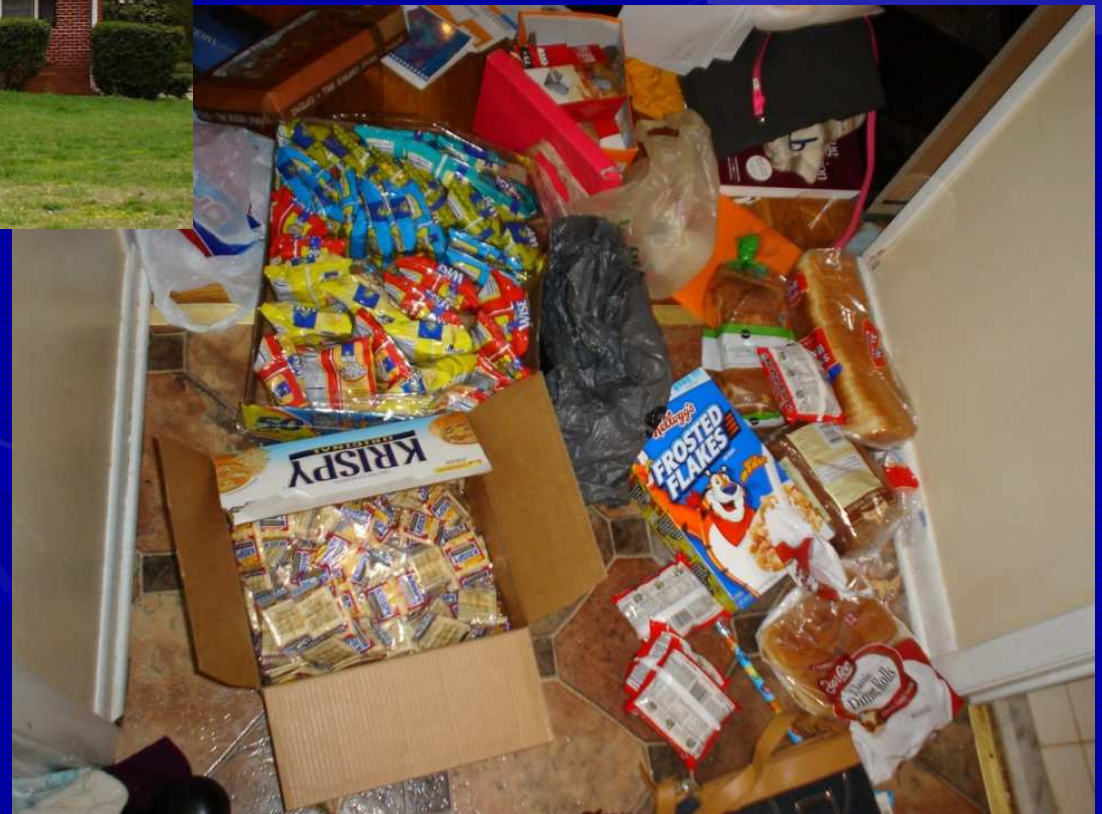
# Trial Result

- Chapple was convicted on all counts:
  - Exploitation of an elder person
  - Exploitation of a disabled adult, and
  - Theft by taking (two counts.)
- Sentence:
  - 10 years to serve 4 years in prison,
  - \$67,000 restitution, and
  - Chapple is prohibited from working with elderly or disabled adults.

# State v. Bobbie Ward



Ward's closet



# State v. Bobbie Ward

- Police searched a home for a burglary suspect.
- They found Mr. Head in the basement.
- Basement was roach–infested. There were no lights and the bathroom ceiling was caving in.
- Mr. Head was disabled and unable to speak.
- He was hungry – he could not walk up the stairs.
- Police called A.P.S., who relocated Mr. Head to a personal care home.





# Investigation

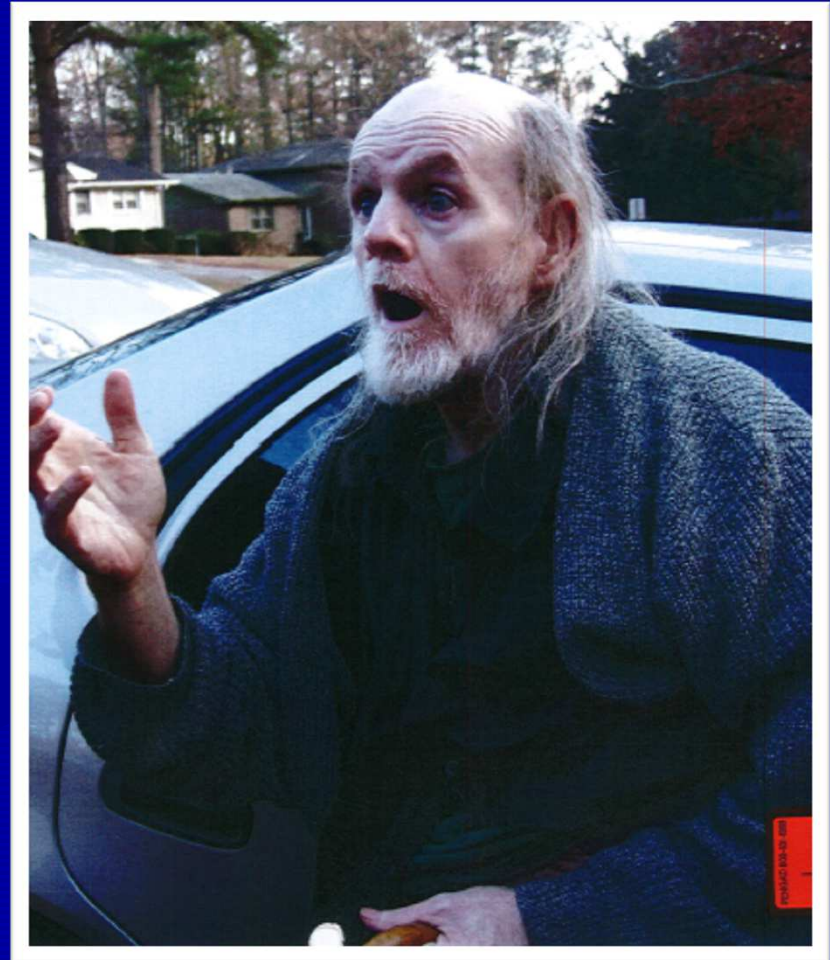
- Bobbie Ward received and cashed all of Mr. Head's Social Security checks.
- Her house was not licensed as a care home.
- Ward also stole Mr. Head's life savings.
- She put utilities in the name of disabled adults who stayed in her home, then did not pay the bills.
- One of Ward's "tenants," an 82-year-old man, jumped out of a window to escape, broke his ankle, and kept running.



# One Day's Worth of Purchases on Mr. Head's Bank Account

11/27	\$14.38	Kids Footlocker Decatur
11/27	\$66.81	Macy's South Decatur
11/27	\$37.44	Sears Roebuck
11/27	\$135.40	Parisian- Northlake
11/27	\$11.07	McDonald's Tucker
11/27	\$16.04	Sears Atlanta
11/27	\$26.75	G&D Sunglasses Atlanta
11/27	\$139.08	Ib Games Atlanta
11/27	\$39.75	shopnbc
11/27	\$53	shopnbc
11/27	\$14.04	Columbia Dr
11/27	\$117.56	Samsclub Tucker
11/27	\$4.70	Ingles Sta Mtn
11/27	\$81.91	Parisian Northlake
11/27	\$11.40	McDonalds Clarkston

# Mr. Head Before Moving in With Ms. Ward, and After



## Trial Result

- Ward was convicted on more than fifteen charges, including Exploitation, Theft, Identity Fraud and Neglect.
- Sentenced to 20 years to serve 10 years,
- \$16,000 in restitution to Mr. Head,
- Prohibited from housing disabled adults,
- Prohibited from being a representative payee for unrelated persons.