

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. 01-11,465
	:
	:
vs.	: CRIMINAL DIVISION
	:
BRIAN YASIPOUR, SR.,	:
Defendant	: Motion to Suspend Medication

OPINION AND ORDER

Before the Court is Defendant’s Motion to Suspend Administration of Medication, filed February 3, 2006. A hearing on the motion was held February 15, 2006.

Defendant has been charged with homicide in connection with the killing of his five-year-old daughter on August 24, 2001. Trial is scheduled to begin February 27, 2006. In the instant motion, Defendant seeks to suspend the administration of the psychiatric medications he has been taking since the entry of an Order in January 2005, requiring him to be involuntarily medicated. Defendant contends the medication alters his normal emotional state, suspension of the medication is necessary to show the jury his normal emotional state, and denial of his request would violate his liberty interest in freedom from involuntary medication and his due process right to a fair trial. The Commonwealth contends continued medication is permissible to further an essential state interest.

In Riggins v. Nevada, 504 U.S. 127 (1992), the United States Supreme Court reiterated previous holdings indicating that an individual does have a constitutionally protected liberty interest in avoiding involuntary administration of anti-psychotic drugs, but went on to find that such interest could be overcome by an overriding state interest. Specifically, the Court noted that due process could be satisfied by a demonstration that treatment with anti-psychotic drugs is medically appropriate and, considering less intrusive alternatives, is either essential for the safety of the defendant or others, or necessary to render a defendant competent to stand trial. In the instant case, the Commonwealth contends that continued medication is necessary to prevent Defendant from becoming a danger to himself and/or others.

In support of their contention, the Commonwealth presented the testimony of

the prison psychiatrist, Dr. Terri Calvert, who has been involved with Defendant's treatment and has also reviewed the records of other treating physicians. Dr. Calvert testified that Defendant is currently being administered risperdal, an anti-psychotic medication,¹ as well as wellbutrin, an anti-depressant. Both were prescribed in connection with the involuntary treatment Order issued in January 2005, which Dr. Calvert indicated was necessary to address certain self-injurious behaviors being engaged in by Defendant at that time. Specifically Defendant was not taking his insulin (Defendant is diabetic) and was biting himself and digging open the wounds, risking infection, especially in light of his diabetes. Defendant was also drinking his own urine and smearing his feces on the walls of his cell and on himself. Defendant was found to be a danger to himself, and there was a concern that he could die as a result. When he returned to the county prison after having been at Warren State Hospital for a period of time, Defendant's condition was stabilized and he was much improved. The harmful behaviors had ceased and Dr. Calvert indicated that it is very likely that the risperdal is a significant reason for Defendant's improvement. While Dr. Calvert questioned whether some of Defendant's behaviors had been merely attention-getting and not related to his psychosis, she did indicate that to some extent, the improvement is connected to the administration of the risperdal. In any event, Dr. Calvert emphatically stated that Defendant's psychosis would definitely worsen if the medication were to be discontinued, and that it would take at least a month to restabilize him.

As far as Defendant's affect, which is the focus of his request to discontinue the medication, Dr. Calvert indicated that the side effects of risperdal are fairly minimal and she would not blame the risperdal for Defendant's flat affect but, rather, the depression and stress of the upcoming trial. Discontinuance of the wellbutrin would thus be counter-productive.

The Court therefore concludes the Commonwealth has shown that continuation of Defendant's current medications is medically appropriate and essential to prevent Defendant from once again becoming a danger to himself. It is noted that the issue of less-intrusive alternatives was not raised, and it appears that indeed the current medication is the least intrusive method of treating Defendant effectively.

¹ Defendant has been diagnosed with, inter alia, Schizophrenia.

ORDER

AND NOW, this 21st day of February 2006, for the foregoing reasons, Defendant's Motion to Suspend Administration of Medication is hereby DENIED.

By the Court,

Dudley N. Anderson, Judge

cc: DA
PD
Gary Weber, Esq.
Hon. Dudley N. Anderson