

Sell v. United States

CHARLES THOMAS SELL
v.
UNITED STATES
United States Supreme Court
Decided June 16, 2003

JUSTICE BREYER delivered the opinion of the Court.

The question presented is whether the Constitution permits the Government to administer antipsychotic drugs involuntarily to a mentally ill criminal defendant in order to render that defendant competent to stand trial for serious, but nonviolent, crimes. We conclude that the Constitution allows the Government to administer those drugs, even against the defendant's will, in limited circumstances, i.e., upon satisfaction of conditions that we shall describe. Because the Court of Appeals did not find that the requisite circumstances existed in this case, we vacate its judgment.

I

A

* * *

[Sell, a dentist, was charged with mail and medicaid fraud. He had a history of mental illness. The question of whether he was dangerous to others was the subject of several pretrial hearings. Sell's bail was revoked and he was hospitalized. He refused to take prescribed anti-psychotic medicine. A magistrate authorized involuntary administration in order to "render the defendant not dangerous and competent to stand trial."

An appeal to the district court resulted in reversal of the magistrate's finding that Sell was dangerous. Nonetheless, the district court upheld the involuntary administration order on the grounds that the drugs were medically appropriate and represented "the only viable hope of rendering the defendant competent to stand trial."]

The Court of Appeals also affirmed the District Court's order requiring

medication in order to render Sell competent to stand trial. Focusing solely on the serious fraud charges, the panel majority concluded that the "government has an essential interest in bringing a defendant to trial." It added that the District Court "correctly concluded that there were no less intrusive means." After reviewing the conflicting views of the experts, the panel majority found antipsychotic drug treatment "medically appropriate" for Sell. . . .

We granted certiorari to determine whether the Eighth Circuit "erred in rejecting" Sell's argument that "allowing the government to administer antipsychotic medication against his will solely to render him competent to stand trial for non-violent *offenses*," violated the Constitution-in effect by improperly depriving Sell of an important "liberty" that the Constitution guarantees.

II

* * *

III

We turn now to the basic question presented: Does forced administration of antipsychotic drugs to render Sell competent to stand trial unconstitutionally deprive him of his "liberty" to reject medical treatment? U. S. Const., Amdt. 5 (Federal Government may not "depriv[e]" any person of "liberty . . . without due process of law"). Two prior precedents, *Harper*, and *Riggins*, set forth the framework for determining the legal answer.

In *Harper*, this Court recognized that an individual has a "significant" constitutionally protected "liberty interest" in "avoiding the unwanted administration of anti-psychotic drugs." 494 U. S., at 221. The Court considered a state law authorizing forced administration of those drugs "to

inmates who are . . . gravely disabled or represent a significant danger to themselves or others." *Id.* at 226. The State had established "by a medical finding" that Harper, a mentally ill prison inmate, had "a mental disorder . . . which is likely to cause harm if not treated." *Id.* at 222. The treatment decision had been made "by a psychiatrist," it had been approved by "a reviewing psychiatrist," and it "ordered" medication only because that was "in the prisoner's medical interests, given the legitimate needs of his institutional confinement." *Ibid.*

The Court found that the State's interest in administering medication was "legitima[te]" and "importan[t]," *id.* at 225; and it held that "the Due Process Clause permits the State to treat a prison inmate who has a serious mental illness with anti-psychotic drugs against his will, if the inmate is dangerous to himself or others and the treatment is in the inmate's medical interest." *Id.* at 227. The Court concluded that, in the circumstances, the state law authorizing involuntary treatment amounted to a constitutionally permissible "accommodation between an inmate's liberty interest in avoiding the forced administration of anti-psychotic drugs and the State's interests in providing appropriate medical treatment to reduce the danger that an inmate suffering from a serious mental disorder represents to himself or others." *Id.* at 236.

In *Riggins*, the Court repeated that an individual has a constitutionally protected liberty "interest in avoiding involuntary administration of antipsychotic drugs"-an interest that only an "essential" or "overriding" state interest might overcome. 504 U. S., at 134, 135. The Court suggested that, in principle, forced medication in order to render a defendant competent to stand trial for murder was constitutionally permissible. The Court, citing *Harper*, noted that the State "would have satisfied due process if the prosecution had demonstrated . . . that treatment with anti-psychotic medication was medically appropriate and, considering less intrusive alternatives, essential for the sake of *Riggins' own safety or the safety of others.*" 504 U. S., at 135 (emphasis added). And it said that the State "[s]imilarly . . . might have been able to justify medically appropriate, involuntary treatment with the drug by establishing that it could not obtain an adjudication of *Riggins' guilt or innocence*" of the murder charge "by using less intrusive means." *Ibid.* (emphasis added). . . .

These two cases, *Harper* and *Riggins*, indicate that the Constitution permits the Government involuntarily to administer anti-psychotic drugs to a mentally ill defendant facing serious criminal charges in order to render that defendant competent to stand trial, but only if the treatment is medically appropriate, is substantially unlikely to have side effects that may undermine the fairness of the trial, and, taking account of less intrusive alternatives, is necessary significantly to further important governmental trial-related interests.

This standard will permit involuntary administration of drugs solely for trial competence purposes in certain instances. But those instances may be rare. That is because the standard says or fairly implies the following:

First, a court must find that *important* governmental interests are at stake. The Government's interest in bringing to trial an individual accused of a serious crime is important. That is so whether the offense is a serious crime against the person or a serious crime against property. In both instances the Government seeks to protect through application of the criminal law the basic human need for security. See *Riggins, supra*, at 135-136 ("[P]ower to bring an accused to trial is fundamental to a scheme of "ordered liberty" and prerequisite to social justice and peace" (quoting *Illinois v. Allen*, 397 U. S. 337, 347 (1970) (Brennan, J., concurring))).

Courts, however, must consider the facts of the individual case in evaluating the Government's interest in prosecution. Special circumstances may lessen the importance of that interest. The defendant's failure to take drugs voluntarily, for example, may mean lengthy confinement in an institution for the mentally ill-and that would diminish the risks that ordinarily attach to freeing without punishment one who has committed a serious crime. We do not mean to suggest that civil commitment is a substitute for a criminal trial. The Government has a substantial interest in timely prosecution. And it may be difficult or impossible to try a defendant who regains

competence after years of commitment during which memories may fade and evidence may be lost. The potential for future confinement affects, but does not totally undermine, the strength of the need for prosecution. The same is true of the possibility that the defendant has already been confined for a significant amount of time (for which he would receive credit toward any sentence ultimately imposed, see 18 U. S. C. §3585(b)). Moreover, the Government has a concomitant, constitutionally essential interest in assuring that the defendant's trial is a fair one.

Second, the court must conclude that involuntary medication will *significantly further* those concomitant state interests. It must find that administration of the drugs is substantially likely to render the defendant competent to stand trial. At the same time, it must find that administration of the drugs is substantially unlikely to have side effects that will interfere significantly with the defendant's ability to assist counsel in conducting a trial defense, thereby rendering the trial unfair. See *Riggins, supra*, at 142-145 (KENNEDY, J., concurring in judgment).

Third, the court must conclude that involuntary medication is *necessary* to further those interests. The court must find that any alternative, less

intrusive treatments are unlikely to achieve substantially the same results. . . . And the court must consider less intrusive means for administering the drugs, *e.g.*, a court order to the defendant backed by the contempt power, before considering more intrusive methods.

Fourth, as we have said, the court must conclude that administration of the drugs is *medically appropriate, i.e.*, in the patient's best medical interest in light of his medical condition. The specific kinds of drugs at issue may matter here as elsewhere. Different kinds of anti-psychotic drugs may produce different side effects and enjoy different levels of success.

We emphasize that the court applying these standards is seeking to determine whether involuntary administration of drugs is necessary significantly to further a particular governmental interest, namely, the interest in rendering the defendant *competent to stand trial*. A court need not consider whether to allow forced medication for that kind of purpose, if forced medication is warranted for a *different* purpose, such as the purposes set out in *Harper* related to the individual's dangerousness, or purposes related to the individual's own interests where refusal to take drugs puts his health gravely at risk. 494 U. S., at 225-226. There are often strong reasons for a court to determine whether forced administration of drugs can be justified on these alternative grounds *before* turning to the trial competence question.

For one thing, the inquiry into whether medication is permissible, say, to render an individual nondangerous is usually more "objective and manageable" than the inquiry into whether medication is permissible to render a defendant competent. *Riggins*, 504 U. S., at 140 (KENNEDY, J., concurring in judgment). The medical experts may find it easier to provide an informed opinion about whether, given the risk of side effects, particular drugs are medically appropriate and necessary to control a patient's potentially dangerous behavior (or to avoid serious harm to the patient himself) than to try to balance harms and benefits related to the more quintessentially legal questions of trial fairness and competence.

For another thing, courts typically address involuntary medical treatment as a civil matter, and justify it on these alternative, *Harper*-type grounds. Every State provides avenues through which, for example, a doctor or institution can seek appointment of a guardian with the power to make a decision authorizing medication-when in the best interests of a patient who lacks the mental competence to make such a decision. . . . And courts, in civil proceedings, may authorize

involuntary medication where the patient's failure to accept treatment threatens injury to the patient or others. . . .

If a court authorizes medication on these alternative grounds, the need to consider authorization on trial competence grounds will likely disappear. Even if a court decides medication cannot be authorized on the alternative grounds, the findings underlying such a decision will help to inform expert opinion and judicial decision-making in respect to a request to administer drugs for trial competence purposes. At the least, they will facilitate direct medical and legal focus upon such questions as: Why is it medically appropriate forcibly to administer anti-psychotic drugs to an individual who (1) is *not* dangerous and (2) *is* competent to make up his own mind about treatment? Can bringing such an individual to trial *alone* justify in whole (or at least in significant part) administration of a drug that may have adverse side effects, including side effects that may to some extent impair a defense at trial? We consequently believe that a court, asked to approve forced administration of drugs for purposes of rendering a defendant competent to stand trial, should ordinarily determine whether the Government seeks, or has first sought, permission for forced administration of drugs on these other *Harper*-type grounds; and, if not, why not.

When a court must nonetheless reach the trial competence question, the factors discussed above, should help it make the ultimate constitutionally required judgment. Has the Government, in light of the efficacy, the side effects, the possible alternatives, and the medical appropriateness of a particular course of antipsychotic drug treatment, shown a need for that treatment sufficiently important to overcome the individual's protected interest in refusing it? See *Harper, supra*, at 221-223; *Riggins, supra*, at 134-135.

IV

* * *

[Based on the lower court findings] we must assume that Sell was not dangerous. And on that hypothetical assumption, we find that the Court of Appeals was wrong to approve forced medication solely to render Sell competent to stand trial. For one thing, the Magistrate's opinion makes clear that he did *not* find forced medication legally justified on trial competence grounds alone. Rather, the Magistrate concluded that Sell *was* dangerous, and he wrote that forced medication was "the only way to render the defendant *not dangerous and* competent to stand

trial." App. 335 (emphasis added).

Moreover, the record of the hearing before the Magistrate shows that the experts themselves focused mainly upon the dangerousness issue. Consequently the experts did not pose important questions-questions, for example, about trial-related side effects and risks-the answers to which could have helped determine whether forced medication was warranted on trial competence grounds alone. Rather, the Medical Center's experts conceded that their proposed medications had "significant" side effects and that "there has to be a cost benefit analysis." And in making their "cost-benefit" judgments, they primarily took into account Sell's dangerousness, not the need to bring him to trial.

The failure to focus upon trial competence could well have mattered. Whether a particular drug will tend to sedate a defendant, interfere with communication with counsel, prevent rapid reaction to trial developments, or diminish the ability to express emotions are matters important

in determining the permissibility of medication to restore competence, *Riggins*, 504 U. S., at 142-145 (KENNEDY, J., concurring in judgment), but not necessarily relevant when dangerousness is primarily at issue. We cannot tell whether the side effects of anti-psychotic medication were likely to undermine the fairness of a trial in Sell's case.

Finally, the lower courts did not consider that Sell has already been confined at the Medical Center for a long period of time, and that his refusal to take anti-psychotic drugs might result in further lengthy confinement. Those factors, the first because a defendant ordinarily receives credit toward a sentence for time served, . . . and the second because it reduces the likelihood of the defendant's committing future crimes, moderate- though they do not eliminate- the importance of the governmental interest in prosecution.

V

For these reasons, we believe that the present orders authorizing forced administration of antipsychotic drugs cannot stand. The Government may pursue its request for forced medication on the grounds discussed in this opinion, including grounds related to the danger Sell poses to himself or others. Since Sell's medical condition may have changed over time, the Government should do so on the basis of current

circumstances.

The judgment of the Eighth Circuit is vacated, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

[The dissenting opinion of Justice Scalia is omitted.]

[Certiorari Grant](#)

[Commentary](#)

