

The appeals court rejected Dr. Dubrule’s claim of ineffective assistance of counsel, primarily because he could not prove prejudice. But for counsel’s failure to request a competency evaluation before or during trial, the result of the proceeding would have been different. No “good cause” was found that would allow Dr. Dubrule’s belated filing of an intention to assert an insanity defense, as he attributed the belatedness to his proposed incompetence to stand trial or represent himself. Finally, Judge Clay rebuffed Dr. Dubrule’s accusation that the government falsely represented the “peer reviewed” nature of Dr. Marcopulos’ evaluation in regard to her failure to disclose that she would be consulting with other experts before the completion of the report. Dr. Dubrule contended that, had he known about the consultations, defense counsel could have objected to adjusting such a process. Judge Clay dismissed the idea that such an objection would have affected the outcome of the court proceedings, given that defense counsel had the opportunity to cross-examine Dr. Marcopulos regarding her methods at the time of the competency hearing.

Discussion

In this ruling, the Sixth Circuit Court of Appeals affirmed an important notion regarding competence. If a defendant’s competence is not called into question by counsel, the court’s decision to order a competency hearing should be based on “all of the information before it” (*United States v. Tucker*, 204 F. App’x 518 (6th Cir. 2006), p 520). That a defendant has a mental illness may be sufficient to warrant a competency hearing, but it is certainly not sufficient to assume incompetence. *Indiana v. Edwards*, 554 U.S. 164 (2008) separated the standards for competency to stand trial and competency to self-represent in the name of fairness. Although a court may face societal pressure to act in deference to self-determination, “the Constitution permits judges to take realistic account of the particular defendant’s mental capacities” so that those with genuinely impairing mental illness are not left “hopeless and alone before the court” (*Edwards*, pp 177–78). Finally, we are reminded that with *pro se* litigants, an unorthodox defense strategy is not in itself sufficient to render the defendant incompetent to stand trial.

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Constitutional Rights Violations in Civil Commitment

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Police Involuntarily Detained Person With Physical Disabilities Without Probable Cause for Mental Health Evaluation

Gordon Goines reported to the police that he believed his neighbor was stealing his cable. He was taken into custody and transported to the hospital for a mental health evaluation. This evaluation resulted in his involuntary mental health detainment. Mr. Goines sued the police officers and Valley Community Services Board and their employee, citing violations of his Fourth and Fourteenth Amendment rights. The district court dismissed the complaints against both parties, and Mr. Goines appealed. In *Goines v. Valley Community Services Board*, 822 F.3d 159 (4th Cir. 2016), the Fourth Circuit affirmed the dismissal against Valley Community Services Board and the mental health clinician, but vacated the lower court’s dismissal of claims against the officers.

Facts of the Case

Mr. Goines reported that, in May 2014, he began to have problems with his cable television, including service disruption and emission of occasional loud noises when the television was turned on. A cable technician evaluated his claims on May 15, 2014, and discovered that Mr. Goines’ cable had been spliced by a neighbor, whose action was deemed the likely cause of the problems. The technician recommended that Mr. Goines report the neighbor’s infraction to the police.

Mr. Goines went to the police station to file a report before addressing the matter with his neighbor because he had concerns of how his neighbor would respond. According to the Incident Report, Mr. Goines first reported his claim to one officer, who told two officers that Mr. Goines may have mental health problems. Of note, Mr. Goines had a diagno-

sis of cerebellar ataxia, a neurological condition that has primary symptoms of gait and coordination difficulties and slurred speech. The officers went with Mr. Goines to his apartment to investigate his claims; however, the officers did not turn on the television. The officers asked Mr. Goines if he had mental health diagnoses, which he denied. They then asked if he wished to speak with someone, and he replied that he did, as he believed it was about his cable theft. Mr. Goines was then handcuffed and transported involuntarily to the Augusta County Medical Center, where the officers would not let him go home despite his requests to leave. While at the Medical Center, Mr. Goines was evaluated by an emergency services intake clinician, Jenna Rhodes, who was employed by the Valley Community Services Board. Ms. Rhodes prepared a preadmission screening report, noting her observations that Mr. Goines appeared to be experiencing hallucinations and had made threats in her presence toward his neighbor if released. She noted that the officers had also reported that Mr. Goines made threats and was hallucinating. Ms. Rhodes concluded from the data that Mr. Goines had a mental illness (i.e., psychotic disorder, not otherwise specified) and that he presented a threat to his neighbor's safety. Therefore, she filed a petition for him to be involuntarily detained. The magistrate judge accepted the petition and issued an order for temporary detention. Mr. Goines was taken to Crossroads Mental Health Center, where he was hospitalized until he was discharged on May 20, 2014.

Mr. Goines filed action under 42 U.S.C. §1983 (1996), claiming that his Fourth and Fourteenth Amendment rights were violated when he was seized without probable cause regarding mental illness or dangerousness. He alleged that, although he had physical disabilities (cerebellar ataxia), he did not threaten others or have a mental illness when he sought the assistance of the police. Mr. Goines quoted from the police officer's incident report to support his claim regarding errors that he believed to have been made by the officers. He specifically noted that the officers "ignored or did not take the time to understand" (*Goines*, p 164) the nature of his problem. He argued that, if the officers had turned on the television, they likely would have heard the reported noises, and he would not have been erroneously seized. He did not dispute the information contained within the screening report authored by Ms. Rhodes.

The district court used the information contained within the complaint, the incident report, and the screening report to dismiss the claims against the officers and to support their entitlement to qualified immunity. The court also dismissed the claims against Ms. Rhodes and Valley Community Services Board, citing that she had probable cause for detainment based on concerns for mental illness and dangerousness. Mr. Goines appealed.

Ruling and Reasoning

The United States Court of Appeals for the Fourth Circuit held that the district court properly dismissed claims against the mental health worker and her employer who had established probable cause for emergency detention on the basis of the preadmission screening report. They vacated the district court's order to dismiss the claims against the officers and noted that the officers were not entitled to qualified immunity for potential constitutional violations if the statements made by Mr. Goines were correct.

Mr. Goines' allegations of constitutional rights violations were specific to claims of inappropriate seizure by police officers and lack of probable cause for detainment by the mental health worker and her employer. The court stated that the facts described in the complaint filed by Mr. Goines provided no basis for the officers to conclude that he had mental illness or was a danger to himself or others. Although the statements in the incident report differed from those in the complaint filed by Mr. Goines, they were not to be treated as truths by the lower court, nor were they sufficient to justify the claim that Mr. Goines was a danger to himself or others as a result of mental illness. As a result, if the complaint was presumed to be true, the officers lacked probable cause to detain Mr. Goines for a mental health evaluation. As a potential Fourth Amendment violation, the officers were not entitled to qualified immunity, which "shields government officials from civil liability in regard to their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known" (*Hill v. Crum*, 727 F.3d 312 (4th Cir. 2013), p 321). The Fourth Circuit vacated the dismissal against the officers and remanded for further proceedings.

In the court's consideration of the claims against Ms. Rhodes and Valley Community Services, it held the screening report to be truthful (because Mr. Goines based his claim on the screening report itself)

and ruled that the information contained within the screening report was adequate for probable cause for emergency detention for mental health. Specifically, based on the information in the screening report, Mr. Goines appeared to behave as if he were responding to visual hallucinations and threatened his neighbors in Ms. Rhodes' presence. She used information that she obtained from the officers regarding his behavior before his presentation to the medical center to establish probable cause, and the court determined that there was no constitutional violation committed by Ms. Rhodes or her employer, Valley Community Services Board.

Discussion

Goines v. Valley Community Services Board highlights various aspects of civil commitment, including the importance of having probable cause to institute an emergency detention for mental health reasons without constitutional violation. *Bailey v. Kennedy*, 349 F.3d 731 (4th Cir. 2003), notes "the general right to be free from seizure unless probable cause exists is clearly established in the mental health seizure context. . . . An officer must have probable cause to believe that the individual posed a danger to himself or others before involuntarily detaining the individual" (p 741). The court acknowledged the problems that officers have in making "difficult judgment calls" with regard to involuntary detention (*Goines*, p 170) when they have minimal mental health training. Thus, the court recommended that in the absence of "substantial likelihood of harmful behavior" (*Goines*, p171, internal quotation marks omitted), further inquiry is useful in obtaining a better understanding of peculiar scenarios before presuming the presence of a threat.

Although the Fourth Circuit found that the lower court erred in treating the information contained within the officers' report as factual, they did not address whether their report was inaccurate. They remarked that, on remand, the officers should provide the district court with affidavits of their observations from the incident to allow for further consideration of a qualified immunity defense. Finally, Mr. Goines' claim against Valley Community Services Board and Ms. Rhodes did not hinge upon the incorrectness of the screening report information, but upon the assertion that the information was not adequate justification for involuntary detention.

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Impact of Neuroscience and Evolving Standards of Decency on Juvenile Sentencing

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Adequate Review Required for Juvenile Death Sentences Commuted to Life Without the Possibility of Parole

Adams v. Alabama, 136 S. Ct. 1796 (2016), is the most recent in a series of U.S. Supreme Court decisions affecting the sentencing of juveniles and adults who offend as juveniles. In the first case of the series, *Roper v. Simmons*, 543 U.S. 551 (2005), the Court held that the Eighth Amendment prohibits the death penalty for offenders under 18, qualifying it as cruel and unusual punishment. The decision reflected advances in neuroscience about incomplete brain development in juveniles. The Court cited three relevant ways that adolescents differ from adults: lack of maturity, increased impulsivity, and limited judgment; increased vulnerability and susceptibility to external pressure and negative influences; and a personality structure that is less fixed and more open to change. Justice Anthony Kennedy, writing for the majority, cited society's view of children and the developing "national consensus" against execution of juveniles in the decision. The *Roper* decision resulted in the commuting of death sentences to sentences of life without parole, probation, or release for all who were charged as juveniles.

In *Graham v. Florida*, 560 U.S. 48 (2010), with reasoning similar to *Roper*, the Court abolished mandatory life-without-parole sentences for juveniles convicted of crimes other than homicide. Two years later, in *Miller v. Alabama*, 132 S. Ct. 2445 (2012), the Court addressed mandated life-without-parole sentences for juveniles in murder cases. The Court held that a mandatory life sentence is disproportionate for all but the rarest juvenile offenders and ruled that trial courts must consider the appropriateness of life without parole for individual juveniles before sentencing, thereby abolishing automatic mandatory