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RIGGINS v. NEVADA 112 S.Ct. 1810 (1992)

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RIGGINS v. NEVADA

112 S.Ct. 1810 (1992)
United States Supreme Court

FACTS

On November 22, 1987, David Riggins was arrested by Nevada authorities for the murder of Paul Wade, who had died of multiple stab wounds two days earlier. After being taken into custody, Riggins, who had a history of psychiatric problems, reported to a physician in the Clark County jail that he was having trouble sleeping because he heard voices in his head. Riggins told the doctor that he had been treated in the past with Mellaril, an antipsychotic drug. The doctor began to administer Mellaril to Riggins, gradually increasing the dosage, until Riggins was taking 800 milligrams a day, an unusually high dosage according to expert testimony at the trial.

In a January 1988 competency hearing, two court appointed psychiatrists concluded that Riggins was competent to stand trial while a third found Riggins incompetent. In June, the defense moved for suspension of the administration of the antipsychotic drugs, claiming that Riggins would be prejudiced if he could not present his true demeanor and mental state to the jury. After an evidentiary hearing on the possible effects of suspending the administration of the drugs in July, the district court denied Riggins' motion without explaining its rationale. At trial, Riggins offered an insanity defense and testified that voices in his head told him that killing the victim would be an act of self defense. The jury found Riggins guilty and sentenced him to death.

In his appeal to the Nevada Supreme Court, Riggins claimed that the continued forced administration of the antipsychotic drugs violated his protected liberty interest in violation of the Fourteenth Amendment's Due Process Clause, as construed in *Washington v. Harper*.¹ He also argued that the forced administration of the drugs interfered with his Sixth Amendment fair trial rights by affecting his ability to assist in his defense, as well as changing his demeanor, attitude, and appearance. The Nevada Supreme Court affirmed Riggins' conviction and death sentence, holding that expert testimony presented at the trial was sufficient to inform the jury of the effect that the drugs might have on Riggins.² The Supreme Court granted certiorari to decide whether Riggins' Sixth or Fourteenth Amendment rights had been violated.³

HOLDING

The Supreme Court reversed and remanded,⁴ holding that the Nevada court had failed to provide Riggins the minimum due process required by *Washington v. Harper*. Because the district court made no findings as to whether continued administration of drugs was medically appropriate, whether there were less intrusive alternatives, or whether there was an overriding state interest in this case, the Court ruled that there was "a strong possibility that Riggins' defense was impaired due to

the administration of Mellaril," depriving him of his Sixth and Fourteenth Amendment rights.⁵

APPLICATION/ANALYSIS IN VIRGINIA

The due process standard for assessing the forced administration of drugs was defined in *Washington v. Harper*.⁶ In *Harper*, the Court held that individuals have a Fourteenth Amendment liberty interest which protects them from the forced administration of drugs: "the forcible injection into a nonconsenting person's body, represents a substantial interference with the person's liberty."⁷ Accordingly, in order to continue administration of such drugs a trial court must apply the *Harper* standard and make a finding as to whether: (1) the administration of drugs is medically appropriate; (2) the defendant in an unmedicated state is a danger to himself or others; or (3) less intrusive alternatives are not available. If these findings are not made, and there is no overriding state interest, the state may not order the continued administration of the drugs.

Because the district court in *Riggins* denied the motion to suspend administration "without making any determination of the need for this course or any findings about reasonable alternatives," the Court held that Riggins' liberty interest may have been violated.⁸ This was especially true in light of the "particularly severe" interference that administration of antipsychotic medication causes.⁹

In addition, the Court noted that the effect the drugs had on Riggins' demeanor may have impaired his constitutionally protected trial rights.¹⁰ For example, it is impossible to determine from the record what effect the drugs may have had on Riggins' ability to answer questions, to assist counsel with his defense, and to confront the witnesses testifying against him. Without evidence of the trial court's reasons for denying Riggins' motion to stop the administration of the medication, and without evidence of an overriding state interest, the Supreme Court could see no justification for the possible strong prejudice to the defendant in this case.¹¹

It should be noted that the holding in this case may be a relatively narrow one. Justice O'Connor, writing for the majority, stressed that the Court was not adopting, as the dissent charged, a standard of strict scrutiny in cases where the State seeks to administer drugs involuntarily.¹² She also pointed out that the court was not deciding "whether a competent defendant may refuse antipsychotic medication if cessation would render him incompetent at trial."¹³ It is possible that if the district court had made any of the required findings to justify the continued administration of the drugs, a majority of the Court would have found that *Harper* had been satisfied. At bottom, therefore, *Riggins* does not directly address competency issues,¹⁴ but rather is focused on procedural due process.

¹ 494 U.S. 210 (1990).

² *Riggins v. State*, 808 P.2d 535 (Nev. 1991).

³ Riggins included an additional Eighth Amendment claim which the Court did not consider because he failed to raise it below and did not address it in his petition to the Court.

⁴ *Riggins v. Nevada*, 112 S.Ct. 1810 (1992).

⁵ *Id.* at 1816.

⁶ 494 U.S. 210. In *Harper*, a prison inmate challenged the forced administration of drugs used to control his prison behavior. Although the court recognized a liberty interest in avoiding forced administration of drugs, the prisoner's claim failed, as he was considered a danger to himself or others.

⁷ *Id.* at 229.

⁸ *Riggins*, 112 S.Ct. at 1815-1816 (emphasis in original).

⁹ *Id.* at 1814.

¹⁰ *Id.* at 1816.

¹¹ *Id.*

¹² *Id.* at 1815.

¹³ *Id.*

¹⁴ Justice Kennedy focused on the competency issue in his concurring opinion. The volatile nature of these drugs and the myriad of possible side effects led him to conclude: "[i]f the state cannot render the defendant competent without involuntary medication, then it must resort to civil commitment, if appropriate, unless the defendant becomes competent through other means." *Id.* at 1820 (Kennedy, J., concurring).

Although the Court did not adopt a standard of strict scrutiny for forced administration of drugs, the state's burden to provide procedural protections to the defendant remains high. In cases where competency is a central issue, defense counsel should pursue all possible procedural avenues. One of the most important of these tools for defense counsel is requesting appointment of a mental health expert for indigent defendants through *Ake v. Oklahoma*,¹⁵ and Virginia's mitigation expert statute.¹⁶ Such an expert may be crucial in litigating whether there is a need for forced medication to achieve competency and in establishing the drug's potential adverse effects at trial, especially on the defendant's demeanor and thought process.¹⁷

An expert also may be particularly helpful in establishing a potential Eighth Amendment violation as a result of forced medication. Because of procedural default, the Court did not address *Riggins*' Eighth Amendment argument that administration of the drugs had affected his demeanor at trial and impaired his penalty phase defense. The argument, however, may have a great deal of merit. In Justice Kennedy's concurring opinion, he noted the great weight which a showing of remorse may carry with a jury at the sentencing phase of a capital case.¹⁸ Clearly, the forced administration of anti-psychotic drugs may interfere with the defendant's ability to show remorse, an important mitigating factor. The Court implied that the Eighth Amendment issue in this context is an open

question, and therefore it is an argument defense counsel should pursue. As with all federal constitutional arguments, defense counsel must be sure to continuously raise the objection to preserve this issue for appeal.

Defense attorneys in Virginia may find the decision in *Riggins* helpful in several respects. First of all, the Court confirms that a pretrial detainee generally retains a liberty interest to avoid the forced administration of drugs. Although the Court did not adopt a standard of strict scrutiny, the state still must make a substantial showing that invasion of the defendant's liberty interest is justified. Second, the opinion underscores the importance of skillful use of experts and investigators, who may aid in rebutting the state's claim that it has met the *Harper* prerequisites. Finally, nothing in the language of the opinion detracts from the potentially potent due process and Eighth Amendment arguments that forced administration of drugs impermissibly interferes with a defendant's rights to a fair trial and a fair capital penalty hearing. Although *Riggins* does not break new ground in the area of competency law or substantive due process, it does reaffirm that pretrial detainees and inmates retain a liberty interest, and leaves the door open for an extension of those rights.

Summary and Analysis by:
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¹⁵ 470 U.S. 68 (1985). To obtain a state appointed expert under *Ake*, defense counsel must show that insanity will be a major factor in the defense, that an expert is truly necessary, and that refusing to appoint an expert will deny defendant a fair trial.

¹⁶ Va. Code Ann. § 19.2-264.3:1(A) (1990). Under Virginia's mental mitigation expert statute, an indigent capital defendant is automatically provided with a mental health expert if he is charged with or convicted of capital murder. The statute requires all state appointed mental health experts to submit a detailed written report to defense counsel on possible mitigating factors in the defendant's case. Va. Code Ann. § 19.2-264.3:1(C) (1990). More generally, defense experts act as

consultants for the defense and can aid greatly in building a theory of mitigation.

¹⁷ See generally Konrad, *Getting the Most and Giving the Least from Virginia's "Mental Health Mitigation" Statute*, Capital Defense Digest, Vol. 3, No. 2, p. 22 (1991); and Murtaugh, *Mitigation: The Use of a Mental Health Expert in Capital Trials*, Capital Defense Digest, Vol. 1, No. 2, p. 16 (1989).

¹⁸ *Riggins*, 112 S.Ct. at 1819-1820 (Kennedy, J., concurring) (citing Geimer & Amsterdam, *Why Jurors Vote Life or Death: Operative Factors in Ten Florida Death Penalty Cases*, 15 Am.J.Crim.L. 1, 51-53 (1987-1988)).

MEDINA v. CALIFORNIA

112 S.Ct. 2572 (1992)

United States Supreme Court

FACTS

In 1984 Teofila Medina, Jr. stole a gun from a Santa Ana pawn shop and in the following weeks held up two gas stations, a drive-in dairy, and a market. He killed three employees of these businesses, attempted to rob a fourth employee, and shot at two passersby who attempted to follow him. Medina was arrested a few weeks after he stole the gun and was charged with a number of offenses, including three counts of first degree murder.

Before his trial, Medina's counsel moved for a hearing to determine if Medina was competent to stand trial.¹ Under California state law, "[a] person cannot be tried or adjudged to punishment while such person is mentally incompetent."² A defendant is mentally incompetent "if, as a result of mental disorder or developmental disability, the defendant is unable to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner."³ Under the

California statute, there is a presumption that the defendant is competent, and the burden of proving that the defendant is incompetent by a preponderance of the evidence falls to the party claiming incompetence.⁴

The court granted Medina's motion, and the competency issue was tried before a jury. The hearing lasted six days and included conflicting testimony from a number of experts.⁵ One psychiatrist, who had known Medina while he was a prisoner in Arizona, testified that the defendant was a paranoid schizophrenic and was incompetent to assist his counsel at trial. A clinical psychologist doubted the diagnosis of schizophrenia but expressed no opinion on competency. A different psychiatrist also doubted the schizophrenia diagnosis but leaned toward competency. Another psychologist found Medina schizophrenic but competent. A jail psychiatrist found that Medina suffered from depression, but that he was competent and may have been malingering. A physician who treated Medina could give no opinion as to competence. On a number of occasions during the hearing, Medina made both verbal and physical

¹ Medina's hearing was conducted pursuant to Cal. Penal Code Ann. § 1368 (West 1982).

² Cal. Penal Code Ann. § 1367 (West 1982).

³ *Id.*

⁴ Cal. Penal Code Ann. § 1369 (West 1982).

⁵ The opinion does not reveal whether the experts testified on behalf of the defendant or the State.