

ruling that the district court had not met the irreducible minimum standard of recording a “thorough and well-supported explanation” demonstrating a “reasoned and logical linkage” between Mr. Perkins’ violations to the creation of “substantial risk of bodily injury to another person or serious damage to property of another” (*Perkins*, p 634). As a matter of first impression, the court also found that the preponderance of evidence standard applies to revocation of conditional release.

In considering the dangerousness inquiry, the Fourth Circuit acknowledged that there has been significant progress in determining the factors worthy of consideration that contribute to risk assessment but also that these long lists are impracticable. To emphasize the difficulty of violence risk analysis, the Fourth Circuit created a list of 38 factors linked to increased future violence risk. The court indicated that an assessment of all risk factors is overly rigid for the district court. Instead, the Fourth Circuit articulated that the district court should be allowed some flexibility but also at minimum be required to record a thorough and well-supported explanation of how violation of the terms of conditional discharge is linked to substantial risk of bodily injury to another person or serious damage to property of another. The Fourth Circuit went on to discuss that in certain cases, the district court may order psychiatric examinations, expert risk assessments, or further reports to help construct this explanation.

In holding that the standard for revoking conditional discharge should be a preponderance of the evidence, the court acknowledged that there has been an inconsistent standard of evidence for 18 U.S.C. § 4246(f). The court noted that Congress was seemingly satisfied with judicial review establishing the proof standard, that previous Judicial Conference reports indicated similarities between probation and conditional discharge, that its own prior holding equated supervised release and probation, and that Congress required the preponderance standard in 1986 via 18 U.S.C. § 3283(e)(3) (2009). Thus, the court was satisfied with the preponderance of the evidence standard.

In line with these rulings, the Fourth Circuit found that the district court had not provided sufficient details to satisfy the standard of a preponderance of the evidence, nor did it provide a reasoned explanation for the dangerous inquiry.

Discussion

This case opinion provides an in-depth review of 50 years of treatment for persons with mental illness, the ebb and flow of institutionalization, and the evolution of the federal civil commitment process for the purpose of clarifying standards left vacant by legislation. The case illustrates how judicial decisions take into account congressional intent, practicality, individual liberty and the interests of the public, as well as the evolution of the science of mental health and expert testimony.

More importantly, under *Perkins*, a finding that someone is dangerous based solely on a violation of the terms of a conditional discharge is insufficient for revocation of the discharge and recommitment. Rather, there must actually be a link between any violation and a substantial risk of violence. The court provides an example of how it views the changes in risk assessment and acknowledges that, despite the developing knowledge of a multitude of risk factors, it is insufficient and impractical to simply apply a list of all known risk factors. The Fourth Circuit clarified that risk assessment still requires context, judicial discretion, and analysis. The Fourth Circuit specifically stated it is not the role of the court to determine these factors. Rather, counsel and facility professionals should be prepared to address these matters in hearings for the court to decide.

This case is important for forensic psychiatrists because treating psychiatrists involved in these settings and psychiatric expert witnesses may play a large role in contextualizing violence risk factors for the courts. Experts would benefit from awareness of the myriad of factors the court considers relevant to violence risk assessment. Finally, given this role for psychiatric expert testimony in more complicated revocation of conditional discharge hearings, it behooves experts to know the legal standard of proof in their jurisdiction, which the Fourth Circuit defined as preponderance of the evidence.

Jury Instructions for Insanity Verdict

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**Jury Instructions on Initial Commitment
Period following Insanity Verdict Are Not
Prejudicial**

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In *Commonwealth v. Beatty*, 209 N.E.3d 524 (Mass. 2023), the Supreme Judicial Court (SJC) of Massachusetts affirmed Joseph W. Beatty’s conviction on one count of murder in the first degree and one count of aggravated rape, holding that the trial judge did not abuse his discretion in finding Mr. Beatty competent to stand trial over defense counsel’s objections. The SJC further held that the inclusion of potential confinement time periods in jury instructions concerning consequences of a verdict of not guilty due to lack of criminal responsibility were not prejudicial against Mr. Beatty and that the jury were entitled to conclude Mr. Beatty was criminally responsible.

Facts of the Case

On August 29, 2009, Mr. Beatty entered the emergency room at Boston Medical Center covered in blood. He approached a uniformed police officer and stated that he “just snapped” before strangling and sexually assaulting his girlfriend. He provided the name and address of the victim.

Mr. Beatty was able to tell police details about the crime, including his consumption of alcohol and Valium, as well as arguments he had about money with his friend. He recounted the details of strangling the victim and smothering her after noticing her mouth was foaming. Though he told police he left the apartment with knives to “take care of himself,” the psychiatrist who evaluated him in the emergency room determined he did not require inpatient admission. While in the hospital triage unit, he admitted to a nurse to having suicidal ideation but denied visual or auditory hallucinations.

In October 2009, Mr. Beatty was indicted on one count of murder in the first degree and one count of aggravated rape. After a suicide attempt, he was sent to Bridgewater State Hospital (BSH) and diagnosed

with major depressive disorder with no psychotic component. After being found not competent to stand trial, his diagnosis was amended to schizoaffective disorder with psychotic delusions and paranoia. In February 2018, after several years of treatment at BSH, a judge found Mr. Beatty competent to stand trial and a jury trial commenced in February 2019.

At trial, the defense argued Mr. Beatty was not guilty by lack of criminal responsibility (NGRI). Against the advice of counsel, Mr. Beatty decided to testify about voices and paranoia on the day of the homicide. A psychologist testifying for the defense asserted that Mr. Beatty was prone to delusions but did not offer an opinion on competency or his general ability to appreciate the wrongfulness of his conduct at the time of the murder. A psychiatrist testifying for the prosecution opined that Mr. Beatty had “no significant psychiatric disorder, showed no signs of auditory hallucinations, and possessed adequate intellectual functioning” (*Beatty*, p 529). The psychiatrist also opined that Mr. Beatty was able to recognize the wrongfulness of his conduct.

At three separate instances during the trial, defense counsel raised the possibility that Mr. Beatty was not competent to stand trial. Each time, the judge ordered a competency evaluation by a court clinician, who opined Mr. Beatty was competent. As part of jury instructions, the trial judge discussed the consequences of a verdict of not guilty due to lack of criminal responsibility, which conformed to the then-applicable model jury instructions on homicide and included reference to commitment times, known as a *Mutina* instruction in Massachusetts. The jury found Mr. Beatty guilty on both counts, and he was sentenced to life in prison without parole. Mr. Beatty appealed the finding of competency and the prejudicial nature of the jury instructions regarding the consequence of an NGRI verdict.

Ruling and Reasoning

First, the SJC of Massachusetts found that the trial judge did not abuse his discretion in finding Mr. Beatty competent to stand trial. The SJC noted the three court-ordered competency evaluations during the trial. The SJC reasoned the trial judge sufficiently considered Mr. Beatty’s working relationship with counsel, noting Mr. Beatty “has shown his functionality through this trial,” and “[e]ven if his counsel may feel that [testifying] was not the most prudent choice that he had[,] that was his choice under the law” (*Beatty*, p 533).

The court further ruled that the trial judge did not err in giving jury instruction regarding the consequences of a verdict of lack of criminal responsibility, which included a reference to time frames for commitment. The defense argued that the court should have omitted any reference to commitment time in jury instructions prior to sentencing, to avoid suggesting the possibility of release after a brief stay in a mental hospital. They argued this instruction unfairly prejudiced the jury against Mr. Beatty.

The court reviewed the state's Model Jury Instructions on Homicide (2018) and whether they incorporated current case law. First described in *Commonwealth v. Mutina*, 323 N.E.2d 294 (Mass. 1975), the jury instructions mentioned two time periods after a defendant was found NGRI: an initial 40-day observation period and an initial six-month commitment period. Subsequently, *Commonwealth v. Chappell*, 40 N.E.3d 1031 (Mass. 2015) considered the problem of juries avoiding NGRI verdicts due to underestimating the true length of confinement and thus considering societal protection insufficient based on this description, when in fact the commitment period could be extended indeterminately if need be. After *Chappell*, the courts proposed a provisional instruction to omit reference to this observation period and to specifically clarify that the initial six-month commitment could be renewed indefinitely as long as the defendant continued to be mentally ill and dangerous. The court found that the trial judge in *Beatty* provided instructions "using language virtually identical to the *Mutina* instruction," and included the recommended changes outlined in *Chappell* (*Beatty*, p 535).

Mr. Beatty argued that the six-month initial commitment time frame should also be omitted from jury instructions for the same reason the court previously recommended omission of the forty-day observation period. But, in *Beatty*, the court saw no reason to change the recommendation, particularly since an additional instruction was given that the six-month initial confinement could become indefinite. Thus, the trial judge acted without error, as the instructions were reflective of the *Chappell* and *Mutina* recommendations.

Discussion

The case of *Commonwealth v. Beatty* reviewed the potentially prejudicial nature of jury instructions specifying time frames for commitment after a jury finding of NGRI. The court found that the state's

most current Model Jury Instructions on Homicide struck a fair balance between the need to inform the jury of the potential consequence of their verdict with the interest in preventing unfair biases against the defendant, namely that he would be confined for minimal time. It is useful to note that other defendants have argued in favor of having a jury instruction on the consequences of an insanity verdict (Piel J. In the aftermath of *State v. Becker*: a review of state and federal jury instructions on insanity acquittal disposition. *J Am Acad Psychiatry Law* 2012; 40: 537-46).

Beatty reviewed the original *Mutina* standard in Massachusetts, which included a 40-day observation and initial six-month commitment advisement, and the proposed changes to the standard as outlined in *Chappell*, which removed instruction of the 40-day observation and clearly specified the six-month commitment could be renewed indefinitely. By agreeing with the trial judge's instructions, which used the language of *Chappell*, the court recognized that it is possible to strike a balance to provide useful jury instruction. The court acknowledged that a commitment timeframe is not *de facto* prejudicial, especially when clarification is provided to the potentially indefinite nature of commitment, as long as the defendant remains mentally ill and dangerous.

The case is instructive for forensic psychiatrists who may be asked to assess criminal responsibility or assist courts in disposition. An often-discussed concern about jury psychology is the jury's concern that a person who committed a serious homicide may be released after a short period of time. *Beatty* illustrates one jurisdiction's satisfaction that steps can be taken to minimize prejudice from instructions regarding commitment times following an NGRI verdict while remaining necessarily informative.

Statutory Caps on Punitive Damages

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