

Discussion

In this case, the Fifth Circuit Court of Appeals ruled that privately contracted doctors working in a public sector setting are eligible to assert qualified immunity when they perform with public employees and under similar circumstances. As a result, these clinicians are protected as they perform their duties. Additionally, in this case, the immunity was warranted due to a lack of evidence indicating that the defendants had violated clearly established rights. Because Mr. Perniciaro failed to demonstrate that the defendants' conduct violated his rights, his lawsuit was unsuccessful. Thus, without proof of violation of rights, there was no course of action for disputing qualified immunity or supervisory liability. For professionals who work with challenging patient populations on the basis of medical complexity or behavioral challenges, this case also illustrates the importance of following the standard of care, typically aligned with the professional practice and ethics guidelines, such as engaging in consultation, making appropriate referrals, keeping and reviewing records, and making decisions to prevent potential harm.

Disclosures of financial or other potential conflicts of interest: None.

Youthfulness as a Mitigating Factor Justifying Exceptional Sentencing Below the Standard Range

Melissa O. Henry, PsyD
Fellow in Forensic Psychology

Ashley A. Murray, PhD
Assistant Professor of Psychiatry

Law and Psychiatry Program
Department of Psychiatry
University of Massachusetts Medical School
Worcester, Massachusetts

Offender Youthfulness is a Well-Established Sentencing Consideration and Not a Recent Change in Law

DOI:10.29158/JAAPL.3878L2-19

In 2016, Kevin Light-Roth, the respondent in *In re Pers. Rest. of Light-Roth*, 422 P.3d 444 (Wash. 2018), petitioned the court of appeals seeking relief through a personal restraint petition (PRP). Mr.

Light-Roth claimed that the holding in *State v. O'Dell*, 358 P.3d 359 (Wash. 2015), that a sentencing court was allowed to consider a defendant's youthfulness as a mitigating factor in sentencing, represented a significant change in the law that entitled him to a reevaluation of his sentence. The court of appeals granted the petition and ordered a new sentencing hearing, but the Washington Supreme Court reversed this decision, maintaining that the decision in *O'Dell* did not constitute a significant change in the law and that the utilization of youthfulness as a mitigating factor for sentencing was established and available to the defendant well before the *O'Dell* ruling.

Facts of the Case

On February 5, 2003, believing that Tython Bonnett stole his shotgun, Mr. Light-Roth (then 19 years-old) shot Mr. Bonnett in the chest, killing him. Mr. Light-Roth threatened a witness to the shooting, solicited the help of his roommate to dispose of Mr. Bonnett's body, and told Mr. Bonnett's girlfriend that Mr. Bonnett moved to New Mexico. Mr. Bonnett's body was discovered, and Mr. Light-Roth was charged with the murder.

On June 1, 2004, Mr. Light-Roth (then 21 years-old) was convicted of second-degree murder while armed with a firearm and unlawful possession of a firearm. The state requested the maximum sentence of 335 months, while the defense, noting Mr. Light-Roth's youth and condition of attention-deficit disorder, requested a reduced sentence. The court sentenced Mr. Light-Roth to the maximum 335-month confinement.

In 2016, after his conviction and sentence were affirmed in the court of appeals and petitions to higher courts were denied, Mr. Light-Roth filed a PRP asserting he was entitled to a resentencing in light of a recent Washington case, *State v. O'Dell*, 358 P.3d 359 (Wash. 2015).

An appellee who demonstrates an error that resulted in a miscarriage of justice can receive a review of conviction or sentence if a PRP is granted. Under Washington law, a PRP must be filed within one year of the final judgment, unless the appellee can establish that a significant and material change in the law, which applies retroactively (e.g., a new case ruling overturns existing laws or creates a new law), occurred since the time of their sentence. If an appellate court's decision settles or further establishes an exist-

ing law, this is not a significant change in law, and does not constitute a PRP exception.

In *State v. O'Dell*, the Washington Supreme Court stated that, while age alone is not a mitigating factor *per se*, a sentencing court could consider youthfulness as a mitigating factor (e.g., when age specifically influences culpability), and the sentencing judge has discretion to determine when it is appropriate to do so. In light of this decision, the court of appeals granted Mr. Light-Roth's petition and ordered a new sentencing hearing. The decision was appealed to the state supreme court.

Ruling and Reasoning

The Washington Supreme Court held that youthfulness may be considered a mitigating factor if it is related to the commission of the crime (e.g., affects the defendant's culpability). The court reviewed prior state precedent, including *State v. Ha'mim*, 940 P.2d 633 (Wash. 1997), in which the court reversed a ruling sentencing an 18-year-old to a term below the standard sentence range due to consideration of her age as a mitigating factor. The court reviewed *O'Dell*, in which the court recognized prevailing medical and psychological research on brain development and broadened the court's understanding of youth culpability (e.g., the brain continues developing into early adulthood, which affects youths' capacity for decision-making and thus culpability).

The Washington Supreme Court explained that their prior holding in *Ha'mim* did not prohibit proffering youthfulness as a mitigating factor; they explained their ruling had specified that the defendant must establish that his youthfulness was directly related to the commission of the crime (for example, by affecting culpability). The court, therefore, maintained that the decision in *O'Dell*, although representing a broadening of the court's understanding of youth as it relates to culpability, did not change the court's interpretation of the standard required for establishing mitigating circumstances under state statute (e.g., per Wash. Rev. Code § 9.94A.535(1) (e) (2016), defendants must demonstrate a significant impairment in their capacity to appreciate the wrongfulness of their conduct or to conform their conduct to the requirements of the law for sentencing mitigation purposes), and was merely a restatement of an already established ruling. The court added that, even prior to *O'Dell* and *Ha'mim*, the Sentencing Reform Act of 1981 (Wash. Rev. Code § 9.94A (1981)) permitted defendants to raise youth-

fulness as a mitigating factor. The court stated that Mr. Light-Roth could have raised the question of his youthfulness (and indeed did) as it was permissible under *Ha'mim* as well as under existing state law. Therefore, the Washington Supreme Court held that the ruling in *O'Dell* did not constitute an exemption to the one-year timeline requirement of the PRP because it did not represent a significant change to the existing law. As such, Mr. Light-Roth's PRP was denied.

Discussion

This case highlights the impact of advancements made in developmental neuropsychology regarding our understanding of the prolonged trajectory of adolescent brain development and its impact on youths' criminal culpability, including the factors of youth impulsivity, burgeoning maturity, and capacities for planning or premeditation. Consistently, research findings have demonstrated that the human brain continues developing well into one's mid-20s. As such, during adolescent years, many brain regions are not fully formed, which has been shown to impair youths' capacities for judgment, reasoning, delayed gratification, impulse control, and ability to make autonomous decisions (e.g., youth are more easily influenced by peers). Many state and federal laws have changed in light of these scientific discoveries. For example, in 2005, the state of Washington amended its mandatory minimum sentencing practices for juveniles, providing for more leniency. At the federal level, the U.S. Supreme Court's decision in *Roper v. Simmons*, 543 U.S. 551 (2005) ruled that it is unconstitutional for juveniles to be given the death penalty. In *Miller v. Alabama*, 567 U.S. 460 (2012), the Court ruled that juveniles cannot be given mandatory life without parole sentences. These decisions illustrate the courts' appreciation that, as a function of an underdeveloped brain, youths do not always possess the full cognitive capacities (that affect culpability) that older adults do.

Our understanding of the developmental trajectory of the adolescent brain (and consequent protracted impulsive decision-making, impaired organization, impaired judgment, etc.), calls into question the function of retributive punishment for young offenders. Punishment appears less applicable for youths with less culpability because of developmental tendencies that predispose them to impulsive behavior or a diminished capacity to appreciate the wrongfulness of their actions. Youthfulness alone, however,

may not be a substantial and compelling factor in justifying a reduced sentence; the key consideration is the specific culpability in the individual case, which may be a direct function of the offender's youth (but not always). Consistent with this reasoning, the Washington Supreme Court ruled that youthful offenders must demonstrate that they lack culpability for a crime secondary to their youthfulness. In line with the state's standard (Wash. Rev. Code § 9.94A.535(1) (e)), youthful offenders must demonstrate how characteristics of their youthfulness directly affected their decision to commit a crime. In other words, defendants must demonstrate that their youthfulness caused significant impairment in their capacity to appreciate the wrongfulness of their conduct or to conform their conduct to the requirements of the law resulting in a crime, per Washington law. Although the court established in *O'Dell* that expert testimony was not necessary to establish youthfulness, the examination of culpability and its relationship to age and development (among other variables) often falls within the purview of the forensic mental health practitioner.

Disclosures of financial or other potential conflicts of interest: None.

Admissibility of Hearsay Statements in the Direct Examination of an Expert Witness

Wei Hu, MD, PhD
Fellow in Forensic Psychiatry

Paul Noroian, MD
Associate Professor of Psychiatry
Director, Forensic Psychiatry Fellowship

Law and Psychiatry Program
Department of Psychiatry
University of Massachusetts Medical School
Worcester, Massachusetts

Supreme Judicial Court of Massachusetts Upheld Trial Court Decision Not to Permit Defense Expert Witness to Testify on Direct Examination About Defendant's Hearsay Statements

DOI:10.29158/JAAPL.3878L3-19

In *Commonwealth v. Piantedosi*, 87 N.E.3d 549 (Mass. 2017), the Supreme Judicial Court of Massa-

chusetts reviewed the case of a defendant who challenged the trial court judge's decision to exclude expert witness testimony based on hearsay and the instructions made to the jury about the consequences of a verdict of not guilty by reason of insanity (NGRI). The defendant was found guilty of murder in the first degree in a jury trial. The court ruled that the trial court did not err in excluding the defendant's hearsay statements because they were not introduced in evidence. The court ruled that the jury instruction on NGRI was not in error where the trial court judge had already remedied any misstatement about this.

Facts of the Case

Christopher Piantedosi and Kristen Pulisciano were involved in an 18-year relationship and had a teenage daughter together. They were living together in Burlington, Massachusetts, until April 2012, when Mr. Piantedosi moved into his parents' house due to relationship problems with Ms. Pulisciano. On May 3, 2012, Mr. Piantedosi picked up his daughter around 5 pm and went to the house in Burlington. He, his ex-partner, and daughter conversed without incident. Mr. Piantedosi later got into an argument with Ms. Pulisciano; eventually he stabbed her to death. The stabbing was caught on video because their daughter had a video chat open on her tablet device at the time of the offense. Mr. Piantedosi admitted to the act of killing his former partner, but raised a criminal responsibility defense.

Prior to the index offense, Mr. Piantedosi underwent psychiatric hospitalization for several days after making self-inflicted injuries to his arms. He was diagnosed with depression and prescribed fluoxetine and trazodone. Mr. Piantedosi was discharged from the hospital on May 2, 2012, and his hospital prescriptions were filled upon discharge. He attended a professional school that evening. The defense expert opined that, on May 3, 2012, Mr. Piantedosi did not have the capacity to appreciate the wrongfulness of his conduct and was not able to conform his conduct to the requirements of the law. He testified that Mr. Piantedosi had bipolar disorder, which made him vulnerable to side effects from fluoxetine and trazodone, and that he was likely manic at the time of the offense. He further opined that Mr. Piantedosi experienced involuntary intoxication from fluoxetine and trazodone and from effects of the medica-