

asserted that while said proceedings seemed to be criminal in nature, they were being adjudicated in a civil context, and thus the offenders were not afforded standard criminal court rights.

More recent U.S. Supreme Court decisions dealing with sex offenders, e.g., *Crane*, have not raised similar objections, and instead have focused on the offender's rights within these arrangements. At least in the context of the continued civil commitment of sex offenders, the state supreme court in *Quillen*, as well as the clear majority of the appellate court decisions reviewed in *Quillen*, found adequate the more implicit jury instructions linked to the *O'Connor* "nexus," and found unnecessary more specific jury instructions as to lack of control.

## Equitable Tolling and Extension of a Writ of Habeas Corpus Filing Deadline

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### Entitlement to Equitable Tolling Due to Mental Illness Not Demonstrated

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**Key words:** equitable tolling; actual innocence; involuntary intoxication; statute of limitations; insanity defense

In *Wallace v. Superintendent Mahanoy SCI*, 2 F.4th 133 (3d Cir. 2021), the Third Circuit Court of Appeals considered Joseph Wallace's claim that his mental illness impaired his ability to file for federal *habeas* relief within the one-year filing deadline and reviewed the district court's ruling that he did not meet the standards for either equitable tolling or actual innocence. The Third Circuit ruled that he had not met the standards for relief.

#### Facts of the Case

On February 28, 2000, Mr. Wallace got into bed with his wife, waited ten to fifteen minutes, and then began stabbing her in the chest. She was stabbed

several times and died soon after from her wounds. Mr. Wallace then showered, placed the knife in the drawer, and left his home. He took a train to Philadelphia where he was apprehended at the train station. While in police custody, Mr. Wallace said that he acted on a belief that his wife's death would end her misery and "set her spirit free." Mr. Wallace was charged with multiple counts of murder. He was evaluated by two psychologists in June 2000 and was found competent to proceed. Regarding his sanity, both psychologists opined that Mr. Wallace met criteria for guilty but mentally ill (GBMI), but did not meet the stricter M'Naughten standard of insanity. The doctors asserted that Mr. Wallace appeared to know that what he did was wrong, given his attempts to conceal the crime. In December 2000, Mr. Wallace pled GBMI to third-degree murder and was given a prison sentence of 23.5 to 47 years. Mr. Wallace did not pursue a direct appeal.

In the fall of 2012, Mr. Wallace spoke with a prison doctor who encouraged him to pursue legal remedies. In September 2013, Mr. Wallace filed a *pro se* petition for postconviction relief under Pennsylvania's Post Conviction Relief Act (PCRA), 42 Pa. Cons. Stat. § 9541, et. seq. (1988), stating that methylphenidate caused his psychotic episode. The PCRA court rejected the argument that the petition's untimeliness should be excused based on "newly discovered facts," as it did not include new information, but rather a different explanation for his mental health at the time of the offense. Mr. Wallace appealed this decision, but it was affirmed by the superior court in November 2014. He then appealed to the Pennsylvania Supreme Court, which denied his appeal in July 2015.

In September 2015, Mr. Wallace filed a *pro se* petition for a writ of *habeas corpus* based on involuntary intoxication and ineffective assistance of counsel. The magistrate judge issued a detailed report, which stated that, because Mr. Wallace did not initially appeal, his deadline to file a *habeas* petition was January 7, 2002. The judge opined that equitable tolling did not allow an extension of the deadline as Mr. Wallace did not identify extraordinary circumstances that prevented him from timely filing. Mr. Wallace then filed a timely *pro se* notice of appeal and applied for a certificate of appealability (COA), which was granted by the Third Circuit Court. A panel of the court of appeals granted the COA to review Mr. Wallace's claims that he was entitled to

equitable tolling, as well as an actual innocence claim, based on involuntary intoxication.

**Ruling and Reasoning**

The Third Circuit Court of Appeals noted that equitable tolling may be applied when a petitioner has been unable to file in a timely manner because of extraordinary circumstances, and has demonstrated reasonable diligence in bringing the claims. In *Nara v. Frank*, 264 F.3d 310 (3d Cir. 2001), the Third Circuit Court had held that mental illness did not constitute a *per se* entitlement to equitable tolling, but that mental illness might be used to establish extraordinary circumstances. The court approached the question of Mr. Wallace’s mental health during the period between January 2002, the last month he was eligible to file a *habeas* appeal, and September of 2015, when he filed his *habeas* appeal, by reviewing the medical records submitted by Mr. Wallace. These records indicated that Mr. Wallace had lived with mental illness for most of his adult life. Mr. Wallace had a history of depression and paranoia, which at times had required suicide watch, as well as placement on a special observation unit. But there were also periods of relative stability, and even remission. In 2007, the records described him as “stable” and in “full remission,” and indicated that the remission continued until 2011, when Mr. Wallace began to decompensate. From 2011 to 2013, he was variously described as suicidal, paranoid, hyper-religious, delusional, and illogical. In late 2012 he required involuntary commitment. From 2013 to 2015, Mr. Wallace’s condition improved, but not to the degree of stability that he had previously exhibited. It was during this time that Mr. Wallace filed his brief to the PCRA Court. Based on the periods of stability and “full remission,” the court agreed with the magistrate judge’s finding that Mr. Wallace’s mental illness did not prevent him from filing a *habeas* petition.

Mr. Wallace also argued that the period from 2013 to 2015 should be excused from eligibility as to filing a *habeas* petition because he was busy pursuing PCRA relief. The court also rejected this assertion, noting that he had been informed of the rejection in September 2014 and yet waited an additional year to file his federal *habeas* petition. The court said that per the U.S. Supreme Court’s ruling in *Pace v. DiGuilmo*, 544 U.S. 408 (2005), the “petitioner bears the burden of establishing both extraordinary

circumstances and reasonable diligence” (p 418). Thus, this delay indicated that he was not exercising reasonable diligence.

The court allowed that, in rare cases, an actual innocence claim, could allow for an exception to procedural requirements like filing deadlines. But, per the U.S. Supreme Court’s decision in *McQuiggin v. Perkins*, 569 U.S. 383 (2013), to establish actual innocence, the petitioner must present new evidence, and show by a preponderance of the evidence, that with this new evidence, no reasonable juror would have convicted the defendant. The Third Circuit Court noted that the evidence Mr. Wallace had presented was not new because, during preparation for trial, the doctors who examined Mr. Wallace had been provided with medical records showing that Mr. Wallace had been prescribed methylphenidate. The court also noted that Pennsylvania does not recognize involuntary intoxication as a defense to murder. At most, involuntary intoxication would only have allowed Mr. Wallace another way to argue his insanity.

The court acknowledged that when presented with all of the evidence, a reasonable juror might have believed that Mr. Wallace was too mentally ill to form the requisite *mens rea*. But the court pointed out that there was also evidence on record indicating that Mr. Wallace understood the legal wrongfulness of his actions. The court found that this strong competing evidence significantly weakened his innocence claim. Therefore, the court ruled that Mr. Wallace had not met the standards for either equitable tolling or actual innocence, and affirmed the district court’s decision.

**Discussion**

The focus of *Wallace* is involuntary intoxication. If accepted, it could have overcome the *habeas* filing expiration, as well as grounded an actual innocence claim. The Third Circuit dismissed it on several grounds. In rare cases, psychostimulants, such as methylphenidate, can cause psychotic symptoms. But at prescription dosages, these symptoms are quite rare, even in patients with a psychotic diathesis (Hollis C, *et al.*: Methylphenidate and the risk of psychosis in adolescents and young adults: a population-based cohort study. *Lancet Psychiatry* 6(8):651–658, 2019).

Involuntary intoxication remains a legal defense, not infrequently deployed, but very unlikely to prevail (Piel J. The defense of involuntary intoxication

by prescribed medications: An appellate case review. *J Am Acad Psychiatry Law*. 2015; 43 (3):321-8). Along with the related phrase “pathological intoxication” (historically more tied to unexpected reactions to alcohol), involuntary intoxication was once a catch-all category for a number of reactions to alcohol, as well as other neurotoxic or psychoactive substances. But the field of psychiatry now largely avoids inclusion of the phrase. The DSM-5 only creates a slight gap for it via “Other Adverse Effects of Medication” (American Psychiatric Association. *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)*. Washington, DC: American Psychiatric Publishing; 2013. p 714). Given its protean manifestations, involuntary intoxication has proved to be unwieldy in legal settings. One state supreme court described it as “a complete defense, albeit a disfavored one” (*State v. Mriglot*, 564 P.2d 784 (Wash. 1977), p 786). Another commentator, referring specifically to pathological intoxication, wrote that the multiplicity of possible symptoms and “reaction types” results in an entity bearing “more relation to legendary composite figures such as the minotaur and the centaur than to clinical reality” (May PR, Ebaugh FG. Pathological intoxication, alcoholic hallucinosis, and other reaction to alcohol; a clinical study. *Q J Stud Alcohol*. 1953; 14(2):200-27, p 200; see also: Feulner T. Note: The minotaur defense: The myth of the pathological intoxication defense. *Am Crim L Rev*. 2012; 49:1969–99).

## Connecting Mental Illness to Criminal Conduct in the Insanity Defense

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## Court May Reject Uncontested Expert Testimony on Insanity If the Defendant Has Not Established a Connection Between Mental Illness and Criminal Conduct

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**Key words:** expert testimony; insanity; psychosis; irresistible impulse; malingering

In *State v. Weathers*, 260 A.3d 440 (Conn. 2021), the Supreme Court of Connecticut affirmed the Appellate Court’s finding that the trial court had not erred in its rejection of a defendant’s insanity plea. The state supreme court held that the trial court’s rejection of the opinions of two defense experts was not arbitrary, even in the absence of state experts arguing against insanity, as there was evidence other than the experts’ opinions suggesting that the defendant was feigning or exaggerating psychiatric symptoms. Furthermore, the state supreme court affirmed the lower courts’ findings that the defendant did not adequately prove a connection between his reported mental illness and his criminal conduct as related to the insanity defense.

### Facts of the Case

On March 26, 2015, Gregory Weathers approached two construction workers at a job site and asked whether their company was hiring. They directed him to apply elsewhere. Another worker later recalled that Mr. Weathers behaved normally and appeared rational. Mr. Weathers initially walked away before re-approaching the two workers, reportedly looking to ensure the street was empty before continuing. Wordlessly, Mr. Weathers shot one of the workers, who later died from his injuries. Co-workers of the victim pursued Mr. Weathers as he zigzagged down the street and attempted to enter a locked vehicle. He was ultimately apprehended by police, after which he tried to run once more before surrendering.

Upon arrest, Mr. Weathers made statements such as “I messed up” and that he was involved in a “labor dispute.” During an interrogation with detectives, Mr. Weathers was noted to be able to understand and appropriately answer basic questions about his life. He was also described, however, as disorganized, unable to concentrate, and incoherently rambling. He stated he was “going crazy” and that he “needed help.” He also informed investigators that he was not working, needed to feed his family, and that he shot