

L Rev 46:149, 2004). Mr. Horn's review noted that few courts continue to categorize criminal acts committed while sleepwalking as an insanity defense. Much of the distinction relies on the facts that those found criminally insane have a permanent or semi-permanent mental defect, whereas those with sleep disorders do not. In addition, the therapeutic commitment provided for the criminally insane would provide little to no benefit to a sleepwalking defendant.

Discussion

With this ruling, the Supreme Court of Georgia makes it clear that it considers criminal acts committed while sleepwalking or during an episode of unconsciousness or semiconsciousness due to a sleep disorder to be a defense distinct from the insanity defense. Most courts that have considered the question have held that the insanity defense is an improper fit for what is best classified as a defense of unconsciousness. Sleepwalking and other sleep disorders do not fit the definition of legal insanity, and affected defendants are therefore at a great disadvantage when required to provide evidence of lack of culpability by means of an insanity defense.

Claim of Ineffective Assistance of Counsel

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A Court of Appeals Denies Habeas Corpus Relief to a Defendant Who Claims Ineffective Assistance of Counsel for Disregarding Expert Evidence and Defendant's Doubts and Obeying the Defendant's Wish to be Found Competent

In *Crawley v. Dinwiddie*, 533 F.3d 1226 (10th Cir. 2008), the Tenth Circuit Court of Appeals affirmed a lower court ruling rejecting a defendant's claim of ineffective assistance of counsel, concluding that his attorney did not perform deficiently in abiding by Mr. Crawley's wishes and arguing that he was competent to stand trial.

Facts of the Case

Leon Crawley was charged in Oklahoma with possession of a stolen vehicle. He had two previous felony convictions and, if convicted of a third felony, faced more than 20 years in prison. The state offered Mr. Crawley a six-year prison sentence in exchange for a guilty plea. He rejected the plea bargain and insisted on going to trial. Mr. Crawley's attorney, Greg Graves, requested that his defendant undergo a competency determination. Mr. Graves stated that Mr. Crawley's "obsession with matters not relevant to his defense" was interfering with his ability to communicate with counsel. The trial court appointed Dr. William Cooper to examine Mr. Crawley. At a competency hearing, Dr. Cooper testified that Mr. Crawley was "somewhat guarded and suspicious," displayed mild thought disorganization, "heard voices," believed "God had been speaking to him," and exhibited "paranoid thinking." Dr. Cooper concluded that Mr. Crawley "was able to appreciate the nature of the charges against him but was incompetent to stand trial due to inability to consult with his attorney and rationally assist in the preparation of his defense." Mr. Crawley rejected Dr. Cooper's conclusions and asserted that he was competent and that he wanted to stand trial. The state then called Mr. Crawley, who testified to his understanding of the proceedings and informed the jury that he was competent to stand trial. The question of Mr. Crawley's competence was then put to the jury, where, paradoxically, the government argued that Mr. Crawley was incompetent and the defense, though suppressing misgivings, argued that the defendant was competent. Mr. Graves did not call any witnesses on Mr. Crawley's behalf, but argued, contrary to the state's position and despite Dr. Cooper's opinion, that the evidence supported a finding of competency. The jury found Mr. Crawley competent. He was later convicted and sentenced to 25 years in prison.

Mr. Crawley appealed to the Oklahoma Court of Criminal Appeals. He argued that his conviction should be reversed because he was forced to testify against his will at the competency hearing; insufficient evidence was submitted to support a jury finding of competency to stand trial; and his counsel was ineffective during the competency hearing. The Oklahoma Court of Criminal Appeals ruled that, under Oklahoma Law, Mr. Crawley could be called to testify at the competency hearing because his

counsel had requested the hearing and that a defendant can be called to testify against his will if he initiates the proceeding. The Oklahoma Court of Criminal Appeals likewise rejected Mr. Crawley's sufficiency-of-the-evidence argument, concluding that, despite Dr. Cooper's opinion, "the jury was within its province in giving greater weight to Mr. Crawley's testimony that he was competent" (*Crawley*, p 1228). Finally, the Oklahoma Court of Criminal Appeals held that Mr. Crawley had failed to demonstrate "that trial counsel's conduct was deficient in following his ethical obligation to abide by his client's wishes [to be found competent and proceed to trial]" (*Crawley*, p 1228).

After Mr. Crawley's *pro se habeas* appeal to Federal District Court was rejected, he applied to the Tenth Circuit for a Certificate of Appealability. The Tenth Circuit granted Mr. Crawley's request and appointed counsel to represent him during his appeal. At this point, Mr. Crawley's appeal focused solely on his claim of ineffective assistance of counsel.

Ruling and Reasoning

The Tenth Circuit's ruling was concerned primarily with determining the correct application of federal law. It noted that the court reviewed the "district court's findings of fact for clear error and its conclusions of law *de novo*" (*Crawley*, p 1229). In reviewing the district court's rejection of the *habeas* petition, the Tenth Circuit noted that the Antiterrorism and Effective Death Penalty Act (AEDPA) establishes the requirements for granting a *habeas* writ to a state prisoner. The court asserted that a *habeas* writ could be granted only if the lower court's adjudication:

... (1) was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States, or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding [*Crawley*, p 1229].

Since Mr. Crawley had not contended a factual error, the Tenth Circuit's opinion was reduced to a consideration of whether Mr. Crawley's ineffective assistance of counsel claim "was contrary to, or in-

involved an unreasonable application of, clearly established Federal law." The Tenth Circuit noted that the Oklahoma Court of Criminal Appeals rejected Mr. Crawley's "ineffective assistance of counsel claim in one paragraph, without any discussion or analysis of *Strickland*" (referring to *Strickland v. Washington*, 466 U.S. 668 (1984)). But the court's review of potentially applicable U.S. Supreme Court cases did not yield applicable federal law. The Tenth Circuit stated that the "Supreme Court has yet to consider a factual scenario analogous or similar to that presented here" and that, since "there is no clearly established federal law relevant to Crawley's claim, our analysis ends where it begins" (*Crawley*, p 1230).

Discussion

In their opinion, the Tenth Circuit mentions *Indiana v. Edwards*, 554 U.S. 208 (2008), in which the Court notes that "[t]he Constitution does not permit trial of an individual who lacks 'mental competency.'" But the Tenth Circuit points out that *Edwards* does not guide courts regarding how an attorney should proceed when representing a client whose competency is in question but who nonetheless refuses to cooperate in asserting a plea of incompetence. For many mental health professionals, the review of such a case inevitably evokes feelings of paternalism. Certainly, Mr. Crawley's competence was disputable, but attorneys are ethically obligated to represent the wishes of their clients, if at all possible.

One is reminded of *Frendak v. United States*, 408 A.2d 364 (D.C. 1979), in which the court decided against imposing an insanity plea on the defendant, even though such a plea seemed to be supported by the available evidence. In *Frendak*, the defendant seemed destined for a murder conviction, yet her waiver of the insanity plea was accepted as "intelligent and voluntary." Accordingly, in cases in which the competency of a defendant is in question, courts often favor the autonomy of a defendant to make decisions regarding his case.