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## SUPREME COURT OF THE UNITED STATES

No. 90-8466

DAVID RIGGINS, PETITIONER *v.* NEVADA  
ON WRIT OF CERTIORARI TO THE SUPREME COURT OF NEVADA  
[May 18, 1992]

JUSTICE O'CONNOR delivered the opinion of the Court.

Petitioner David Riggins challenges his murder and robbery convictions on the ground that the State of Nevada unconstitutionally forced an antipsychotic drug upon him during trial. Because the Nevada courts failed to make findings sufficient to support forced administration of the drug, we reverse.

During the early hours of November 20, 1987, Paul Wade was found dead in his Las Vegas apartment. An autopsy revealed that Wade died from multiple stab wounds, including wounds to the head, chest, and back. David Riggins was arrested for the killing 45 hours later.

A few days after being taken into custody, Riggins told Dr. R. Edward Quass, a private psychiatrist who treated patients at the Clark County Jail, about hearing voices in his head and having trouble sleeping. Riggins informed Dr. Quass that he had been successfully treated with Mellaril in the past. Mellaril is the trade name for thioridazine, an antipsychotic drug. After this consultation, Dr. Quass prescribed Mellaril at a level of 100 milligrams per day. Because Riggins continued to complain of voices and sleep problems in the following months, Dr. Quass gradually increased the Mellaril prescription to 800 milligrams per day. Riggins also received a prescription for Dilantin, an antiepileptic drug.

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In January 1988, Riggins successfully moved for a determination of his competence to stand trial. App. 6. Three court-appointed psychiatrists performed examinations during February and March, while Riggins was taking 450 milligrams of Mellaril daily. Dr. William O'Gorman, a psychiatrist who had treated Riggins for anxiety in 1982, and Dr. Franklin Master concluded that Riggins was competent to stand trial. The third psychiatrist, Dr. Jack Jurasky, found that Riggins was incompetent. The Clark County District Court determined that Riggins was legally sane and competent to stand trial, *id.*, at 13, so preparations for trial went forward.

In early June, the defense moved the District Court for an order suspending administration of Mellaril and Dilantin until the end of Riggins' trial. *Id.*, at 20. Relying on both the Fourteenth Amendment and the Nevada Constitution, Riggins argued that continued administration of these drugs infringed upon his freedom and that the drugs' effect on his demeanor and mental state during trial would deny him due process. Riggins also asserted that, because he would offer an insanity defense at trial, he had a right to show jurors his "true mental state." *Id.*, at 22. In response, the State noted that Nevada law prohibits the trial of incompetent persons, see Nev. Rev. Stat. §178.400 (1989), and argued that the court therefore had authority to compel Riggins to take medication necessary to ensure his competence. App. 31-32.

On July 14, 1988, the District Court held an evidentiary hearing on Riggins' motion. At the hearing, Dr. Master "guess[ed]" that taking Riggins off medication would not noticeably alter his behavior or render him incompetent to stand trial. Record 412. Dr. Quass testified that, in his opinion, Riggins would be competent to stand trial even without the administration of Mellaril, but that the effects of Mellaril would not be noticeable to jurors if medication continued. *Id.*, at 443-445. Finally, Dr.

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O'Gorman told the court that Mellaril made the defendant calmer and more relaxed but that an excessive dose would cause drowsiness. *Id.*, at 464-466. Dr. O'Gorman was unable to predict how Riggins might behave if taken off antipsychotic medication, yet he questioned the need to give Riggins the high dose he was receiving. *Id.*, at 474-476. The court also had before it a written report in which Dr. Jurasky held to his earlier view that Riggins was incompetent to stand trial and predicted that if taken off Mellaril the defendant "would most likely regress to a manifest psychosis and become extremely difficult to manage." App. 19.

The District Court denied Riggins' motion to terminate medication with a one-page order that gave no indication of the court's rationale. *Id.*, at 49. Riggins continued to receive 800 milligrams of Mellaril each day through the completion of his trial the following November.

At trial, Riggins presented an insanity defense and testified on his own behalf. He indicated that on the night of Wade's death he used cocaine before going to Wade's apartment. Riggins admitted fighting with Wade, but claimed that Wade was trying to kill him and that voices in his head said that killing Wade would be justifiable homicide. A jury found Riggins guilty of murder with use of a deadly weapon and robbery with use of a deadly weapon. After a penalty hearing, the same jury set the murder sentence at death.

Riggins presented several claims to the Nevada Supreme Court, among them that forced administration of Mellaril denied him the ability to assist in his own defense and prejudicially affected his attitude, appearance, and demeanor at trial. This prejudice was not justified, Riggins said in his opening brief, because the State neither demonstrated a need to administer Mellaril nor explored alternatives to giving him 800 milligrams of the drug each day.

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Record 1020. Riggins amplified this claim in his reply brief, objecting that the State intruded upon his constitutionally protected liberty interest in freedom from antipsychotic drugs without considering less intrusive options. Riggins argued:

“In *United States v. Bryant*, 670 F. Supp. 840, 843 (Minn. 1987)[,] the court, in reference to medicating prisoners against their will, stated that ‘courts have recognized a *protectable liberty interest* . . . in the freedom to avoid unwanted medication with such drugs.’ The court in so stating cited *Bee v. Greaves*, 744 F.2d 1387 (10th Cir. 1984)[,] which addressed the issue of medicating pre-trial detainees and stated that ‘less restrictive alternatives, such as segregation or the use of less controversial drugs like tranquilizers or sedatives, should be ruled out before resorting to antipsychotic drugs.’ In the case at bar, no less restrictive alternatives were utilized, considered or even proposed.” Record 1070-1071 (emphasis in original).

The Nevada Supreme Court affirmed Riggins' convictions and death sentence. 107 Nev. \_\_\_, 808 P. 2d 535 (1991). With respect to administration of Mellaril, the court held that expert testimony presented at trial “was sufficient to inform the jury of the effect of the Mellaril on Riggins' demeanor and testimony.” *Id.*, at \_\_\_, 808 P. 2d, at 538. Thus, although Riggins' demeanor was relevant to his insanity defense, the court held that denial of the defense's motion to terminate medication was neither an abuse of discretion nor a violation of Riggins' trial rights. In a concurring opinion, Justice Rose suggested that the District Court should have determined whether administration of Mellaril during trial was “absolutely necessary” by ordering a pretrial suspension of medication. *Id.*, at \_\_\_, 808

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P. 2d, at 540 (concurring opinion). Justice Springer dissented, arguing that antipsychotic drugs may never be forced on a criminal defendant solely to allow prosecution. *Id.*, at \_\_\_, 808 P. 2d, at 541 (dissenting opinion).

We granted certiorari, 502 U. S. \_\_\_ (1991), to decide whether forced administration of antipsychotic medication during trial violated rights guaranteed by the Sixth and Fourteenth Amendments.

The record in this case narrowly defines the issues before us. The parties have indicated that once the District Court denied Riggins' motion to terminate use of Mellaril, subsequent administration of the drug was involuntary. See, e. g., Brief for Petitioner 6 (medication was "forced"); Brief for Respondent 14, 22, 28 (describing medication as "unwanted," "over objection," and "compelled"). This understanding accords with the determination of the Nevada Supreme Court. See 107 Nev., at \_\_\_; 808 P. 2d, at 537 (describing medication as "involuntary" and "forced"). Given the parties' positions on this point and the absence of any record evidence to the contrary, we adhere to the understanding of the state Supreme Court.

We also presume that administration of Mellaril was medically appropriate. Although defense counsel stressed that Riggins received a very high dose of the drug, at no point did he suggest to the Nevada courts that administration of Mellaril was medically improper treatment for his client.

Finally, the record is dispositive with respect to Riggins' Eighth Amendment claim that administration of Mellaril denied him an opportunity to show jurors his true mental condition at the sentencing hearing. Because this argument was presented neither to the Nevada Supreme Court nor in Riggins' petition for certiorari, we do not address it here.

With these considerations in mind, we turn to

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Riggins' core contention that involuntary administration of Mellaril denied him ``a full and fair trial." Pet. for Cert. i. Our discussion in *Washington v. Harper*, 494 U.S. 210 (1990), provides useful background for evaluating this claim. In *Harper*, a prison inmate alleged that the State of Washington and various individuals violated his right to due process by giving him Mellaril and other antipsychotic drugs against his will. Although the inmate did not prevail, we agreed that his interest in avoiding involuntary administration of antipsychotic drugs was protected under the Fourteenth Amendment's Due Process Clause. ``The forcible injection of medication into a nonconsenting person's body," we said, ``represents a substantial interference with that person's liberty." *Id.*, at 229. In the case of antipsychotic drugs like Mellaril, that interference is particularly severe:

``The purpose of the drugs is to alter the chemical balance in a patient's brain, leading to changes, intended to be beneficial, in his or her cognitive processes. While the therapeutic benefits of antipsychotic drugs are well documented, it is also true that the drugs can have serious, even fatal, side effects. One such side effect identified by the trial court is acute dystonia, a severe involuntary spasm of the upper body, tongue, throat, or eyes. The trial court found that it may be treated and reversed within a few minutes through use of the medication Cogentin. Other side effects include akathisia (motor restlessness, often characterized by an inability to sit still); neuroleptic malignant syndrome (a relatively rare condition which can lead to death from cardiac dysfunction); and tardive dyskinesia, perhaps the most discussed side effect of antipsychotic drugs. Tardive dyskinesia is a neurological disorder, irreversible

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in some cases, that is characterized by involuntary, uncontrollable movements of various muscles, especially around the face. . . . [T]he proportion of patients treated with antipsychotic drugs who exhibit the symptoms of tardive dyskinesia ranges from 10% to 25%. According to the American Psychiatric Association, studies of the condition indicate that 60% of tardive dyskinesia is mild or minimal in effect, and about 10% may be characterized as severe." *Id.*, at 229-230 (citations omitted).

Taking account of the unique circumstances of penal confinement, however, we determined that due process allows a mentally ill inmate to be treated involuntarily with antipsychotic drugs where there is a determination that "the inmate is dangerous to himself or others and the treatment is in the inmate's medical interest." *Id.*, at 227.

Under *Harper*, forcing antipsychotic drugs on a convicted prisoner is impermissible absent a finding of overriding justification and a determination of medical appropriateness. The Fourteenth Amendment affords at least as much protection to persons the State detains for trial. See *Bell v. Wolfish*, 441 U. S. 520, 545 (1979) ("[P]retrial detainees, who have not been convicted of any crimes, retain at least those constitutional rights that we have held are enjoyed by convicted prisoners"); *O'Lone v. Estate of Shabazz*, 482 U. S. 342, 349 (1987) ("[P]rison regulations . . . are judged under a 'reasonableness' test less restrictive than that ordinarily applied to alleged infringements of fundamental constitutional rights"). Thus, once Riggins moved to terminate administration of antipsychotic medication, the State became obligated to establish the need for Mellaril and the medical appropriateness of the drug.

Although we have not had occasion to develop

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substantive standards for judging forced administration of such drugs in the trial or pretrial settings, Nevada certainly would have satisfied due process if the prosecution had demonstrated and the District Court had found that treatment with antipsychotic medication was medically appropriate and, considering less intrusive alternatives, essential for the sake of Riggins' own safety or the safety of others. See *Harper, supra*, at 225-226; cf. *Addington v. Texas*, 441 U. S. 418 (1979) (Due Process Clause allows civil commitment of individuals shown by clear and convincing evidence to be mentally ill and dangerous). Similarly, the State 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 by using less intrusive means. See *Illinois v. Allen*, 397 U. S. 337, 347 (1970) (Brennan, J., concurring) ("Constitutional power to bring an accused to trial is fundamental to a scheme of 'ordered liberty' and prerequisite to social justice and peace"). We note that during the July 14 hearing Riggins did not contend that he had the right to be tried without Mellaril if its discontinuation rendered him incompetent. See Record 424-425, 496, 500. The question whether a competent criminal defendant may refuse antipsychotic medication if cessation of medication would render him incompetent at trial is not before us.

Contrary to the dissent's understanding, we do not "adopt a standard of strict scrutiny." *Post*, at 12. We have no occasion to finally prescribe such substantive standards as mentioned above, since the District Court allowed administration of Mellaril to continue without making *any* determination of the need for this course or *any* findings about reasonable alternatives. The court's laconic order denying Riggins' motion did not adopt the State's view, which was that continued administration of Mellaril was required to ensure that



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the defendant could be tried; in fact, the hearing testimony casts considerable doubt on that argument. See *supra*, at 2–3. Nor did the order indicate a finding that safety considerations or other compelling concerns outweighed Riggins' interest in freedom from unwanted antipsychotic drugs.

Were we to divine the District Court's logic from the hearing transcript, we would have to conclude that the court simply weighed the risk that the defense would be prejudiced by changes in Riggins' outward appearance against the chance that Riggins would become incompetent if taken off Mellaril, and struck the balance in favor of involuntary medication. See Record 502 (“[T]hat he was nervous and so forth . . . can all be brought out [through expert testimony]. And when you start weighing the consequences of taking him off his medication and possibly have him revert into an incompetent situation, I don't think that that is a good experiment”). The court did not acknowledge the defendant's liberty interest in freedom from unwanted antipsychotic drugs.

This error may well have impaired the constitutionally protected trial rights Riggins invokes. At the hearing to consider terminating medication, Dr. O'Gorman suggested that the dosage administered to Riggins was within the toxic range, *id.*, at 483, and could make him “uptight,” *id.*, at 484. Dr. Master testified that a patient taking 800 milligrams of Mellaril each day might suffer from drowsiness or confusion. *Id.*, at 416. Cf. Brief for American Psychiatric Association as *Amicus Curiae* 10–11 (“[I]n extreme cases, the sedation-like effect [of antipsychotic medication] may be severe enough (akinesia) to affect thought processes”). It is clearly possible that such side effects impacted not just Riggins' outward appearance, but also the content of his testimony on direct or cross examination, his ability to follow the proceedings, or the substance of his communication with counsel.

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Efforts to prove or disprove actual prejudice from the record before us would be futile, and guesses whether the outcome of the trial might have been different if Riggins' motion had been granted would be purely speculative. We accordingly reject the dissent's suggestion that Riggins should be required to demonstrate how the trial would have proceeded differently if he had not been given Mellaril. See *post*, at 5. Like the consequences of compelling a defendant to wear prison clothing, see *Estelle v. Williams*, 425 U. S. 501, 504-505 (1976), or of binding and gagging an accused during trial, see *Allen, supra*, at 344, the precise consequences of forcing antipsychotic medication upon Riggins cannot be shown from a trial transcript. What the testimony of doctors who examined Riggins establishes, and what we will not ignore, is a strong possibility that Riggins' defense was impaired due to the administration of Mellaril.

We also are persuaded that allowing Riggins to present expert testimony about the effect of Mellaril on his demeanor did nothing to cure the possibility that the substance of his own testimony, his interaction with counsel, or his comprehension at trial were compromised by forced administration of Mellaril. Even if (as the dissent argues, *post*, at 2-4) the Nevada Supreme Court was right that expert testimony allowed jurors to assess Riggins' demeanor fairly, an unacceptable risk of prejudice remained. See 107 Nev., at \_\_\_-\_\_\_, 808 P. 2d, at 537-538.

To be sure, trial prejudice can sometimes be justified by an essential state interest. See *Holbrook v. Flynn*, 475 U. S. 560, 568-569 (1986); *Allen, supra*, at 344 (binding and gagging the accused permissible only in extreme situations where it is the "fairest and most reasonable way" to control a disruptive defendant); see also *Williams, supra*, at 505 (compelling defendants to wear prison clothing at trial furthers no essential state policy). Because the record contains no finding that might support a

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conclusion that administration of antipsychotic medication was necessary to accomplish an essential state policy, however, we have no basis for saying that the substantial probability of trial prejudice in this case was justified.

The judgment of the Nevada Supreme Court is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

*It is so ordered.*