

case has now been returned to the district court for further review.

Discussion

The Constitution does permit states to utilize civil commitment for individuals deemed sexually dangerous; however, the laws, regulations, and programs involved in this commitment process must meet the requirements of the due process clause under the Fourteenth Amendment, including providing adequate treatment to permit the realistic possibility of symptomatic improvement facilitating release. Remedies ordered to address any violations of these constitutional requirements should be guided by the PLRA, which stipulates that ordered corrective actions should extend no farther than required to meet constitutional requirements.

It should be noted that there is no clear evidentiary basis for a particular number of hours of treatment a week that should represent the constitutional floor; psychiatric treatment for sexually dangerous persons has limited efficacy, and it is unclear what set of requirements would be most likely to result in symptomatic improvement sufficient for reasonably safe release. Indeed, the classification of “sexually dangerous person” does not correlate to any particular psychiatric diagnosis, and it is unlikely that any universally standardized course of treatment could adequately address the treatment needs of all individuals committed under the SDP Act. But legislation is clearly needed to protect the public while also protecting the individual liberty interests of individuals committed.

Civil commitment, which may allow individuals to be held indefinitely, differs from typical criminal conviction, which generally involves a sentence with a definitive release date. Civilly committed individuals should only be held for the purpose of decreasing public risk by treating their illness and should be regularly evaluated to see whether they have improved to the point of qualifying for release. Programs to which individuals may be civilly committed have a constitutional responsibility to provide adequate care that carries a true likelihood of addressing the symptoms of the individual’s relevant illness. Further study should be conducted to establish the efficacy of various treatment modalities in this population, and evaluators involved in the civil commitment process should take care when advising the courts on the course of action most

likely to facilitate each individual’s progress toward recovery sufficient for release.

Mental Impairment and Petitions for Post-Conviction Relief

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Mental Impairment May Be Considered When Assessing Applicability of the Escape Clause to the Two-Year Limitations Period for a Post-Conviction Relief Petition

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In *Ingle v. Matteucci*, 537 P.3d 895 (Or. 2023), the Oregon Supreme Court held that post-conviction courts may consider a petitioner’s mental impairments when determining whether the escape clause to the two-year statute of limitations applies in a petition for post-conviction relief.

Facts of the Case

The petitioner, Matthew Ingle, was charged with two counts of second-degree manslaughter and one count of driving under the influence of intoxicants. Mr. Ingle waived the right to a jury trial based on his defense attorney’s recommendation. During a stipulated facts trial, Mr. Ingle raised an insanity defense and was found “guilty except for insanity,” which he did not appeal. Petitioners who do not appeal their conviction have two years from the date the judgment was entered to petition for post-conviction relief according to Or. Rev. Stat. § 138.510(3) (2024). The Oregon post-conviction relief statute contains an escape clause that provides an exception to the two-year limitation in cases where the grounds for post-conviction relief “could not reasonably have been raised” (*Ingle*, p 902) within that period.

Mr. Ingle petitioned for post-conviction relief several years after the statute of limitations expired,

on the grounds that his convictions resulted from substantial denial of his constitutional right to counsel. Mr. Ingle alleged that his attorney did not ensure that he “understood the consequences of being found guilty except for insanity—including that he would likely spend 20 years at the state hospital—before encouraging him to waive his right to a jury trial and raise an insanity defense” (*Ingle*, p 899). Additionally, Mr. Ingle alleged that, because of his mental impairments, he did not make a “knowing, voluntary, and intelligent waiver” (*Ingle*, p 899) of his right to a jury trial. Regarding the untimeliness of his petition for post-conviction relief, Mr. Ingle alleged he could not have filed his petition within the statute of limitations period because he was “intellectually disabled as a result of his diagnosed schizophrenia and his forced consumption of extremely powerful psychotropic medications” (*Ingle*, p 899). He asserted that these factors “substantially impaired his ability to concentrate, to reason, to understand the legal remedies available to challenge his convictions, and to understand the legal proceedings that resulted in his imposed sentence” (*Ingle*, p 418).

The state moved to dismiss Mr. Ingle’s petition based on the two-year statute of limitations, citing *Fisher v. Belleque*, 240 P.3d 745 (Or. Ct. App. 2010), which held that mental impairment was irrelevant to whether the escape clause applied. The post-conviction court granted the state’s motion to dismiss the petition. Mr. Ingle appealed. The appellate court rejected Mr. Ingle’s assertion that the decision in *Gutale v. State*, 435 P.3d 728 (Or. 2019) implicitly overruled the decision in *Fisher*. In *Gutale*, the Oregon Supreme Court ruled that the petitioner’s circumstances should be considered when determining whether grounds for post-conviction relief were reasonably available to the petitioner at the time of conviction, including whether the petitioner knew there was a need to look for grounds for post-conviction relief. The appellate court stated that, in its view, the decision in *Gutale* only considered the petitioner’s “situation” rather than the petitioner’s “personal characteristics,” precluding the consideration of presence of mental impairment. The court upheld the decision of the post-conviction court. Mr. Ingle then petitioned the Oregon Supreme Court for review, which was granted.

Ruling and Reasoning

The Oregon Supreme Court reversed the decisions of the appellate court and post-conviction court

and remanded the case to the post-conviction court for further proceedings. The court ruled that a defendant’s mental impairments can be considered when assessing applicability of the escape clause to the two-year limitation for a post-conviction relief petition and Mr. Ingle’s allegation of mental impairments, if true, constituted evidence that he could not have reasonably raised his post-conviction claims within the two-year limitations period and, as such, would fall within the meaning of the escape clause.

In its analysis, the court evaluated the statutory language of the escape clause. Specifically, the court assessed the meaning of the phrase “could not reasonably have been raised” in Or. Rev. Stat. § 138.510 (3). Citing *Verduzco v. State*, 355 P.3d 902 (Or. 2015), the court noted that the word “could” should be interpreted as “capability” rather than “obligation.” Regarding the word “reasonably,” the court elaborated, “[W]hether the escape clause applies depends on the petitioner’s circumstances and what was reasonable under those circumstances” (*Ingle*, p 903). The court stated that whether a ground for post-conviction relief was “reasonably available” to a petitioner within the limitations period depends on whether the petitioner was “on notice” that there was a “need to investigate the existence of the ground for relief” (*Ingle*, p 905). This is a higher standard than being able to locate applicable laws.

The court noted that, in *Perez-Rodriguez v. State*, 435 P.3d 746 (Or. 2019), the petitioner claimed mental illness “prevented him from knowing that he had a ground for relief” (*Ingle*, p 905), but the court in *Perez-Rodriguez* did not address whether mental impairment could justify applying the escape clause because the petitioner did not establish that mental illness, such as psychosis, caused him to “not have the capacity to file his petition” (*Ingle*, p 906) during the limitations period. The court also noted that the word “raised” in the statutory language means “whether the petitioner was able to take the steps necessary to bring the ground for relief before a court” (*Ingle*, p 903). In summary, the court stated, “[W]hether the escape clause applies depends on whether it would be reasonable to expect a petitioner to have raised the ground for relief at issue given the circumstances that existed during the limitations period; if it would be unreasonable to expect the petitioner to have done so, then the escape clause applies” (*Ingle*, p 903).

The court evaluated the legislative history of the statute of limitations and escape clause and noted that the court's interpretation was in line with the legislature's purpose for the escape clause. The court noted that the escape clause should be applied in "extraordinary circumstances" and should be construed "narrowly." Additionally, the court stated, "[T]he bar for establishing that the escape clause applies is high" (*Ingle*, p 913) and the petitioner bears the burden of proof.

The court concluded that a defendant's mental impairments can be considered when assessing applicability of the escape clause to the two-year limitations period for a post-conviction relief petition. The court stated, "[I]f a petitioner is incapable of taking the steps necessary to investigate whether a ground for relief exists, the ground is not reasonably available to the petitioner" (*Ingle*, p 911). The court noted that presence of "mental impairment" during the two-year limitation period, when severe in degree and duration, could render someone incapable of making a timely petition for post-conviction relief. Additionally, the court stated the escape clause applies in cases where "the person cannot reasonably take those necessary steps, even with available assistance" (*Ingle*, p 912).

The court also ruled that Mr. Ingle's allegation of mental impairments, if true, constituted evidence that he could not have reasonably raised his post-conviction claims within the two-year limitations period. Mr. Ingle alleged he was "intellectually disabled as a result of his diagnosed schizophrenia and his forced consumption of extremely powerful psychotropic medications" (*Ingle*, p 914). Mr. Ingle also alleged this disability substantially impaired his ability to understand his criminal case and if there were steps he could take to challenge his convictions. The court held that, if true, Mr. Ingle's allegations would be sufficient to establish that he "lacked the ability to take the necessary steps to initiate a postconviction case" (*Ingle*, p 914) within the scope of the escape clause.

Discussion

The decision in *Ingle* extends applicability of the escape clause in Oregon's post-conviction relief statute to individuals with severe mental impairments. It is plausible that forensic evaluators might be asked to opine on whether a petitioner had a severe mental impairment during the two-year limitation period and whether such impairment affected a petitioner's ability

to file a timely petition for post-conviction relief. In such cases, the forensic evaluator should evaluate for presence of psychiatric symptoms that are severe in both degree and duration. In the case of *Ingle*, the court noted that, if true, the petitioner's allegations of substantial impairment because of symptoms of schizophrenia and side effects of forced psychotropic medications would constitute severe mental impairment. When applicable, the forensic evaluator should also assess whether severe mental impairment affected the petitioner's capability to identify and reasonably raise the ground for relief and take the steps necessary to bring the ground for relief before a court within the limitations period.

Legal Test for Workers' Compensation

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Courts Must Consider Totality of Circumstances in Workers' Compensation Causation Determination

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In *Cramer v. Transitional Health Services of Wayne*, 512 Mich. 23 (Mich. 2023), the Michigan Supreme Court determined that a four-factor legal test used by Michigan courts to determine compensability under the Michigan Workers' Compensation Disability Act (WCDA), Mich. Comp. Laws § 418.101 *et seq.* (1976), was too restrictive and therefore unfair to claimants with preexisting mental conditions. The court substituted a new standard requiring judges to use a "totality of circumstances" test.

Facts of the Case

In 2012, Agnes Cramer, a dietary manager for nursing care facility Transitional Health Services of