Landmark Cases

Summaries by

James F. Hooper, M.D.

1843 REX v. M'NAGHTEN (spelling varies)

8 Eng. Rep. 718; 10 Clark & Fin 200,210 Law Lords Council ENGLAND

Daniel M'Naghten was a Scottish Wood-turner. He felt persecuted; killed Private Secretary of Robert Peel, the Prime Minister. M'Naghten wanted to stop a plot against him. Secretary was shot in back and died of medical malpractice(!). Judge Tindall presided, and 9 experts testified. ALL found him insane. He was found NGRI, sent to Bedlam, went to Broadmoor in 1863, died there. Dr. Ed Monro testified. The press ridiculed, even tho' both sides agreed; FIRST APPELLATE CASE TO GIVE SUBSTANTIVE TEST FOR INSANITY

1923 James FRYE v. US

293 F. 1013 US Cir Ct of Appeals for DC DC

A very early lie detector was introduced as evidence. The Court ruled: "When the question involved is outside the range of common experience or knowledge, then [experts] are needed; the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the field in which it belongs. " See

Daubert

1954 DURHAM, (Monte) v. U.S.

214 Fed Rptr 2d 862 US Cir. Court of Appeals for DC DC

Durham was arrested in 1951 for burglary. He had a long history of Serious Mental Illness and arrests. He pled Not Guilty by Reason of Insanity (NGRI) in a bench trial. The judge said the burden was on the defendant to prove his mental state at the time of the crime. DC used Right / Wrong & irresistible impulse tests. Appeals reversed, said "law presumes person sane until some evidence is introduced to the contrary, then burden shifts to prosecution -never to defendant." Judge Bazelon created a new test : "Defendant not Criminally Responsible if unlawful act was a product of Mental Disease or Defect- if no Disease or Defect, or act not a product of them, then defendant is Criminally Responsible." [These are the 'Durham rules']

1960 Irma NATANSON v. John KLINE, M.D.

350 P.2d 1093 Kansas Supreme Court KS

Dr. Kline gave Cobalt treatment to Natanson for breast Cancer. Natanson had lots of necrosis (tissue damage), sued on lack of informed consent. Kansas Supreme Court reversed trail court, said first issue was if informed consent was obtained, then next if negligence occurred. Long review of medical practitioner rule for informed consent. Also addressed Respondeat Superior (Dr. responsible for those who work under him; the physicist screwed up dose calculations, but Kline was the Dr. in charge.)

1960 James CARTER v. General Motors Corp. (Chev. Gear & Axle)

361 Michigan 575 Michigan Supreme Court MI

Plaintiff worked 1953-'56 for GMC, and had a "schizophrenic reaction." He claimed Workmen's Compensation due to 'general daily emotional pressure,' not a specific event. MI Sup Ct affirmed. No single cause had to exist. Even predisposition wouldn't deny. Benefits ended at time psychosis ended. GMC did not use an expert at all, case was decided on Plaintiff's expert's only. An early case.Michigan changed laws to close this loophole.Would Americans with Disabilities Act cover Plaintiff now due to history?

1960 DUSKY v. US

362 US 402;80 S Ct 788 US SUPREME COURT MO

Milton Dusky was a 33 year old man who assisted 2 teenagers in raping a 16 yr. old. Charged with Kidnaping, He had CUT Schizophrenia. He was found Competent to Stand Trial, got 45 yrs. US Supreme Court said Competent to Stand Trial means "defendant has sufficient present ability to consult with lawyer with a reasonable degree of rational & factual understanding of proceedings against him." It is not sufficient to find him oriented to time, place, and some events.

On re-trial, still got 20 yrs.

1962 Lawrence ROBINSON v. CALIFORNIA

370 US 660 US SUPREME COURT CA

California had a law against being an addict. L. Robinson was convicted based on testimony of two policemen who said he had needle marks and had admitted addiction. He said this was unconstitutional. The Supreme Court agreed, said you can't make "status" a crime, treatment and punishment are different goals. POWELL v. TEXAS had act of being drunk a crime, not alcoholism. This case supported move to de-criminalize public drunkenness.

1964 Application of Pres. and Brd of Dirs. of GEORGETOWN COLLEGE

331 F 2d 1000 337 US 978 US Cir Ct. of Appeals for DC DC

25 year old Jessie Jones lost 2/3 of her blood due to an ulcer. She was a Jehovah's Witness, and refused transfusion. Dist. Ct. Justice Tamm denied request to force her (no pending case). Question was carried to J. Wright of Circuit Ct of Appeals. He personally went to the hospital, decided she was in no Mental State to decide, & signed an order. Jones (after she was well) asked for an en banc re-hearing. Appeal was denied, and again denied by Supreme Court. Pt never refused transfusion, just the consent for it. Justices had 4 different reasons to refuse to re-hear. Should the court have been involved ? A Court can always validate their decisions after the fact if they want to.

1966 Mark Wendell PAINTER by Harold PAINTER v. Dwight & Marg BANNISTER

258 Iowa 1390 Iowa Supreme Court IA

Child's mom died in 1962, he lived with his dad for 1 yr. Dad left child with Grandparents, then re-married in 1964, wanted child back. Grandparents refused. Dad was flaky, lived in 1/2 of an old building, while Grandparents had nice farm. Psychologist said Grand Father was "father figure" Trial ct gave to dad, Grandparents appealed, Iowa Sup Ct gave to Grandparents based on "best interest of child" doctrines. Child actually wound up living with dad. Grandparents didn't appeal, but under Uniform Child Custody Act, CA would now have to yield to Iowa decision, unless new facts were brought to the case.

1966 LAKE v. Dale CAMERON, Supp., St. Elizabeths Hospital

364 F.2d 657 US Ct of Appeals for DC DC

Bazelon Case - Senile old woman committed to St Elizabeths Hospital. Family wanted her out, had no place for her, she finally died in hospital. Judge Bazelon ordered the Hospital to provide a "full range of services" to allow the "least restrictive alternative" as place to be committed. First use of this phrase as ruling.

1966 Charles C. ROUSE v. Dale C. CAMERON, Supt., St. Elizabeths

373 Fed. 2d. 451 US Circuit Ct. of Appeals for DC DC

Bazelon Case. A patient committed as not guilty by reason of insanity (NGRI) must either get treatment or be released, unless such release would present a real social menace. Rouse spent 4 yrs. in the hospital after arrest for a crime that carried a maximum sentence of 1 yr (tho' "sentence" is not related to detention of dangerous NGRI in most states)This establishes right to Writ of Habeas Corpus.

1966 Johnnie K. BAXSTROM v. HEROLD

383 US 107 US SUPREME COURT NY

Baxstrom was a Prisoner, in a Prison psychiatric hospital. He was civilly committed at the end of his sentence, but left in prison hospital because the State Hospital didn't want him. Writs were dismissed, request for transfer was denied. Sup Ct said he was denied equal protection. Other civilly committed patients had the right to a hearing, he didn't. Also he was in prison after end of sentence. Led to "operation Baxstrom."-- MI in prison not same as Not Guilty by Reason of Insanity.

1967 SPECHT v. PATTERSON, as warden

386 US 605 US SUPREME COURT CO

Specht was convicted of "indecent liberties" & sentenced to 10 years. CO Sex Offenders act said sex offenders were a threat to the public, and could be held up to life, based on psychiatric evaluation. Sup Ct said this was a violation of due process, person has a right to a trial, with an attorney, right to cross-examine, appeal, etc. "A sex offender has the same rights as a defendant in a murder trial." CO law was ruled unconstitutional. See Sexual Predator Laws.

1967 in re Gerald GAULT

387 US 1 US SUPREME COURT AZ

Gault (15year old) was arrested for making lewd phone calls. In Ct. with his mom, the arresting officer & probation officer (who relayed victim's version) testified. Gault had no attorney. The Judge sent him to Reform School until he was 21. State law allowed no appeal. Fed appeal lost in lower ct, but the US Supreme Court reversed, said "Juvenile hearings must measure up to the essentials of due process" includes questioning only in safe place after notifying parents.Juveniles have same rights as adults except trial by Jury.

1967 Thomas H. WASHINGTON v. US

390 FED 2D 444 US Cir Court of Appeals for DC DC

Bazelon Case. Washington pled Not Guilty by Reason of Insanity to rape, robbery, & assault. He was found Guilty. He appealed because the Psychiatrist for the defense said he was mentally ill (2 for prosecution said no) Ct. said no, jury decides. Expert can't testify to Ultimate Question. This is a minority opinion, most courts want full testimony, as long as it is logical & explained. DURHAM rules were in effect.

1968 WILSON v. US

391 F 2d 460 US Ct of Appeals for DC DC

Defendant suffered a severe head injury after a crime, had true organic amnesia. Ct. said "extrinsic information" was available, he could assist his lawyer, was Competent to Stand Trial (CST). On appeal, Appeal Ct said yes, if there was plenty of extrinsic data. If an amnesia victim has a "substantial possibility [he could] but for amnesia, establish a defense" he is Incompetent to Stand Trial (IST).Amnesia does not make a person incompetent to stand trial by itself.

1968 POWELL v. State of TEXAS

392 US 514 US SUPREME COURT TX

Powell was arrested for public drunkenness. He said he was an alcoholic, couldn't help it, cited ROBINSON v. CALIF. He was convicted, and US Supreme Court affirmed, said ROBINSON made being alcoholic (status) a crime, POWELL only made public drunkenness a crime. Also said alcoholism is not a disease, not treatable. If decided today, might be different, as alcoholism is in DSM-IV, treatment centers exist. Most states now don't have public drunkenness, police use disorderly conduct instead. Prosecution used no expert testimony.

1968 Margery M. DILLON etal v. David Luther LEGG

68 Calif 2d 728 CA Supreme Court CA

Legg killed 2 year old daughter of Dillon with car. Dillon saw the accident, sued for wrongful death, and also for pain & suffering for herself. Trial Ct. said mom was outside the "Zone of Danger." CA Sup Ct reversed, said "Zone of Danger" doesn't cover tort cases, that causation & foreseeability apply. This is a breech of duty. Driver has a duty to pedestrians & those with them. This is a new cause of action. Ct. said emotional trauma was limited to 1)close relative who 2)actually saw injury. Prior cases had ruled that plaintiff must be in physical danger. cf Thing v LaChusa.

1970 NC v ALFORD

400 US 25, 91 S.Ct. 160 US SUPREME COURT NC

Trial judge may accept a guilty plea from a competent Defendant, even if Defendant continues to say he was innocent. Guilty plea was not "compelled" just because Defendant faced death penalty. It was a logical choice for him. Alford was Black man charged with murder of White man, before an all-white jury.

1970 In re Joseph E. LIFSCHUTZ, MD, on Habeas Corpus

85 Cal Rptr 829 CA Supreme Court CA

Dr. Lifschutz treated Housek, who later sued a 3rd party for emotional distress. That defendant subpoenaed Dr. Lifschutz's records. Dr. Lifschutz appeared but refused to testify, claiming Dr/pt privilege, tho' pt had not asserted it. (Lifschutz thought patient was masochistic) Dr. was put in jail on Contempt. CA Sup Ct agreed- privilege belongs to PATIENT, not DR. Since pt. disclosed treatment, Court had a right to them. Dr. Lifschutz intentionally refused Court order. Would be different if he had acted on advice of an attorney.

1972 Alberta LESSARD etal v. Wilbur SCHMIDT etal

349 F. Supp. 1078 US District Ct., Eastern Wisconsin WIS

Old law allowed 145 days detention with loss of all civil rights. Ct held that 10-14 days was maximum before a hearing. Law was unconstitutional. Parens patriae is not arbitrary. Commitment requires at least as much protection as criminal procedure. This case said BEYOND A REASONABLE DOUBT was the standard for commitment. States that psychiatrist must warn patient of 5th Amendment rights when questioning for court.

1972 Theon JACKSON v. State of INDIANA

406 US 715; 92 S Ct 1845 US SUPREME COURT IND

Theon Jackson was a mentally retarded deaf mute, charged with 2 robberies; he could not read, write, or communicate. He was committed as Incompetent to stand trial (IST) He said this was a "life sentence." The Ind Ct. said no, US Sup Ct said yes, violates Due Process. If an IST pt. can not become competent, he must either be civilly committed or released. Violates right to speedy trial and also right to be confined as a criminal only after being judged guilty. "Due process requires that nature & duration of commitment bear some reasonable relation to the purpose of commitment."

1972 Jerry W. CANTERBURY v. Wm SPENCE, MD & Washington Hospital Cntr

464 Fed Rptr 2d 722 US Circuit Ct. of Appeals for DC DC

19 year old Canterbury had back pain. Defendant said he needed laminectomy & said it was no more serious than any other operation. Mother signed consent. Patient fell 1 day post-operatively, became paraplegic, then sued. Trial Court directed verdict for defendant, Canterbury appealed. Appeal Ct reversed, said "Patient makes decision, not Dr., so Patient must be informed of risks." This set the "REASONABLE MAN" Standard for informed consent for treatment. Many states use "reasonable Dr." cf TRUMAN v. THOMAS, (1980) - AL uses reasonable man based on WINCHESTER v. BARTLETT (1988)

1973 KAIMOWITZ v. MICHIGAN Dept. of Mental Health

#73-19434-AW(text @ 1 Men Dis Law Rptr none - trial court MI

Lewis Smith was committed as a Criminal Sexual Psychopath in 1965 after he murdered & raped a student nurse. In 1972 he went to Lafayette Clinic as a research subject to compare amygdaloidotomy v. Cyproterone treatment. Smith signed a consent, his parents signed, a 3 member panel reviewed & approved the study. Kaimowitz was an attorney for Legal Aid who read about the case in the paper, said Smith was being illegally held. Ct agreed, voided consent, said it was a violation of due process, since there was no hearing and no determination of guilt. An inmate or civilly committed patient can't give free consent to a dangerous experiment.

1973 Gilbert SEILING v. Frank EYMAN, warden, Az state prison

478 F 2d 211 US Ct of Appeals, 9th Cir. AZ

Seiling was charged with Assault with a Deadly weapon x3, Assault to commit murder x5. Three of 3 examining psychiatrists said he was Insane at time of act, Two of 3 said he was currently Competent to Stand Trial. Just before trail, Seiling changed his plea to Guilty. He later appealed, saying he was not competent to waive rights. Appeal Ct said Competent to Stand Trial does NOT equal Competent to Plead Guilty.

1973 Ricky WYATT by his aunt Mrs. W.C. Rawlings v. ADERHOLT (STICKNEY)

503 Fed 2d 1305 (1974) US Court of Appeals, 5th Cir AL

Started in 1970. The cigarette tax income which was earmarked for mental health dropped, so 99 staff were fired. Bryce State Hospital had 5,000 patients, grossly inadequate living conditions. Lower Court granted an injunction and the State appealed; the 5th Circuit Court affirmed. Judge Johnson became the first Federal Judge to opine that "civilly committed patients have a constitutional right to individual treatment." (Same Judge forced Gov. Wallace to allow ML King, Jr, to march from Selma to Montgomery) Wyatt Committee was formed to watch-dog the State. The American Psychiatric Association, US Dept of Justice, and many others worked to force improved conditions. As a result, Al rebuilt ALL patient care areas, hired many new Drs., now has one of best Departments of MH in country. All AL DMH hospitals are JCAHO certified.

1974 Kenneth DONALDSON v. J. B. O'CONNOR

493 F.2d 507 US Cir Ct of Appeals, 5th Cir FL

Donaldson was held 15 years at Chattahootchee State Hospital, but refused all treatment as a "Christian Scientist." He got "Milieu Treatment." He had worked for 13 years prior to commitment, had friends who would take him, was not dangerous. Suit started as a Class

action, dropped to individual. Trial Court awarded compensatory & punitive damages against Superintendent O'Connor & the psychiatrist. Ct of Appeals said "only purpose of commitment is treatment, and the patient has a CONSTITUTIONAL right to treatment," based on WYATT.

1975 James Ed. DROPE v. MISSOURI

420 US 162, 95 S.Ct 896 US SUPREME COURT MO

Defendant raped his wife, and helped 2 others rape her. Psychiatrist saw him for the defense, said he was Incompetent to Stand Trial, Court refused further evaluation. Patient tried to kill himself during trial, Ct said this was a "voluntary absence," continued trial. US Supreme Court said "Evidence of defendant's irrational behavior, demeanor at trial, prior medical opinion are all relevant in pursuing Competency to Stand Trial; even one of these factors standing alone may be sufficient to require further inquiry." Court must be aware of these issues, evaluate if not requested by counsel.

1975 J. B. O'CONNOR v. Kenneth DONALDSON

422 US 563, 95 S.Ct. 2486 US SUPREME COURT FL

Follow up to DONALDSON v. O'CONNOR. Supreme Court side-stepped right to treatment question, saw this as liberty issue only. Used the phrase, "can't commit without more." Question as to what they meant by 'more.' Vacated damages against O'Connor., saying the superintendent was NOT personally responsible unless he knew of violation or was malicious. Limits the right of the State to commit & confine; put Mental Illness under Federal Civil Rights statute, but never answered the question of right to treatment.

1976 Gita LANDEROS [by her guardian] v. A.J. FLOOD, MD, etal

131 California 69 CA Supreme Court CA

Plaintiff child was born in 1970, beaten a lot. In April, 1971, she was taken to San Jose Hospital, saw Dr. Flood. She had lots of fractures, but Dr. took no x-rays, made no report. In July, '71, a different hospital diagnosed "battered child syndrome"; parents were prosecuted. Action against Flood was based on negligence, pain & suffering. Trial Court dismissed, said "negligence is not malpractice." CA Supreme Court reversed, said further injury was foreseeable, a jury should decide. This type of law exists in every state. A question always arises as to where therapeutic alliance ends & duty to warn begins, but failure to report is a crime.

1976 Vitaly TARASOFF v. REGENTS OF UNIV OF CA., et al

131 Cal Rptr 14, 551 p2d 334 CA Supreme Court CA

Prosenjit Poddar told student health therapist he wanted to kill Tatiana Tarasoff; psychologist told Student Health MD, who told campus cops, who checked & let Poddar go. Poddar killed Tatiana. Parents sued for failure to warn. Trial Court said "no duty" but CA Supreme Court (Looking at Simenson v. Swenson), ordered trial. Tarasoff #I-"Privilege ends where public peril begins," the 'duty to warn.' This was vague, and eventually the CA Supreme Court re-heard the same case, & established Tarasoff #2- "therapist has an obligation to use reasonable care to protect potential victim," the 'duty to protect.' SUPER LAND MARK-- created whole new cause for action, but based on Simenson v. Swenson.

1976 Julie ROY v. Renatus HARTOGS, M.D.

381 NYS 2d 587 NY Appellate Court NY

Hartogs 'treated' Roy from 1969 - '70 with sex. Defendant said she was emotionally injured. Hartogs said 'there is no law against seduction.' Court awarded Compensatory & Punitive damages. Appeals affirmed; this was Malpractice, not seduction, but dropped punitive damages, as he was incompetent, not malicious. Dr. Hartogs sued his insurance Co., they said this was not covered under professional Treatment, was not "treatment. " They won. Case was made into a book & movie. (Betrayal) Dr. Hartogs got no royalties.

1976 W.J. ESTELLE, Jr. v. J.W. GAMBLE

429 US 97 US SUPREME COURT TX

Gamble was an inmate, was injured in 1973 while on a prison work detail; he worked 4 hours after injury. At the hospital, the Physician Assistant sent him to his cell. Two hours later, he complained of intense pain, and nurse gave pain meds. He saw the MD, and was sent to his cell to rest. 2 days later, Dr. said move him to a lower bunk (not done). In spite of pain & Rx, he was sent back to work in 24 days. He refused, was placed in Administrative Segregation as punishment. He saw a different MD, was kept on Rx for 32 days. (Rx was lost for 4 days). He was put in solitary for refusal to work. His complaints were ignored by guards. The US Sup Ct said Administrators violated his 8th Amendment rights against "cruel & unusual punishment." The Doctor's failure might be malpractice, but not an 8th Amendment violation.

1977 Ann FASULO & Marie BARBERI v. Mehadin K. ARAFEH

173 Conn 473 Conn Supreme Court CT

Both patients were committed to Conn Valley (State) Hospital; after 13 & 26 yrs, filed writs of Habeas Corpus. The law then required the Patient to prove they were NO LONGER ILL, or Superintendent made the decision for release. Conn Supreme Court granted Writ hearings, said Commitment only means you are ill THEN, not forever. Must safeguard 14th Amendment rights. Ct. questioned any civil commitment as a violation of civil rights, a "scheme to set the Mentally Ill apart," didn't rule on this specifically.

1977 Superintendent of BELCHERTOWN state school v. Jos. SAIKEWICZ

370 N.E. Reptr 2d 417 MASS Supreme Court MA

Saikewicz was a 67 year old with an IQ of 10. He couldn't talk or communicate. He was diagnosed with AMM leukemia which was 100% fatal. Chemotherapy offered a 50% chance of partial remission. Probate Ct. appointed a Guardian, who said let him die. Was appealed to MASS Supreme Court for definitive policy, they affirmed. "Substituted Judgment Doctrine" is the right of the Court (and no one else) to determine what would have been decided by Defendant. Value of life does NOT equal quality. Cited Quinlan; she couldn't feel pain, but Saikewicz could, so he needed a guardian and a hearing.

1977 PEOPLE of New York v. Gordon G. PATTERSON

39 NY 2d 288; 432 U.S.197 NY Court of Appeals (Highest NY Ct) NY

Patterson killed his estranged wife's lover with a rifle. Psychiatrist testified to "extreme Emotional disturbance," which would meet NY law to drop charge to manslaughter. Jury said Guilty. All Appeals were affirmed Defendant said his due process rights were violated by placing the burden of proof on him. NY Ct of Appeals said the burden was on the Prosecution to prove guilt, and mitigating circumstances were not the same thing, not a violation of 14th Amendment. The jury's finding was one of fact, not law, not open to appeal. Jury can reject an expert even without another expert if they want to.

1977 Jane DOE v. Joan ROE, M.D. & Peter POE, Ph.D.

400 NY Supp 2d 668 none (but NY calls Cir ct Supreme) NY

Roe was a psychiatrist, her husband was a psychologist, they treated Doe. Eight yrs. later they published a book with details of their lives which sold 220 copies. Defendants said Doe gave oral consent. NY has specific Statute saying Dr. can't disclose anything. Ct. gave damages & injunction to stop sale. Oral consent is not viable. Dr. has implied covenant to keep confidence. Not a free speech issue as the book was already published. Defendant failed to show scientific value to override order. Probably would get the same verdict without a specific Statute due to the Hippocratic Oath. There was no effort to make a professional complaint by plaintiff. -?? would Professional Liability cover??

1977 Robert P. WHALEN as Comm of Health of NY v. Richard ROE infant

429 U.S. 589 US SUPREME COURT NY

NY passed a law to require a copy of every Rx with a legal & illegal market. Patients & Drs. sued, said it was needless broad intrusion into privacy, violated the "zone of privacy" twice,

both personal & right to make Rx decisions with government control.The Sup. Ct. said this was a reasonable exercise of police powers. Since the information was not made public, it was adequately safeguarded. (Of course, no one ever sees information from government files). Patients also routinely disclose information to Insurance Companies and the Health Dept. (and this is also always safe) Suit that right to practice was impaired was "frivolous" Ct. chose right of society to stop drug abuse over individual patients's rights.

1979 Beverly IBN-TAMAS v. US

407 Atl Rpt 2d 626 US Circuit Ct of Appeals for DC DC

Ibn-Tamas married to husband who beat her often, and had a history of violence toward women. She was pregnant, victim beat her, she shot/killed him. She was charged with Murder 2. She argued self-defense. Witnesses said he begged her not to shoot. A Ph.D. testified on "battered woman syndrome." The Judge refused to let testimony be herd, saying victim was not on trial. Appeals Ct reversed, said "expert can testify, EVEN TO ultimate question, where subject matter is beyond the understanding of the average layman."

1979 Paula FRENDAK v U.S.

408 A.2d 364 US Ct of Appeals for DC DC

Defendant shot co-worker, went to Abu Dhabi, was brought back. After 4 competency hearings, found CST. Several experts said she was probably Insane. Defendant refused the NGRI defense. She said murder was part of a 'plot.' She was found NGRI. Ct said Defendant may feel hospital is worse than prison, stigma and legal consequences are different for crime/insanity, and that crimes may be a protest which NGRI negates (as in USSR, "crazy if oppose State," could have said ML King was Insane, negate his protest of laws) -- Competent defendant can chose to NOT have NGRI. cf WHALEM

1979 Frank O'Neal ADDINGTON v. State of TEXAS

441 US 418, 99 S.Ct. 1804 US SUPREME COURT TX

Pt. committed under "clear & convincing" (& unequivocal) standard. Appealed to require "beyond a reasonable doubt" Supreme Ct. said that"preponderance of evidence (PoE)" (51%) is too weak, "BRD"(99.9%) toostrict, "C&C" (~75%) best. Also struck the word "unequivocal" as too strict. This was a UNANIMOUS decision. Eleven states have laws that require "BRD"; still valid. This case sets minimum, tho' it expressed opinion BRD was too strict. What would happen if someone appealed from one of those 11 States?"Civil Commitment for any purpose ...requires due process protection."

1979 James PARHAM v. J.R. etal

442 US 584 US SUPREME COURT GA

GA had no specific law about release of a minor even if well. Trial ct. said this was unconstitutional. Sup Ct said parent, or state if guardian, can act in best interest of child, even if child doesn't like it. Stopped short of requiring full hearing, but instructed GA to create periodic post-hospital reviews by neutral party. Allowed State Hospital administrators to be neutral party for themselves. Reversed KREMENS v. BARTLEY, 1977, PA. "There is a substantial liberty interest in not being confined unnecessarily for treatment"

1979 HAWAII PSYCHIATRIC SOCIETY v. Geo ARIYOSHI, Governor

481 F. Supp 1028 US Dist. Ct. for Hawaii HI

HI passed a law saying M'caid could search records to look for fraud. Psychiatric Society said this was a violation of both pt's. & Dr's. right to privacy. Fed Ct. said that right of privacy outweighs the State's interest in preventing fraud. It would have been difficult for pts. to bring this suit without violating their own privacy, so Society was right to file it. Required an "Individual, articulable suspicion" to get warrant for Psychiatric Records.US Supreme Court has expressed that Family, marriage, parenthood & sex are areas of protected privacy.

1980 Gary L. TRUMAN, Jr. v. Claude R. THOMAS, M.D.

165 Cal. Rptr 308 California Supreme Court CA

Defendant was a GP, saw patient from 1963-'69. In '69 a gynecologist found Cancer of Cervix, patient died in 1970, at age 30. Her children sued for failure to ever do a PAP. Defendant admitted this was usual test, and he had not done it. He won, children appealed on 'failure to instruct' and liability since he should have done the PAP. CA Supreme Court said Dr. should give enough data for Reasonable Patient to make a choice. One must know dangers for treatment AND for not having treatment. Dr. is not required to do test, just to give information. The Court stopped short of saying if you ignored the Dr., you put yourself at peril.

1980 In re Guardianship of Richard ROE, III

421 N. EAST RPTR 40 MASS Supreme Court MA

Roe was a patient @ Northampton State Hospital due to Robbery & attempted Assault; already diagnosed as Schizophrenic. He refused meds, said he was a "Christian Scientist", which was not true; Probate Court appointed his dad to be guardian, ok medications. MA Supreme Court said it was proper to get a guardian, but not for guardian to decide treatment against patient's wishes. This can only be done (they said) by a Court, which must make a factual determination. Court must consider the patient's wishes, side effects, consequences if not treated, prognosis with treatment, religious beliefs, impact on family. Parens Patriae

power was held to override Right to Refuse treatment, but only a Court, not a Doctor, can decide what is right. Court also said Beyond Reasonable Doubt (>95%) was the standard for Civil Commitment in MA. Judges are narcissistic. Law works poorly.

1980 Joseph VITEK v. Larry D. JONES

445 US 480 US SUPREME COURT NE

Jones was a prisoner, in a prison hospital, who was transferred to a State Mental hospital without a hearing. Trial Ct. said this was unconstitutional; Supreme Court agreed, Said even a convicted felon retained the right to not be stigmatized without due process. Commitment to Mental Hospital entails a "massive curtailment of liberty" and requires due process protection.Cf. ADDINGTON v. TEXAS/ /O'CONNOR v. DONALDSON

1980 Ruth Ann LIPARI & Bank of Elkhorn v. SEARS, & SEARS v. US

497 F.Supp 185 US District Ct, NE NE

Ulysses L. Cribbs, Jr. bought a shotgun from Sears in Belview, NE in Sep,'77. He had been an involuntary pt & was receiving treatment at VA Hospital outpatient clinic. After he bought the gun, he continued in treatment until Oct '77, then quit therapy. In Nov, '77, he went into an Omaha nightclub, fired gun, killed Dennis Lipari. Mrs. Lipari & bank sued Sears for negligence in selling gun- Sears sued VA - VA said it was immune, but Federal District Ct. Said no, that VA was as liable as a private citizen would be, andthat Tarasoff ruled. VA then said Tarasoff limited them to specific victims,Ct. said duty went to "any foreseeable victim or to that class of victims." Extended duty to warn - cf. Thompson v. Alameda.

1981 W.J. ESTELLE, Jr. v. Ernest Benjamin SMITH

451 US 454 US SUPREME COURT TX

Smith arrested for Murder 1. He was examined by a Psychiatrist, who found him Competent to Stand Trial. He was found guilty . At sentencing, the same psychiatrist testified that Smith would be a "danger to society". Smith had not been told this Dr. would testify on this. Supreme Court said 5th Amendment rights were violated, patient not warned. Also 6th Amendment rights were violated, Counsel didn't know Dr. would be used, couldn't advise. Some Justices felt 14th Amendment due process rights were violated as well. This was a 9-0 decision. Can prosecution use testimony of psychiatrist first hired by defense? This has been hotly contested.

1981 John RENNIE v. KLEIN

635 F 2d 836 (vacated by Youngberg v.Romeo) US Ct of Appeals, 3rd Cir NJ

Rennie was a paranoid who refused meds. Court said this was limited, but patient needed an independent psychiatrist. The addition of medications was a major change in treatment. The Court gave an outline to follow: 1-try to show rationale, get patient to agree 2-Treatment team does same 3-Medical Director personally examines patient. then prescribes treatment, if needed 4-Medical Director must check weekly 5-Medical Director MAY get independent Psychiatric opinion.

1981 STATE of NJ v. Paul HURD

86 NJ 525 NJ Supreme Court NJ

Jane Sell was attacked in '78, knifed; she was not robbed or raped. She was alone, Mr. Sell was asleep in living room. She had been married to Mr. Hurd. Immediately after event, she didn't know who had attacked her. She said it was a "stranger." However, under Hypnosis, she said it was Hurd, but after lots of leading by police. It became a question of recall v. confabulation- Ct. said hypnotized witness must have:

1) Trained Dr.

2) Expert must be Independent

3) Information given to Expert must be in written form

4) Before hypnosis, Expert must get detailed story from witness

5) All contacts must be recorded

6) Only Expert & witness present during session. Without these, hypnotized witness can't testify in NJ well done opinion, probably good precedent

1982 BOARD OF EDUCATION (Westchester Co,NY) v. Amy ROWLEY

102 S.Ct. 3034 US SUPREME COURT NY

Amy was deaf; her parents wanted a signer in her classes. School said this wasn't needed, had experts to back them. Parents sued. Ct said Education for All Handicapped Children Act required a "free appropriate public education" but this did not include services to maximize child's potential, only to get them adequate and personalizededucation. Amy made good grades and passed easily. 6-3 decision.

1982 John & Annie SANTOSKY v. Bernhardt KRAMER, Comm of Soc Scvs

102 S.Ct. 1388 US SUPREME COURT NY

Children removed from home for neglect; NY had law that said Preponderance of Evidence (PoE =51%) was the appropriate determination for lost of parental rights. Family appealed

as they lost all contact forever with kids, said it was too serious for PoE. Ct agreed, said 35 states use Clear & Convincing (C&C ~75%), Feds use Beyond Reasonable Doubt (BRD~95+%); therefore C&C was proper.

1982 PEOPLE of California v. Donald Lee SHIRLEY

31 Calif 3rd 18 Ca Supreme Court CA

The testimony of a hypnotized witness is not generally admissible; relied on HURD, but felt that hypnosis is not even generally recognized as being at all accurate. Woman who had a psychiatric history, was ? taking Mellarill, got drunk, let a guy go home with her, spent hours with him, even waited while he went to buy beer, then later decided she had been raped.

1982 Timothy Floyd CLITIES v. State of IOWA D.S.S.

322 NW 2d 917 Iowa Ct. of Appeals IA

Plaintiff was born in 1952, Mentally Retarded. In '63, was put in State Facility. From'70-'75 he got neuroleptics, got Tardive Dyskinesia. Suit was filed in '76, in '80 court gave $385K future costs & $375K for pain & suffering. State appealed on informed consent issues & excessive $ award. Court said poly-pharmacy was bad, used PDR. There was no monitoring for 3 yrs., Rx was for staff convenience not treatment. Action was only against State; cf. YOUNGBERG v. ROMEO (82) on restraints, RENNIE v. KLEIN (81) on excess meds and Mass case, ROGERS v. OKIN (79) on need for guardian's consent with an incompetent patient.

1982 YOUNGBERG, Supt Pennhurst State School v. Nicholas ROMEO by his mom

457 US 307 US SUPREME COURT PA

Romeo was profoundly retarded, couldn't talk, do basic self care. His mother was worried about injuries he got, sued on 8th Amendment & 14th Amendment; right to safe conditions, freedom from restraints, and to "habilitation." Trial Ct said 8th Amendment was violated, appeals reversed, US supreme court agreed. Said "patients have a Constitutional Right to reasonably safe conditions." REASONABLE IS DEFINED BY QUALIFIED PROFESSIONAL. Ct. must defer to professional opinion. This is a "pro Dr." decision.

1983 Cynthia E. PETERSEN v. STATE OF WASHINGTON

100 Wash 2d 1016 Washington State Supreme Court WA

Plaintiff was injured in MVA. Other car was driven by KNOX, who was diagnosed as schizophrenic, abused drugs, on probation for Burglary. He had wreck 5 days after discharge, had flushed meds. Trial ct. found for Plaintiff. State appealed, said there was no

Duty to Warn when victim could not be foreseen; Wash Supreme Court said TARASOFF was the guide. The patient was too dangerous to release, should have committed. They also said res ipsa loquitur; Plaintiff didn't need expert. State hospital Drs. were held to same standard as private psychiatrists.

1983 Rubie ROGERS, etal. v. COMMISSIONER of DMH, etal.

390 Mass 489 MA Sup Ct via US Sup Ct order MA

Class action over restraints/seclusion/involuntary medications-MA Sup Ct. eventually said 1-Involuntary commitment does not=incompetent to decide Treatment; 2-Incompetence MUST be determined by Ct; 3-must be adjudicated incompetent BEFORE Treatment; 4-JUDGE MUST make substituted Judgment BASED ON ROE; 5-in non-emergency, nothing justifies medications without permission; 6- forced medications ok to prevent "Immediate, Substantial, & Irreversible deterioration of a Serious Mental Illness." LAW ONLY IN MASS-BAD CASES MAKE BAD LAW-IGNORES DANGER TO SELF OR OTHERS OR STAFF, UNREALISTIC.

1983 Michael JONES v. US

463 US 354, 103 S.Ct. 3043 US SUPREME COURT DC

Defendant was arrested in '75 for petty larceny, with a maximum 1 yr term. He was sent to St Elizabeths Hospital, found CST in '76, then found NGI. He was committed to St. E's. In '80 he sued, saying should be held only to max sentence, then meet civil standard. ALL appeals were denied. US Sup Ct said finding of NGI by PoE standard was enough to justify holding. Indeed, NGI proves one is Not Responsible. A sentence is hypothetical, since they were found NGI. The Ct refused to separate violent /non-violent crime; all bad, all justify commitment. This was 5-4 case; minority for C&C as proof of continued illness/dangerousness. Note: State of CT uses hypothetical sentence as the standard; says civil commitment is "against" patient, NGI advanced by him

1983 Thomas A. BAREFOOT v. W.J. ESTELLE, Jr.

463 US 880 US SUPREME COURT TX

In '78 Barefoot was Convicted for Murder 1- APA filed an Amicus Brief- 1) Psychiatrists can't predict dangerousness & 2) Psychiatrists should have to examine patient.Sup Ct. affirmed, said "The fact that prediction of future dangerousness is difficult does not mean that it can not be made" (JUREK)-- also, hypothetical questions are fine; Psychiatrist can testify to ultimate issue- Justices Brennan & Marshall dissented.

1983 AETNA v. Donald McCABE & Gale Greenberg

536 F. Supp. 1342 US District CT, ED PA PA

Greenberg sued McCabe for Malpractice based on sexual contact & assault. (After she lived with him for 6 yrs.) Aetna insured, defended him, then tried to dump based on "punitive damages belong to defendant" and sex not being covered. Ct said they defended, they covered, but only for malpractice, not punitive damages. Also said 6 years was one event of sexual abuse. Malpractice "arose from" professional contact (Aetna contract wording), even if there was intentional battery. Award was $575,000, Aetna paid $250,000 of this.

1983 PEOPLE of California v. C.W. STRITZINGER

688 P.2d 738 CA Supreme Court CA

Defendant had sexual contact with 14 year old stepdaughter, agreed for self & stepdaughter to see Psychologist who then reported stepdaughter's comments to Sheriff. Psychologist then reported Defendant's own session and testified to these at trial. Stepdaughter was excused from trial because her mom said she was too upset. Supreme Court said: 1) Defendant's sessions were privileged & 2) required medical testimony to say daughter was unable to testify.

1983 Meghan Corinne JABLONSKI v. US

712 Fed 2d 391 US Court of Appeals, 9th. Cir. CA

Plaintiff's mom was dating Jablonski. In '78(7/7) he tried to rape plaintiff's Grand mom; went to VA (7/10) for outpatient treatment; MD warned mom to "leave him." no prior records obtained. They showed he was "psychotic, homicidal, dangerous." On 7/12, Grand mom complained of long wait, so Dr. said he would see 7/14. On 7/12, plaintiff & mom moved out. On 7/14, Dr. thought he was dangerous, but not committable, other Dr, told mom to "stay away from Jablonski" On 7/16, Jablonski killed mom; Court said Drs. were negligent, had duty to warn even though no specific threat, because she was a foreseeable victim - EXTENDED Duty to Warn. Note extremely short time frames.

1983 In re Subponea on Jorge ZUNIGA, M.D., & Gary PIERCE, M.D.

714 Fed R 2d 553 US Ct of Appeals, 6th Cir MI

Zuniga & Pierce, separately, refused Fed subpoenas duces tecum for investigation of medicaid / BX fraud. Subpoenas asked for names, dates, services to compare to records. Cases heard together, court said these data did not fall in dr-pt privilege, this request did NOT violate right to privacy, 5th Amendment didn't count here because they were professional corporations, not individuals. Federal Courtt doesn't have any blanket privilege for Dr. -Cf. Commonwealth v Kobrin

1984 IRVING Independent School Dist v. Henri TATRO for Amber Tatro

104 S.Ct. 3371 US SUPREME COURT TX

Amber T. born with spina bifida, needed intermittent catherization to stay in school; school said they couldn't do, was medical, but court said lay person or nurse could do it, school had to provide. However, did NOT allow parents to recover attorney's fees.

1984 Jeffrey MAZZA v. Robt HUFFAKER, M.D. & Med. Mutual Ins.

319 SE 2d 217 NC Supreme Courtt NC

Huffaker had sex with wife of his patient Mazza. Mazza sued and won. He then sued to make the Insurance Co. pay everything, including punative damages. Insurance Co. fought. Court said language of contract said "all damages," this meant punitive as well. Case hinges on technical wording, i.e., exact phrases, Dr. did not intend to cause harm, was negligent; Vague Insurance policy is "always decided in favor of INSURED." (see Aetna v. McCabe.)

1984 STATE of Minnesota v. David ANDRING

342 NW 2d 128 MN Supreme Court MN

Defendant messed with stepdaughter & niece. He voluntarily went to hospital, where he told nurse, medical student, Dr., and members of group therapy session about his abuse. State subpoenaed hospital records. Ct said "only name of child, parent /gardian, nature & extent of injuries, and name of reporter" can be obtained, ALL else is privileged. Groups are confidential & privileged.

1984 US v. John J. TORNIERO

735 Fed 2d 725 US Court of Appeals, 2nd. Cir. NY

Defendant charged with interstate transport of stolen jewelry ($750K). He claimed insanity due to "Compulsive Gambling." Lots of witnesses both ways. Trial Ct refused to let Compulsive Gambling defense go to jury. He was found guilty and appealed on grounds that jury should have heard Compulsive Gambling defense. There was no connection between gambling per se and interstate transport. The Ct responded to HINCKLEY and refused to let Compulsive Gambling be used as an illness. Am J Psychiatry said Compulsive Gamblers are still responsible for their acts. Ct commented on ALI defense (can't conform) in case where not conforming IS the crime.

1984 In re Jerome RICHARDSON;Lenoard CADE;US v. In re Carlton ELLERBEE

Nos. 82-940,82-942,83-146 DC Court of Appeals DC

DC case only; says that already committed patients can be rehospitalized without a hearing, providing that ex parte court review within 24 hours, and full hearing in 5 days. Protects Due Process

1985 Glen Burton AKE v. OKLAHOMA

105 S.Ct. 1087 [BALDI-344 US 561] US SUPREME COURT OK

Ake was charged with 2 counts of murder. Judge said Ake was Incompetent to Stand Trial (IST). 6 wks later, after treatment, he returned competent (CST) on Thorazine. No Mental State Opinion was done. NGRI plea entered. Only issue was MSO, State's Psychiatrists had no opinion. No testimony ON EITHER SIDE on MSO. Ake was Convicted and sentenced to death +1000 yrs. OK appeals court refused to hear. Supreme Court said Due Process requires the State to provide a Psychiatrist. Cited GIDEON v. WAINWRIGHT (rt. to assistance of counsel) US v. BALDI (1953) says right to independent expert but not to expert of defendant's choice. >40 states have statutes permitting this already.

1985 COMMONWEALTH v. Kenneth KOBRIN, M.D.

479 NE 2d 674 MA Supreme Court MA

Similar to ZUNIGA, but MA Supreme Court said 1) based on Psychiatrist - pt privilege, pt records were not subject to disclosure to Grand Jury, but 2)records documenting appointments, fees, diagnosis treatment plan, and somatic therapy could be required.

1986 ALLEN v. ILLINOIS

106 S.Ct. 2988 US SUPREME COURT IL

Defendant convicted of "deviate sexual assualt.' He was then examined by 2 psychiatrists who said he was a 'sexually dangerous person.' He appealed on the 5th Amendment, said the psychiatrists took data which incriminated him. Court said this was "civil" action, that just because he would be locked up for life in a Maximum Secure Forensic Hospital it was for treatment for his own good, 5th Amendment didn't count. see SPECHT v. PATTERSON for reasonable decision. This was a 5-4 decision, hotly contested, and should be.

1986 COLORADO v. Francis Barry CONNELLY

107 S.Ct. 515 - 147 U.S. 157 US SUPREME COURT CO

Connelly confessed to a real murder, was Marinda-ized twicei, still gave details without his attorney. Psychotic voices "made him confess" Trial court suppressed confession said it was involuntary- CO Supreme Court affirmed. US Supreme Court reversed. "Involuntary" means coercive POLICE action under 14th. Amendment "5th Amendment is not concerned with

moral or mental pressures to confess, only official." Waiver of Marinda=PoE, <BRD (75%, <99+%). This is THE Case for CST but ? COMPETENT to WAIVE MIRANDA. CST and Competent at Confession DIFFERENT Issues. (Pt. pled to 2nd degree homicide and left CO in 1990)

1986 Lois WICKLINE v. State of CALIFORNIA

239 Cal Rptr 810(depublished) Ca Ct of Appeals CA

Wickline had peripheral vascular disease, sent to hospital for an A-F graft. Post op, she required re-operation, had a stormy course. Surgeon asked Medi-Cal for 8 more days. An RN said no, only 4. She presented to Medi-Cal Dr. over phone, he agreed. Wickline was d/c'd, clotted, lost leg, sued State for d/c coverage. Appeals Ct said 1) d/c met standard of care for Dr. 2) Medi-Cal wasn't a contract 3) cost-containment was "not allowed to corrupt medical judgment." Dr. must appeal HMO denials.

1986 Alvin Bernard FORD v. Louie L. WAINWRIGHT, FLA DOC

477 US 399 US SUPREME COURT FL

Ford was convicted in 1974, had no insanity claim. In '82 his behavior changed. In '83 a psychiatrist said he was MI, didn't understand why he was being executed. 3 state psychiatrists said he was competent. Supreme Court said 8th Amendment bars execution of an insane inmate. Due process requires a hearing. Dissent wanted to defer to state laws, prohibit MI executions, but use less procedure. MI execution has <retribution <example <does not deter <offends humanity (?? any execution offends/ deters)

1986 Louis FORRISI v. Otis BOWEN

794 F.2d 931 US Ct of Appeals, 4th Cir NC

Forrisi hired as utility repairman, which required climbing ladders. He said he couldn't due to acrophobia. He was fired as medically unable to do his job. He sued as handicapped. Court said he had no impairment in anything except this one job, had no case.

1987 Vickie Lorene ROCK v. ARKANSAS

107 S. Ct. 2704 US SUPREME COURT AR

Rock shot her husband after a fight. She couldn't remember details, but when hypnotized, she then remembered finger not on trigger, gun just went off. Gun expert said this type could go off. AR law precluded hypnosis per se. Supreme Court said total bar restricted 14th Amendment right to due process & 6th Amendment right to call witnesses. Tho' hypnosis has weaknesses, a total exclusion is arbitrary; NOT THE SAME AS NON-PARTY

WITNESS UNDER hypnosis (see NJ v. HURD)

1987 Schl Brd of NASSAU CO FLA v. Gene H. ARLINE

480 US 273 US SUPREME COURT FL

School teacher had reactivated Tuberculosis in 1977. School fired her due to fear of contagion. She sued as a handicapped person under '73 Rehab Act. Supreme Court said she was right; to make being contagious an exception would justify discrimination based on ignorance. Otherwise qualified, handicapped individuals are guaranteed equal treatment, due process (this also protects the public) should be a precedent to AIDS.

1988 Venkataramana NAIDU v. Ann D. LAIRD

Del Supr. 539 A.2d 1064 Del Supreme Ct DE

Dr. Naidu treated Hilton Putney at DE State Hospital. Five & 1/2 months after d/c, Putney rammed car of Mr. Laird, killed him, was found NGRI. Mrs. Laird sued State Hospital for negligent release, won $1.4M. Experts testified both ways on the issue of "should have committed." Court said this was a jury decision. Also, said time by itself does NOT preclude proximate cause. The DMH was excluded by sovereign immunity. Putney had 18 prior hospitalizations with violent behavior, was on oral meds EVERY time he was released.

1989 Joshua DeSHANEY (a minor) v. WINNEBAGO CO. DSS

109 S.Ct. 998 US SUPREME COURT WI

Joshua was beaten many times by father. For 2 years Dept of Social Services (DSS) knew about it, did little. At age 4 Joshua was beaten so badly he is MR for life. Mom sued, said DSS owed a duty to protect her son. The Supreme Court said that duty was to persons held (prisoners, mentally ill) but NOT to persons at liberty. State does not have to ensure freedom from "private violence," only has to attempt to help.

1989 Maria THING v. James LA CHUSA

48 Cal 3d 644(depublished) CA Supreme Ct CA

Ms. Thing's son was injured by car driven by La Chusa. She did not see or hear, but came up shortly, saw son, thought he was dead. She sued for Negligent Infliction of Emotional Distress (NIED). Ct said requires plaintiff to observe injury when injured is 1) closely related 2) present and knows injury is occurring 3) as a result suffers serious emotional distress. Said DILLON was hopelessly arbitrary, that most states use Zone of Danger anyway. Issue remains cloudy.

110 S.Ct. 1028 US SUPREME COURT WA

Can treat Mentally Ill Inmate against his will, but state must first establish that 1) prisoner is dangerous to himself or others, or seriously disruptive to environment AND 2) Treatment is in his "medical Interest." Did not require a hearing, relied on expert's opinion.

1990 ZINERMON v. BURCH

110 S.Ct. 975 US Supreme Ct FL

Burch was admitted to Fl state hospital while he was "medicated & disoriented" as "voluntary" pt. He sued for deprivation of liberty without due process. The court said he wasn't competent, but primarily looked only at deprivation of liberty as being adequately addressed with tort law. They said Fl did not fulfill its duty to protect patients, and couldn't say this was just a random act of an employee who failed to follow procedure.

1990 Howard WILSON v. BLUE CROSS of SO. CALIFORNIA

271 Cal Rptr 876 CA Ct of Appeals CA

H. Wilson, Jr was d/c'd from psychiatric unit after 10 days of treatment for depression. Dr. wanted 4 weeks, but BX said no. Pt suicided. Family sued BX, trial court dismissed. Court of Appeals said review agent was not entitled to dismissal just because Dr. didn't ask for review. Technically, policy (BX of AL) did not require UR anyway. Key is contract, Dr. said BX had "terminated stay." Settled out of Ct before re-trail.

1990 Nancy Beth CRUZAN v. DIR, MISSOURI DEPT OF HEALTH

760 S.W.2d 408 (Mo '88) afmd. 110S.Ct.2841 US SUPREME COURT MO

State Courts usually decide Right To Die. (see QUINLAN,'76) Most have felt that competent patients have right to refuse Rx. Surrogate can decide. RTD includes even feeding. MO Supreme Court said there was not C&C evidence of pt's wishes, so refused her parents request made for her. US Supreme Court said RTD includes feeding, but MO law was NOT unconstitutional just because it was tight on 14th Amendment right to not be deprived of life without due process. Does NOT REQUIRE C&C; Just Says States CAN Make That Rule. MAKE A LIVING WILL! (5-4 decision)

1991 PAYNE v. TENNESSEE

111 S.Ct. 2597 US Supreme Ct TN

Payne brutally killed a 28 yr old woman & her small child. Jury in death penalty hearing told of impact on rest of family. The Supreme Court REVERSED ITSELF, overturned Booth v. MD & SC v. Gathers, said impact WAS important to justice. Also said didn't

violate 8th Amendment. Apparently value of life is not equal if you kill a 'valuable' person.

1991 People of CALIFORNIA v. George WHARTON

53 Cal 3d 522, 809 P.2d 290 CA Supreme Court CA

Wharton killed Linda Smith, convicted of Capital Murder. Defendant had seen J. Hamilton, Ph.D. & D. Patterson, M.D., told them he might hurt her, they had warned her per Tarasoff. At penalty phase, prosecution used fact of warning to help prove "premeditation" so made a Capital case. Court said once a warning was made, was not confidential; stays non-confidential after pt's death; but ONLY statements that"trigger" warning can be disclosed. In THIS SPECIFIC case, defendant tried to use mental state, and so waived all privilege but warning is non-privileged in ANY case.

1991 People of CALIFORNIA v Manuel Jesus SAILLE

54 Cal 3d 1103 CA Supreme Court CA

Saille got drunk, thrown out of bar, said "I'm gonna kill you." Went home,got Assault Rifle, returned, said "I'm back" opened fire. Killed oneinnocent bystander, wounded guard. Convicted of murder 1st; appealed based on not instructing jury that intoxication could yield a decreased sentence. Court said there is no Diminished Capacity in CA due to voluntary intoxication unless it was proved to have affected ability to form intent.

1992 FOUCHA v. LOUISIANNA

112 S.Ct. 1780 US Supreme Court LA

Terry Foucha was a pt at East Feliciana State Hospital (La Max Secure) - His chart used "dangerousness" alone to justify stay. Court said thiswas not enough, needed documentation of MI as well. Dozens of patientsreleased, most are back in system now; was a procedure problem.

1992 State of LOUISIANA v. Michael PERRY

610 So2d 746 LA Supreme Ct LA

Perry was psychotic in 1981. In 1983 he murdered his parents, 2 cousins, and a 2 year old nephew. He entered a Not Guilty plea over his attorney's objections. In 1985 he was sentenced to death. Appeal went to the Supreme Ct, was sent back without an opinion; finally LA Supreme Ct said "can't execute insane" but can NOT force treatment in order to execute. This was the position held by the APA, tho' they wanted a Supreme Court decision requiring life sentence to replace death for insane persons.

1992 Erik MENENDEZ v. SUPERIOR COURT of Los Angeles

834 P2d 786 CA Supreme Court CA Erik & Lyle Menendez killed their parents on 20 Aug, 1989. L. J. Oziel, Ph.D., saw both. Between 10/31 & 12/11, they told Dr. Oziel of murders, and that they would kill him, his wife, &/or his lover if he told. Per Tarasoff, he warned potential victims. Court subpoenaed tapes of sessions, brothers said tapes were privileged. Court said once privileged stuff is told, it is never privileged again, and other sessions referring to those are also open. Ct referred to WHARTON, qv; also said can act even if therapist only one threatened.

1993 Salvador GODINEZ, warden, v. Richard MORAN

113 S.CT 2680 US SUPREME COURT NV

Moran killed 2 men in a bar, his wife, and shot himself. Two Psychiatrists said he was Competent to Stand Trial (CST). State sought Death Penalty, defendant then said he wanted to plead Guilty. He was sentenced to death, then appealed, saying he was incompetent to defend himself due to his Mental Illness. Appeal Court said Competency to waive rights took higher standard than CST. Supreme Court overturned this and SIELING, said Competency to Stand Trial was the same as Competency to Plead Guilty. CST = CPG.

1993 Wm DAUBERT v. MERRELL DOW PHARMACEUTICALS, INC

113 S.Ct. 2786 US SUPREME COURT CA

Federal Rules of Evidence supersede the Frye test: Petitioners said their children's birth defects had been caused by Bendectin. Case was dismissed due to expert's affidavit reviewing the scientific literature. Plaintiffs used unpublished data. Supreme Court decided to allow trial court judges to use their own discretion to decide what evidence should be allowed.

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