

The court further ruled that the trial judge did not err in giving jury instruction regarding the consequences of a verdict of lack of criminal responsibility, which included a reference to time frames for commitment. The defense argued that the court should have omitted any reference to commitment time in jury instructions prior to sentencing, to avoid suggesting the possibility of release after a brief stay in a mental hospital. They argued this instruction unfairly prejudiced the jury against Mr. Beatty.

The court reviewed the state's Model Jury Instructions on Homicide (2018) and whether they incorporated current case law. First described in *Commonwealth v. Mutina*, 323 N.E.2d 294 (Mass. 1975), the jury instructions mentioned two time periods after a defendant was found NGRI: an initial 40-day observation period and an initial six-month commitment period. Subsequently, *Commonwealth v. Chappell*, 40 N.E.3d 1031 (Mass. 2015) considered the problem of juries avoiding NGRI verdicts due to underestimating the true length of confinement and thus considering societal protection insufficient based on this description, when in fact the commitment period could be extended indeterminately if need be. After *Chappell*, the courts proposed a provisional instruction to omit reference to this observation period and to specifically clarify that the initial six-month commitment could be renewed indefinitely as long as the defendant continued to be mentally ill and dangerous. The court found that the trial judge in *Beatty* provided instructions "using language virtually identical to the *Mutina* instruction," and included the recommended changes outlined in *Chappell* (*Beatty*, p 535).

Mr. Beatty argued that the six-month initial commitment time frame should also be omitted from jury instructions for the same reason the court previously recommended omission of the forty-day observation period. But, in *Beatty*, the court saw no reason to change the recommendation, particularly since an additional instruction was given that the six-month initial confinement could become indefinite. Thus, the trial judge acted without error, as the instructions were reflective of the *Chappell* and *Mutina* recommendations.

Discussion

The case of *Commonwealth v. Beatty* reviewed the potentially prejudicial nature of jury instructions specifying time frames for commitment after a jury finding of NGRI. The court found that the state's

most current Model Jury Instructions on Homicide struck a fair balance between the need to inform the jury of the potential consequence of their verdict with the interest in preventing unfair biases against the defendant, namely that he would be confined for minimal time. It is useful to note that other defendants have argued in favor of having a jury instruction on the consequences of an insanity verdict (Piel J. In the aftermath of *State v. Becker*: a review of state and federal jury instructions on insanity acquittal disposition. *J Am Acad Psychiatry Law* 2012; 40: 537-46).

Beatty reviewed the original *Mutina* standard in Massachusetts, which included a 40-day observation and initial six-month commitment advisement, and the proposed changes to the standard as outlined in *Chappell*, which removed instruction of the 40-day observation and clearly specified the six-month commitment could be renewed indefinitely. By agreeing with the trial judge's instructions, which used the language of *Chappell*, the court recognized that it is possible to strike a balance to provide useful jury instruction. The court acknowledged that a commitment timeframe is not *de facto* prejudicial, especially when clarification is provided to the potentially indefinite nature of commitment, as long as the defendant remains mentally ill and dangerous.

The case is instructive for forensic psychiatrists who may be asked to assess criminal responsibility or assist courts in disposition. An often-discussed concern about jury psychology is the jury's concern that a person who committed a serious homicide may be released after a short period of time. *Beatty* illustrates one jurisdiction's satisfaction that steps can be taken to minimize prejudice from instructions regarding commitment times following an NGRI verdict while remaining necessarily informative.

Statutory Caps on Punitive Damages

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A Statutory Cap of \$250,000 for a Punitive Damage Award is Constitutional and Does Not Violate a Right to a Jury Trial

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In *Taylor v. The Devereux Foundation, Inc.*, 885 S. E.2d 671 (Ga. 2023), the Georgia Supreme Court contemplated whether a Georgia statute, Ga. Code Ann. § 51-12-5.1(g) (2010), capping a punitive damage award was constitutional in a case alleging negligence and other liabilities against a behavioral health facility. The court held a cap of \$250,000 was constitutional and that there was no constitutional right to a trial by jury. Because the case involved punitive damages, there was a necessity to demonstrate intentional misconduct on the part of the defendant to require a jury trial, which was not proved in this case.

Facts of the Case

In April 2012, fifteen-year-old Tia McGee began receiving treatment for mental health conditions at The Devereux Foundation (Devereux) behavioral health facility in Georgia. Ms. McGee's initial evaluation noted a history of self-harm, threatening suicide, and sexual reactivity likely related to a history of sexual abuse. In May 2012, incidents of sexual activity were reported involving Devereux staff and other patients. Almost a month after her admission, Ms. McGee was sexually assaulted by Jimmy Singleterry, a direct-care employee assigned to supervise Ms. McGee's cottage where she was living. Ms. McGee reported the incident two days later. Ms. McGee continued to receive treatment at Devereux after the assault and continued to stay in the same cottage where the assault occurred. Ms. McGee was discharged in June 2012.

Testimony revealed the facility failed to give training on "sexually reactive" patients, allowed employees to leave early, lacked adequate staffing and training, and failed to train employees after Ms. McGee's assault. Further investigation found similar incidents at other Devereux facilities, including employee grooming of patients. Mr. Singleterry pled guilty to child molestation, statutory rape, and sexual assault "against a person in custody" (*Taylor*, p 678).

Before trial in 2019, Devereux admitted to acting negligently, leaving the jury to determine the issue of damages only. The jury found Ms. McGee suffered \$10 million in compensatory damages, with fault being equally divided between Devereux and Singleterry. The jury also awarded \$50 million in punitive damages, and found Devereux acted in bad faith, awarding litigation expenses and court fees. After a posttrial ruling on the damages, the court reduced the \$10 million jury award to \$5 million based on the 50 percent liability and applied the \$250,000 statutory cap to punitive damages.

Ms. McGee died after trial in 2020. After her death, her interests were represented by the executor of her estate, Jo-Ann Taylor. Ms. Taylor challenged the damage cap based on: violation of a right to a trial by jury, as the \$250,000 is enacted by law; violation of "separation of powers" in giving the legislature power to lower damages, which is reserved for the judiciary; and violation of equal protection under the laws.

Ruling and Reasoning

The Georgia Tort Reform Act of 1987 caps punitive damages at \$250,000 except when it is established the defendant acted with the specific intent to cause harm or other carve-out exceptions. At trial, Ms. Taylor argued Devereux "didn't care" and acted with an "entire want of care" but did not argue one of the carve-out exceptions for punitive damages. Unlike compensatory damages that are awarded as a compensation for harm, punitive damages are awarded for the purpose of punishing, penalizing, or deterring a defendant per Georgia statute Ga. Code Ann. § 51-12-5.1(c). In challenging the constitutionality of a statute, Ms. Taylor had the burden to show there was a "clear and palpable" conflict between the Georgia statute and the Georgia Constitution.

Ms. Taylor's primary argument was that the portion of Ga. Code Ann. § 51-12-5.1 9 (g) that establishes a \$250,000 cap violates the Georgia Constitution's right to trial by a jury. The court analyzed Ms. Taylor's claims by applying an analytical framework that was laid out in a previous medical malpractice case, *Atlanta Oculoplastic Surgery, P.C. v. Nestlebutt*, 691 S.E.2d 218 (Ga. 2010), where the Georgia Supreme Court found a mitigation of punitive damages did violate the right to a trial by jury. In *Nestlebutt*, the Georgia Supreme Court held that a right to jury trial would only apply to claims of liability that existed by

English common law or by Georgia statute at the time of the adoption of the Georgia Constitution in 1798. In applying this framework to *Taylor*, the court tested whether the underlying claims in *Taylor* existed under Georgia law before the adoption of their state's constitution in 1798, and specifically whether such a jury trial in Georgia before 1799 could include punitive damages to punish Devereux for acting with an entire want of care. The court in *Taylor* found that a case based on premises liability existed in 1798, but that the damages to punish based on entire want of care did not exist, thereby reasoning that Ms. Taylor failed to prove that the punitive damages sought are within the scope of Georgia's constitutional right to a jury trial.

The court in *Taylor* also found no violation of a separation of powers, as the nature of the statute under "OCGA § 51-12-5.1 (g) is different from the nature of the judicial remittitur power and does not infringe on the judicial power" (*Taylor*, p 701). The court also denied an absence of equal protection of

the law, as Ms. Taylor is not a member of a suspect class, and generally failed to show how the statute violated the Georgia constitution.

Discussion

This case is an important analysis of the damage award process, particularly differentiating economic damages (court fees, attorney fees), noneconomic damages (compensation for harm), and punitive damages (to punish and prevent future conduct).

The court in *Taylor* compares the facts of this case to the medical malpractice case, *Nestlehutt*. Ms. Taylor's argument of finding of entire want of care versus intentional misconduct highlighted the importance of analyzing the nature of intent and its impact in judicial interpretation. Forensic psychiatrists may be called to evaluate cases of negligence and other liabilities against mental health facilities where the intent of the defendant may be important, not only for liability, but also for damages.