

SELL v. UNITED STATES (2003)

In *Sell*, the Supreme Court clarified and somewhat limited the circumstances in which the government may administer anti-psychotic drugs against the will of a mentally ill criminal defendant in order to make him competent to stand trial for alleged crimes. Charles Thomas Sell, a dentist accused of various federal fraud charges and one count of attempted murder, had a long history of severe mental illness. Among his diagnoses were schizophrenia and delusions of persecution; in court, he was said to have acted out of control, shouting, using racial epithets, and spitting at court personnel. Subsequent to mental health evaluation and hearings, the district court ordered anti-psychotic drugs to be administered to Sell to allow him to become competent to stand trial. The Eighth Circuit affirmed the district court ruling as necessary and appropriate in order to allow trial of the fraud charges; one judge of the appellate court dissented on the ground that the fraud charges were not serious enough to justify the forced administration of the drugs.

The Supreme Court recognized that its prior precedents allowed the involuntary administration of drugs to protect a person with a mental disorder from endangering himself or others or to enable him to become competent to face serious criminal charges “only if the treatment is medically appropriate, is substantially unlikely to have side effects that may undermine the fairness of the trial, and, taking account of less intrusive alternatives, is necessary significantly to further important governmental trial-related interests.” *Id.* at *18, citing *Riggins v. Nevada*, 504 U.S. 127 (1992), and *Washington v. Harper* 494 U.S. 210 (1990). In *Sell*, the Court explained why approval of administering anti-psychotic medication solely to make a person competent to be tried for crimes will be rare. When the only rationale for giving the drugs is to make the defendant fit for trial, several factors may defeat the government’s important interest in going to trial. Among these are the patient’s already being confined civilly because of his mental disease, the existence of serious side effects from the administration of the drugs that may interfere with the defendant’s ability to assist counsel in his defense, alternative treatments that are less intrusive but as likely to restore the patient to competence, and the possibility that the treatments may not be in the patient’s best medical interests. 2003 U.S. LEXIS 4594 (2003) at *26-29.

When drugs must be administered to advance the patient’s health or to curb his or her dangerousness, such involuntary administration may be appropriate without considering the government’s interest in making the person competent to be tried. The Court indicated that a state that has convincing grounds for obtaining involuntary treatment because of patient dangerousness or medical necessity may rely on those grounds to have the drugs administered and then proceed to trial with the patient who has become competent as a result of the administration of the drugs. If those grounds are not present and the only reason for ordering involuntary medication is to make the defendant competent to stand trial, the state must meet a heavy burden to justify the order that the defendant take the drugs against his will.