

Ruling and Reasoning

The 11th Circuit Court held that the district court erred in ordering *habeas* relief on Mr. Holland's *Faretta* claim, because the Florida Supreme Court reasonably concluded that his mental condition kept him from making a knowing and voluntary waiver of the right to counsel. Of note, this case originated before *Indiana v. Edwards*, 554 U.S. 164 (2008), but the circuit court reviewed these claims anew in light of the points addressed in *Indiana v. Edwards*, to determine whether the decision violated a current understanding of Mr. Holland's constitutional rights as articulated by the U.S. Supreme Court.

The Florida Supreme Court found that Mr. Holland failed to demonstrate that the denial of his self-representation claim was contrary to or an unreasonable application of *Faretta v. California*. The court emphasized that when a defendant seeks to waive the right to counsel, a determination that he is competent to stand trial is not enough. The waiver must be intelligent and voluntary. In addition, a defendant should understand the potential dangers and disadvantages of self-representation. The trial court decision also relied on *Johnston v. State*. Thus, the court ruling indicates that even though *Indiana v. Edwards* was decided well after Mr. Holland's claim, no fault could be found in the Florida Supreme Court's ruling that resulted in a finding also supported by the more current *Edwards* case. Therefore, the grant of the writ of *habeas corpus* was reversed and remanded with instructions for the district court to reinstate Mr. Holland's conviction and sentence.

Discussion

Previous case law has addressed various competencies, as well as the role that mental health plays in legal decisions regarding these competencies. Although the ruling in *Godinez v. Moran*, 509 U.S. 389 (1993), established that the elements of decision-making at trial fall under one standard for competency to stand trial and *Faretta v. California* established that defendants have a right to represent themselves, *Indiana v. Edwards* established that when a defendant seeks to waive his right to counsel, a determination that he is competent to stand trial is not enough. This case supported the views that mental state affects different competencies to different degrees. Although Mr. Holland was deemed competent to stand trial, his mental state precluded him from representing himself and dispensing with de-

fense counsel. It is important to note that a defendant does not need extensive knowledge of the legal system to represent himself. Furthermore, although no formal standard for competence to represent oneself was decided on by the U.S. Supreme Court, a defendant likely does need sufficient presence of mind to represent himself, which can be hampered by symptoms of mental illness. A judge would determine whether the symptoms rose to a level that warranted a finding of incompetence to proceed *pro se*. The *Edwards* Supreme Court decision demonstrated the risk that allowing a defendant with mental illness to represent himself could lead to an unfair and humiliating spectacle of a trial. In this case, the court then offered a protection for defendants with serious mental symptoms by insisting that Mr. Holland have representation. Mental health professionals must be aware of what competencies are required when conducting various types of forensic evaluations. They must also understand, and effectively convey to the court, how specific symptoms of mental illness might affect each particular type of competency.

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Considerations Related to Alternative Educational Placement and Tuition Reimbursement Under IDEA

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The Individuals With Disabilities Education Act (IDEA) Dictates That All Youth be Provided With Access to an Appropriate Education That Meets Their Unique Educational Needs

In *Hardison v. Board of Education of the Oneonta City School District*, 773 F.3d 372 (2d Cir. 2014), the Second Circuit Court of Appeals reversed a determination by the State Review Officer (SRO) denying the parents of A.N.H., an emotionally disabled child,

reimbursement for the costs of her private schooling under the Individuals with Disabilities Education Act (IDEA). The court of appeals held that the district court should have shown greater deference to the SRO's determinations with respect to the appropriateness of the child's placement at a particular private school. Because the Hardisons failed to demonstrate the appropriateness of A.N.H.'s private placement, they were not entitled to compensation for tuition costs.

Facts of the Case

Under the IDEA, states receiving federal funding are required to provide all children with disabilities with a free appropriate public education (FAPE), including special-education services that meet the youth's unique educational needs. The IDEA also requires schools to prepare individualized education plans (IEPs) for disabled students that reflect the child's current academic performance, goals, and the services provided to support attainment of these goals. According to New York state regulations, parents who believe that their child is not being provided a FAPE may unilaterally enroll the child in private school and seek tuition reimbursement from the district. Considerations for reimbursement are based on determinations regarding whether the proposed IEP failed to provide a FAPE and if the private placement was appropriate for the child's needs. State law requires the school district to prove that the proposed IEP provides a FAPE and the parents to prove the appropriateness of the private placement.

The Hardisons adopted A.N.H. as an infant. As a child, she exhibited some oppositional behavior and was briefly treated for depression, but was generally successful in a regular academic program through middle school. Upon entering Oneonta High School, her performance declined, and she began to exhibit problematic behavior. She initially remained in a regular education program with remedial and support services while simultaneously beginning psychiatric treatment for bipolar disorder. As a result of her academic difficulties, she underwent an evaluation conducted by her school district, the results of which highlighted the contributions of impairments in cognitive, attentional, and emotional functioning in her academic struggles. As a result of ongoing academic and behavioral difficulties, the Hardisons withdrew A.N.H. from school. She subsequently underwent another evaluation by an outside provider,

the results of which did not indicate the presence of a learning disability.

The following year, A.N.H. returned to Oneonta High School to repeat ninth grade. Early in the year she was psychiatrically hospitalized on two occasions. She was evaluated during both hospitalizations, but on neither occasion did evaluators note recommendations regarding her academic programming upon return to school. Rather, it was noted only that she would "continue to benefit from the emotional and academic supports present in her academic program" (*Hardison*, p 378). Upon returning from her second hospitalization, A.N.H. enrolled in an alternative education program, the Bugbee Program, where she continued to struggle academically, leading to an evaluation for an IEP. The evaluator noted average scores on intelligence and achievement tests, but opined that "mental health factors appear[ed] to be causing a significant disruption in [A.N.H.'s] life within school" (*Hardison*, p 378). Following this evaluation, accommodations were made to support A.N.H.'s limited return to Oneonta High School, but no official IEP was enacted. After three days, it was determined that she was not faring well at Bugbee, and she returned to Oneonta. Based on her limited improvement at Bugbee, the Hardisons sought alternative placement at the Family Foundation School, a therapeutic boarding school. There, A.N.H. received academic support and therapy services; however, the latter were not provided by staff licensed according to state requirements. Her grades improved somewhat, but she continued to struggle academically. During her first year of enrollment, the Hardisons paid tuition.

Prior to A.N.H.'s second year at Family Foundation, the Hardisons requested tuition assistance from the district. Their request was refused on the grounds that the district did not classify A.N.H. as disabled and that Family Foundation was not an approved special-education institution. The Hardisons then requested special-education services through a public school near Family Foundation, requiring A.N.H. to undergo evaluation. She was subsequently classified as a student with emotional disturbance; however, her academic difficulties were attributed to "a lack of effort and attention to details" (*Hardison*, p 381). An IEP was created but never implemented. After this evaluation, the Hardisons filed a complaint against the Oneonta District, arguing that A.N.H. had been denied a FAPE and requesting that she be classified as

disabled. Oneonta granted the request, and an IEP was created. Placement in a day treatment program was recommended; however, the district did not provide a specific referral and later disagreed when the Hardisons sought continued placement at Family Foundation.

During a subsequent hearing before the Impartial Hearing Officer (IHO), the Hardisons called only one witness from Family Foundation. That testimony highlighted the lack of special-education services at the facility and the minimal integration among interventions for A.N.H.'s educational and mental health needs. The IHO found that the district had denied A.N.H. a FAPE and ordered payment for portions of A.N.H.'s tuition costs. The district appealed the IHO's decision to the SRO, who overturned much of the decision, finding that A.N.H. had not been completely deprived of a FAPE, as she was not classified as disabled during a portion of the time in question. However, the district's failure to provide a referral for a day-treatment program constituted denial of a FAPE. The SRO also found that the Hardisons had failed to demonstrate the appropriateness of A.N.H.'s placement at Family Foundation, based on the limited information presented regarding how the school met her educational needs.

The Hardisons filed an action in district court challenging the SRO's decision. This ruling was based on the same record before the SRO. The district court found that Family Foundation was an appropriate placement and ordered a partial tuition reimbursement. Departure from the SRO's holding was based on the court's contention that the SRO's consideration of Family Foundation as a special-education school was erroneous, that testimony from Family Foundation staff was incorrectly weighted, and that the SRO misread information in A.N.H.'s IEP.

Ruling and Reasoning

The court of appeals held that the district court should have paid deference to the findings of the administrative judges, given their greater familiarity with the workings of the IDEA. Given that the IHO and SRO reached different conclusions, the court of appeals felt that deference to the SRO's decision was appropriate. The court agreed that the Hardisons failed to demonstrate that A.N.H.'s placement was appropriate for two reasons: they failed to provide

"objective evidence" of her progress at Family Foundation, relying solely on the subjective report of one staff person who was unfamiliar with all aspects of A.N.H.'s service package, and they failed to connect her progress in psychological treatments to her academic progress, a critical concern for IEP determinations. Because they did not demonstrate the appropriateness of the placement, the Hardisons were not entitled to tuition reimbursement.

Discussion

The IDEA has conceptualized disability to include not only cognitive and learning impairments but also serious emotional disturbance. Although the Oneonta School District initially contested A.N.H.'s classification as disabled, this case did not hinge on classification. There was little debate regarding whether A.N.H. qualified for services, as there were clear indications of academic impairment secondary to psychological and behavioral symptoms. The crux of this case hangs on the question of responsibility: if parents reject placements offered by the district in favor of a private placement to receive tuition reimbursement, they carry the burden of showing the court why their identified placement uniquely meets the needs of the child. To make such a representation, parents should be prepared to demonstrate, via documentation and witnesses, the direct connection between interventions provided by the preferred placement and the youth's academic progress. Although youth with complex emotional and behavioral disturbances may require interventions outside of the traditional purview of academic institutions, such interventions must nonetheless be linked to improvements in academic functioning. Questions such as, "What aspects of the Family Foundations environment allowed A.N.H. to learn best?" likely remained unanswered in the eyes of key decision-makers, affecting their ultimate determination regarding the appropriateness of the placement.

The present case also speaks to the need for collaboration and communication among key stakeholders involved in the implementation of special-education services for youth with emotional disabilities. Youth with complex emotional and educational needs are likely to require multifaceted interventions involving integrated systems of care. To be successful, this requires cross-system communication, including ongoing collaboration involving a child's parents, educators, and community placements and services.

Improved communication between stakeholders and use of more collaborative education planning approaches throughout this process could have circumvented some of the ensuing conflict regarding the most appropriate placement for A.N.H. Such practices may have included enhanced IEP facilitation, external mediation, or both, designed to fuel quicker resolutions amenable to all involved parties.

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Prisoners' Rights to Safety and Officials' Requirements to Follow Mandatory Regulations

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Discretionary-function Exception Does Not Universally Shield the Government From Liability Claims Resulting From Inmate Violence

In *Keller v. United States*, 771 F.3d 1021 (7th Cir. 2014), Charles D. Keller was attacked by a fellow inmate in the United States Penitentiary in Terre Haute, Indiana. After the assault, Mr. Keller sued the federal government for damages under the Federal Tort Claims Act (FTCA), claiming negligence on the part of federal prison employees who failed to protect him. The United States District Court for the Southern District of Indiana granted motion for summary judgment brought by the government, which was subsequently appealed by Mr. Keller to the Seventh Circuit Court of Appeals.

Facts of the Case

Charles Keller was confined to the United States Penitentiary in Terre Haute, Indiana, in 2007. On admission, Dr. Joseph Bleier, an intake psychologist, assessed Mr. Keller, who informed Dr. Bleier that he believed he had a mental illness that affected his ability to function in general population and that he feared attack by other inmates if placed in general population because of his functional difficulty. Dr.

Bleier placed Mr. Keller in general population despite Mr. Keller's concerns. On October 25, 2007, a fellow inmate attacked Mr. Keller. The attack was unprovoked, unwitnessed, and occurred at the base of a prison watchtower at the boundary of two units of the prison yard. After being found lying unconscious and face down, Mr. Keller was eventually taken to a nearby emergency room. Examinations revealed extensive injuries to his face and head.

Mr. Keller then brought suit against the United States under the FTCA, arguing that prison employees' neglect of mandatory institutional regulations and duties had resulted in the attack. Mr. Keller claimed that prison guards assigned to the watchtower under which the attack had transpired and the guards on the units bordering the location of the attack failed to monitor their posts adequately, allowing the beating to occur. He also contended that Dr. Bleier failed to conform his actions to institutional regulations that require the intake psychologist to read the entirety of an inmate's available medical records before placing the inmate in general population. The government moved for a summary judgment, which the court granted under the discretionary-function exception to liability under the FTCA (described in Discussion). Mr. Keller appealed.

Ruling and Reasoning

The Seventh Circuit Court of Appeals reversed the lower court's grant of a summary judgment and remanded the case for further proceedings consistent with its opinion. Although the government argued in its summary judgment briefs that the discretionary-function exception always shielded the government from liability for inmate violence based on *Calderon v. United States*, 123 F.3d 947 (7th Cir. 1997), the court rejected this argument. The court concluded that the government failed to sustain its burden to prove that the discretionary-function exception shielded it from liability for the attack on Mr. Keller. The court opined that the district court incorrectly placed the burden of proof on Mr. Keller, when the burden should lie on the government to present evidence that shows "beyond reasonable dispute" that the government's "conduct was shielded" by the discretionary-function exception. The court held that this legal error was not harmless.

In addition, the court held that the guards' actions and Dr. Bleier's actions were not covered under the discretionary-function exception, because the gov-