ignited public conversations about qualified immunity. It is crucial to consider the role of structural racism in the criminal legal system and its relevance to defendants like Mr. Harris, a Black man with serious mental illness. Studies have shown that Black men and other nondominant groups are more disadvantaged at every step of the criminal justice system (Trestman RL. Is justice really blind? Nondominant groups in the American justice system. J Am Acad Psychiatry Law. 2018 Dec; 46(4):416–8). The disproportionate contact of law enforcement with individuals with serious mental illness and people of color has been well characterized (Bailey RK, Barker CH, Grover A. Confluence of law enforcement, mental health, and race. Behav Sci & L. 2022; 40 (4):532–9). An intersectional theoretical framework, as developed by Kimberlé Crenshaw, provides a lens to see how various forms of inequality overlap and exacerbate each other on multiple levels such as gender, race, sexuality, and socioeconomic status. This framework helps contextualize Mr. Harris’s identity within the criminal legal system and the cumulative disadvantage he faced. These considerations are integral to forensic psychiatry ethics (Friedman SH. Searching for the whole truth: Considering culture and gender in forensic psychiatric practice. J Am Acad Psychiatry Law. 2023 Jan; 51(1):23–34).

Harris sets a precedent for public officials to be actively engaged in the due process protections afforded to all, including those in the criminal legal system, a system that historically has perpetuated harm against structurally marginalized populations. An understanding of these disparities facilitates a critical evaluation of procedural safeguards to attempt to mitigate undue harm. Qualified immunity is not a shield of protection when actions of individuals who are sworn to protect the public clearly violate the rights of citizens.

Context and Preexisting Conditions Matter in Worker’s Compensation Mental Injury Claims

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Key words: extraordinary and unusual stress; mental injury; preexisting conditions; worker’s compensation

In Patterson v. Matanuska-Susitna Borough Sch. Dist., 523 P.3d 945 (Alaska 2022), the Supreme Court of Alaska considered whether the Alaska Workers’ Compensation Appeals Commission erred in affirming the Alaska Worker’s Compensation Board’s (“Board”) denial of “physical-mental” and “mental-mental” claims. The court affirmed the lower court’s findings because the Board found that the incident was not the cause of the plaintiff’s mental health difficulties and because both the court and the Commission must respect the credibility determinations made by the Board, which in this case involved substantial expert testimony that the work incident was not the predominant cause of the plaintiff’s mental health condition.

Facts of the Case

In September 2014, Shannon Patterson worked for the Matanuska-Susitna Borough School District as a school nurse. She responded to reports of a child choking, attempting to clear the child’s airway and performing CPR, but the child died. Having been exposed to bodily fluids, Ms. Patterson was assessed but tested negative to disease. The District paid her temporary total disability benefits for three months, and she was excused from work because of “on-site trauma” and “situational distress.” After she sought counseling, her clinician ultimately diagnosed her with posttraumatic stress disorder (PTSD). Three months later, at the request of the District, Ms. Patterson was evaluated by a psychiatrist, Dr. David Glass, who noted personality traits and concluded that ongoing mental health problems were not work related. Based on his conclusions, the District controverted benefits.

In February 2015, Ms. Patterson filed a worker’s compensation claim seeking disability benefits, medical costs, and a second independent medical evaluation (SIME). She claimed exposure to blood-borne pathogens and emotional stress as the injury, with various body parts and her mind as the injured body parts. The District denied it was liable for further payments, and Ms. Patterson filed an amended

Mental Injury Worker’s Compensation Claims

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claim, identifying her “psyche” as the injured body part and PTSD, anxiety, and depression as the injury. Dr. Paul Wert, a psychologist hired by the plaintiff, evaluated Ms. Patterson and diagnosed PTSD, depression, anxiety, and personality features. Ms. Patterson also deposed Dr. Jay Johnson, a medical care provider, who agreed with Dr. Wert that she had PTSD and anxiety secondary to the incident, while also noting a history of lifelong anxiety. Ms. Patterson’s new counselor also diagnosed her PTSD. The District obtained another evaluation with Dr. Keyhill Sheorn, who disagreed with a diagnosis of PTSD, presented concerns about feigning, and diagnosed character pathology.

During the hearing, Ms. Patterson presented testimony from her current counsel and Dr. Wert. She also presented testimony from Ms. Susan Magestro, a criminologist, whose expert qualifications were disputed because, despite having written about personality disorders, she was unqualified to offer diagnoses. The Board declined to permit Ms. Magestro to offer her opinion regarding Ms. Patterson’s diagnoses. The District’s only witness was Dr. Sheorn, who opined that Ms. Patterson met few of the criteria for PTSD, although she “would not argue” that the choking incident was severe enough to trigger PTSD.

The Board found that regardless of whether Ms. Patterson’s mental injury claim was based on mental stress or physical exposure to bodily fluids, she “failed to prove that the incident had sufficient causal connection with the mental health problems for which she sought compensation” (Patterson, p 952). The Board gave the most weight to Dr. Sheorn’s opinion, gave little weight to Dr. Wert’s PTSD diagnosis, and did not explicitly assign weight to lay witness Dr. Johnson’s testimony or her previous counselor’s diagnosis. Following an appeal, the Commission affirmed the Board’s decisions.

Ruling and Reasoning

The Supreme Court of Alaska affirmed the judgment of the Alaska Workers’ Compensation Appeals Commission, stating that the Commission and the court must respect the Board’s credibility determinations and weighting of conflicting evidence. The court noted two errors in the Board’s analysis, including the failure to recognize the connection between exposure to bodily fluids and mental distress and the failure to consider specific details when determining whether stress is sufficiently extraordinary.

The court affirmed the Commission’s denial of Ms. Patterson’s “physical-mental” claim. A “physical-mental” claim is analyzed through three steps. First, an employee argues a causal link between work and disability or need for treatment. Then the employer may rebut by presenting evidence that the need for treatment was not work related, and finally the Board must determine whether work was the most important of material cause with respect to the benefit sought.” (Patterson, p 953, citing Morrison v. Alaska Interstate Constr. Inc., 440 P.3d 224 (Alaska 2019), p 238). In this case, the Board decided that exposure to bodily fluids did not attach the presumption of compensability; however, the Board failed to apply precedent correctly. According to Runstrom v. Alaska Native Medical Center, 280 P.3d 567 (Alaska 2012), the risk of getting sick may result in fear and mental stress, regardless of whether the individual tests negative for disease or requires medication pending test results. The amount of risk of potentially catching a disease is immaterial when considering compensability. The court determined the error was harmless, because there was substantial evidence that Ms. Patterson’s physical injury was not the substantial cause of her mental condition. In addition to assigning the most weight to Dr. Sheorn’s testimony, the Board found Dr. Wert’s opinion did not support the physical-mental claim because he attributed the PTSD diagnosis to the child’s death rather than to exposure to bodily fluids.

Regarding the “mental-mental” claim, the Commission did not err by affirming denial of Ms. Patterson’s claim, although the agencies did err in analyzing her claim of mental stress by failing to consider details regarding the severity of the incident. According to state statute, “mental-mental” claims need to establish “the work stress was extraordinary and unusual in comparison to pressures and tensions experienced by individuals in a comparable work environment” and that stress was the predominant cause of the mental injury (Alaska Stat. § 23.30.122 (2015)). In Kelly v. State, 218 P.3d 293 (Alaska 2009), the court reversed the rejection of a claim, ruling that the Board must consider key details to determine whether the stress is extraordinary and unusual. Mental stress can result from many different situations, and multiple experts highlighted the severity of the incident. But, the Commission did not err in supporting the Board’s finding because there was substantial evidence that the
mental stress of the choking incident was not the predominant cause of mental injury.

The court also concluded that the Commission did not err by affirming the Board’s denial of a SME. Additionally, the court ruled that the Board’s exclusion of parts of Ms. Magestro’s testimony was not prejudicial, particularly because Ms. Magestro conceded she was unqualified to offer diagnoses. Ms. Patterson was permitted to present other opinions by qualified experts, yet the Board assigned more weight to the opposing expert.

Discussion

This case addressed both “physical-mental” and “mental-mental” claims and describes criteria mental health professionals involved in worker’s compensation cases may use to evaluate an individual’s injury. The court’s holding highlights the importance of considering context when clinicians assess the extent of a claimant’s injury. In this case, although a school nurse may be expected to encounter choking emergencies with children, the progression of the choking and the outcome (i.e., death) may have had a differential impact, rendering the event traumatic. One expert witness provided testimony that the child’s death would be extraordinary and unusual stress for a school nurse. Offering a similar analysis regarding the specific circumstances would be consistent with the court’s recommended practice of taking key details into account.

In addition to considering facts of the case, the claimant’s preexisting conditions may make evaluation of proximate cause difficult, particularly when personality pathology is present. Ms. Patterson may have had characterological personality traits in addition to a traumatic response to the choking incident. Although the Board ruled in favor of the defendant owing to Dr. Sheorn’s testimony, other clinicians noted both PTSD and personality traits. This scenario is similar to the “eggshell plaintiff rule,” indicating a defendant is still liable for uncommon reactions resulting from preexisting conditions. This case emphasizes the potential difficulty in attributing symptomology to a causal event, and thus the need for evaluators to communicate their rationale to the court clearly.

Finally, the court affirmed the Board’s assigned weight to the testimony of the various experts involved in this case. In reviewing the original case before the Commission, Dr. Sheorn was described as “conscientious, reliable, and credible” in her report, while noting that Dr. Glass did not appear to review records or a previous evaluation (Patterson v. Matanuska-Susitna Borough School District, AWCAC Appeal Nos. 18-023 and 19-020 (2020)). Supported credible analyses, as well as one’s qualifications, are factors considered for determinations of credibility and weight given to expert testimony.

Forensic Practitioner Testimony and Jury Instructions Involving Insanity Defense

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Jury Instructions Were Sufficient for Defining Mental Disease or Defect, the Difference between Criminal Responsibility and Diminished Capacity, and the Role of Substance Use

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Key words: expert testimony; jury instructions; Massachusetts; mental disease; voluntary intoxication

In Commonwealth v. Toolan, 194 N.E.3d 674 (Mass. 2022), the Supreme Judicial Court (SJC) of Massachusetts affirmed Thomas E. Toolan III’s convictions of murder in the first degree and assault and battery by means of a dangerous weapon, finding no error in jury instructions regarding the definition of “mental disease or defect” or the difference between “criminal responsibility” and “diminished capacity.” The SJC further held that there was no error in the trial judge’s decision to not instruct the jury to consider the defendant’s inability to resist the urge to use drugs and alcohol.

Facts of the Case

Mr. Toolan and the victim, Elizabeth Lochtefeld, met in New York in September 2004 and began dating shortly thereafter. On October 23, 2004, Ms. Lochtefeld ended the relationship because of Mr. Toolan’s excessive drinking. That same day, Mr.