

The Death Penalty and Wrongful Convictions of the  
Mentally Disabled in America

Legal Studies Master's Degree: Criminal Law

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I am interested in the research topic of Civil Rights and the Disabled. I will research Supreme Court cases and State cases involving those with disabilities and will examine the laws applied to these court cases and how Civil Rights applies to people with disabilities to protect property, businesses, assets, and estates. A fascinating research topic is wrongful convictions and the death penalty that is very relevant and the topic of discussion for most legislators here in New York State and throughout the United States. I am interested in Mental Health or Mental Hygiene Laws.

The thesis for my research paper topic is, it is wrongful and unconstitutional to give those with disabilities the death penalty. There are the laws protecting the people with disabilities to protect against wrongful conviction and the death penalty. This is a fascinating topic of discussion. This thesis will cover three court cases as supporting evidence that will prove my thesis statement and my argument against the death penalty for wrongful convictions and for any crime involving the disabled. . I will examine these cases: Ford v. Wainwright, Atkins v. Virginia, and Panetti v. Quarterman. Then are these laws also protecting the property, businesses, assets, and estates from Civil Rights abuses such as theft of property, businesses, assets, estates by corporations such as Mental Health Care Corporations? It is not ethical for Mental Health Care Corporations to obtain information about assets when hospitalized at a Mental Health Care Corporation such as property, businesses, assets, estates, and any debt. Are client information compromised when hospitalized for a Mental Health issue? This paper will discuss my thesis statement. The evidence will include identify crimes that include the wrongful conviction and the death penalty to those with a mental illness. . I will examine these cases: Ford v. Wainwright, Atkins v. Virginia, and Panetti v. Quarterman.

Then is it legal for a Mental Health Care Corporation to produce false claims to forcefully obtain property, businesses, assets, estates and client information when a patient in their care or even after hospitalized? Is it legal to hospitalize someone knowing they do not have a mental illness but if psychiatrist produce false claims that you have a mental illness can they legally take all of your property and make it their corporate property including Jewelry, Property such as cars, clothing, underwear, expensive lingerie. Can Mental Health Care Corporations plunder private homes, searching for valuables, and even take your expensive pets, take valuables from your home using corporate Rent-A-Cops paid by Mental Health Care Corporations all because they say they want to help you if you have a mental illness? Can Mental Health Care Corporations use Murder and Rape as therapy treatments and demand to go into your home to carry out these treatments to the mentally ill? This paper will examine the abuses of Mental Health Care Corporations and will examine how they are protected by the law to impose on Civil Rights. This paper will examine how Mental Hygiene Laws protect Mental Health Care Corporations when they abuse patients, pets, and family members of the Mentally Ill. Are the Mentally Ill really Mentally Ill or are they just provoked by Mental Health Care Corporations who include abuses from Psychiatrists, Nurses, Doctors who just take what they want and harass you than tell you well you need me now because they have the technology to clean out the Psychological weapons used against you only to continue the abuse by the bureaucracy. The corporate laws are protecting the Mental Health Care Corporations to continue abuse including sexual abuse, psychological abuse, and financial abuses against the Mentally Ill. Human trafficking and sex trafficking are taking place to produce more and more homeless people who are then bought and sold into slavery. This paper will examine the Civil Rights abuses, Human Rights abuses, and abuse of the Law. Because as false claims continue so does the abuse continues of the Mentally

III. Mental Health Care Corporations produce false claims include falsified reports, falsified documents, false diagnosis and false treatment. So someone can be given a false Mental Health diagnosis because Mental Health Care Corporations like what's on your resume, or they want to human traffic desirable patients, sex trafficking and slavery and forced homelessness.

The thesis for my research paper topic is, it is wrongful and unconstitutional to give those with disabilities the death penalty. The evidence I will use to support my thesis will be Supreme Court Cases, State Court Cases and Law Review Articles. The evidence will include identify crimes that include the wrongful conviction and the death penalty to those with a mental illness. To support my thesis I will examine these cases: Ford v. Wainwright, Atkins v. Virginia, and Panetti v. Quarterman.

Civil Rights and Human Rights Violations and will contribute to the understanding of Criminal Law and Criminal Litigation. I will examine and apply laws to support criminal law and criminal litigation to these cases mentioned in this paper. A case analysis will show the application of criminal laws and criminal litigation to each court case examined in support of my thesis statement.

In this paper I will examine the court cases such as where the death penalty was given to those who were disabled but then the decision was overturned on the basis of the Constitution and the Bill of Rights. I will examine these cases: Ford v. Wainwright, Atkins v. Virginia, and Panetti v. Quarterman where the decision stays the death penalty and affirms the Eighth Amendment that the death penalty is cruel and unusual punishment. But would like to mention that "persons with severe psychosocial and intellectual disabilities continue to be given death sentences, in some cases leading to actual execution" [1].

In a case review where the disabled was given the death penalty and the decision was overturned was the case of *Atkins v. Virginia*. Mr. Atkins has an I.Q. of 59 and was convicted of murder and robbery at the age of 18 but the decision for the death penalty was overturned [2]. Then affirming the decision was in application of the Eighth Amendment that says that it is cruel and unusual punishment. To affirm this decision could move 200 or more people off of the death penalty [3]. After a test was conducted they found that “as many as 10 percent of those convicted of capital murder are mentally retarded” [4]. Then according to national opinion 18 state out of 38 disputed that there was a real or lasting opinion against the death penalty for the retarded [5]. Because the United States sets standards for law and law practices, other countries then follow. In the realm of international law and law practices “15 countries of the European Union filed a brief on behalf of Mr. Atkins”, and so did American diplomats who then told the court that the practice of the death penalty for the retarded was “out of step with much of the world and was a source of friction between the United States and other countries” [6].

Then in an international report shows that since 1995, according to a report from Amnesty International, “only three countries were reported to have imposed the death penalty for Mentally Retarded People that was Kyrgyzstan, Japan and the United States which the organization had said that the death penalty was imposed to 35 mentally retarded people since the court allowed states to reinstate the death penalty in 1976” [7]. Then Amnesty International said that the courts decision today “will provide the U.S. criminal justice system with a critical tool to uphold human rights standards” [8].

Then there is the question of false confessions during defense to prove Prosecutorial misconduct.

“Mental disability confounds all stages of the criminal justice system: from pre-contact to initial contact to intake and interrogation, to prosecution and disposition, and to incarceration. In the context of capital punishment, these coalesce most vividly in the context of the false confessions. While there are many reasons why persons with mental disabilities are sentenced to death for murders that they did not commit, and other reasons why they are sentenced to death in cases where individuals without mental disabilities might have been spared the death penalty, the most prevalent issue is that of false confessions. Of the first 130 exonerations that the New York-based Innocence Project obtained via DNA evidence, 85 involved people convicted after false confessions” [9].

“Mental disability is a commonly recognized risk factor for false confessions” [10].

“Valid and reliable evidence has taught us that false confessors have been found to score higher on measures of anxiety, depression, anger, extraversion, and psychoticism as well as being more likely to have seen a mental health professional or taken psychiatric medications in the year prior” [11]. Often medications effect the confessions and are influential in incriminating evidence. “One of the leading articles on this phenomenon notes that "an inability to distinguish fact from fantasy due to a breakdown in reality monitoring, a common feature of major mental illness," is a major contributing factor to such false confessions. And there is no disputing Allison Redlich's conclusion that "legal safeguards for persons with mental disorders afford little protection during the investigation phase" of a criminal case, the period of time during which such false confessions are most likely to occur” [12].

Forced confessions during defense with out a doubt effects mens rea. As it is mentioned in the text “is implicit in the intentional doing of the act” [13].

And in many cases there is misconduct when we examine the case Ford v. Wainwright the “petitioner sought a writ of habeas corpus for the appeal of the petitioner’s criminal conviction” the outcome affirms misconduct in this case [14]. Then the outcome was the court denied a petition for the writ of habeas corpus for the appeal. Mr. Ford’s attorney Futch did not file the appeal so the failure to “file an appeal of the petitioner’s criminal conviction constituted ineffective assistance of counsel depriving petitioner of his fundamental right to appeal” and Judge Crews “found that attorney Futch failure to file an appeal of petitioner’s criminal conviction did not constitute ineffective assistance of counsel depriving petitioner of his right to appeal” [15]. And “the petition for writ of habeas corpus” for a appeal was denied [16]. The Ford Rule was a precedent in Mr. Ford’s case and according to the Eighth Amendment affirmed the decision that a prisoner could not be given the death penalty if he was insane [17].

“Prosecutorial misconduct is rampant. In one Arizona study, prosecutorial misconduct was alleged in half of all capital cases, and was found by appellate courts to be reversal-worthy in forty- percent of that cohort. The important question, though, is what happens when there is prosecutorial misconduct? In a study of the thirteen executions that have occurred in California since the death penalty was reinstated there in 1977, "prosecutorial misconduct has been raised as a significant issue in seven - more than half." This cohort of cases includes at least one case in which the prosecutor lied - there is no other word for it - to the jury about the consequences if a "not guilty by reason of insanity" verdict were to be entered, lies that the California Supreme Court later deemed to be "harmless error." Certainly, this sort of judicial behavior bespeaks the sort of complicity discussed earlier” [18].

“Often, even where prosecutorial misconduct in such is found, the errors are deemed harmless, not of constitutional magnitude, or improperly preserved. Nearly seventy years ago, Judge Jerome Frank charged that "Government attorneys, without fear of reversal, may say just about what they please in addressing juries, for our rules on the subject are pretend-rules.' Little has changed since” [19].

“Convictions in cases replete with serious prosecutorial misconduct are regularly affirmed, whether they are based on inflammatory statements to jurors in closing arguments, on failure to turn over documentary evidence, on mischaracterization of expert testimony on mental state, or on mischaracterization of the prevailing legal standard for an insanity defense. These affirmances are common in cases where the insanity defense is proffered, where the incompetency status is raised, where extreme emotional disturbance is alleged, and where mitigation is sought at the penalty phase - in short, in cases where a defendant's mental disability is raised. Although there are some instances of reversals, in this cohort they are a distinct minority. Courts simply say that the role of the reviewing court is "to act only as a kind of constitutional backstop to ensure that trial errors do not so infect the trial as to render it fundamentally unfair. "This behavior on the part of courts is judicial complicity at its worst” [20].

The case review in an international digest mentioned that the case *Ford v. Wainwright* affirms the decision of the case *Panetti v. Quarterman*. In this case Mr. Panetti who was accused of murdering his wife's parents in 1992 had appealed the decision for the death penalty. The courts ruled 5-4 that a person with a mental disability had not been given sufficient opportunity by lower courts to prove a degree of mental instability that could have overturned the

death penalty [21]. The case *Pennetti v. Quarterman* affirmed the 1886 *Ford v. Wainwright* decision that struck down the death penalty in an opinion concurring with the majority ruling where Justice Powell wrote that the death penalty is unconstitutional since “those who are unaware of the punishment they are about to suffer and why they are to suffer it” [22]. After a 2007 ruling the awareness was not enough, states could only impose the death penalty where inmates passed a “rational understanding” test. It was then that justices found that inmates were the death penalty was imposed “have the right to be psychologically evaluated before being put to death” [23].

The exemption applies and is affirmed that the death penalty for the “obviously insane would not function effectively as retribution, or have any meaningful effect” [24]. In a national poll published by the Democratic, Public Policy Polling found that 58 percent of respondents oppose the use of the death penalty for mentally ill prisoners. While 28 percent agree with the death penalty and 14 percent are undecided. A later poll by Gallup poll, shows a slightly higher support for the death penalty which found 75 percent in opposed the death penalty while 19 percent are in favor of the death penalty [25]. From this information the courts decision was to concur that the death penalty is unconstitutional and to affirm the Supreme Courts’ decision in place to strike down the death penalty on the basis that he was found to lack the “rational understanding” of the reasons for his execution where because of his mental illness he does not understand the nature of his punishment and why it is taking place [26].

This affirms the Model Penal Code where there are mental element to crimes that defines the degrees of culpability that are:

1. Purposely
2. Knowingly

### 3. Recklessly

### 4. Negligently

“The MPC specifies that all crimes requiring a mental element (most minor crimes and a few felonies don't) have to include one of these degrees of culpability. (Recklessness is the default degree of culpability where codes fail to identify a level of culpability.) MPC defines the degrees of culpability” The elements to crimes committed are supported by the text in the chapter about Criminal Law that also includes Criminal Litigation [27].

Those with mental illnesses lack the “general intent” refers to the intent to commit the *actus reus* of the crime, and “plus” refers to some “special mental element” in addition to the intent to commit the criminal act. For example, household burglary is a specific intent crime [28].

And often so is murder.

While “some characteristics of mental retardation,” and mental illness “undermine the strength of the procedural protections that our capital jurisprudence steadfastly guards,” where “mentally retarded defendants in the aggregate face as special risk of wrongful execution.” [29] Where Justice Stevens affirms the decision to the stayed of the death penalty decision. Affirmed by the factors the mentally ill and mentally retarded, were their “diminished capacities to understand and process information,” and to “reason logically and control impulses” [30]. These characteristics of the mentally ill and mentally retarded do not mean that those criminals who are “competent to stand trial should not face criminal punishment, but do diminish their personal culpability,” and indicate that the usual justifications for the death penalty, “retribution and deterrence, are less applicable than to defendants with normal intelligence” [31].

The case of *Atkins v. Virginia* affirms the decision of *Ford v. Wainwright*. And *Ford v.*

*Wainwright* affirms the decision of *Panetti v. Quarterman*. After the case reviews and sources

that affirm the overturned decision for the death penalty of the Mentally Retarded and Mentally Ill you can see that the sources back my thesis that those with mental illness are often wrongfully convicted and those with a diminished capacity are protected under the Eighth Amendment where the mentally ill and mentally retarded will not be given the death penalty because it is cruel and unusual punishment.

In this paper I have examined court cases where the decision for death penalty was stayed. Other factors have effected the outcome of the cases and those were discussed in this paper. These factors are misconduct where the petitioner was not represented fairly and did not receive a fair trial. The other factor examined in this paper was forced confessions. Where the mentally ill or retarded was forced to confess to crimes that would stayed the death penalty decision. This paper was very exciting to write about a topic that is discussed often when discussing mental health and mental hygiene laws that must be changed to ensure the Civil Rights and Human Rights of the petitioner by legislators, Judges, and Attorneys. Those wrongfully accused often feel helpless, confused, and hurt and those with a mental illness and mental retarded are often wrongfully accused and wrongfully convicted and given the death penalty. This paper satisfies the direction of mental hygiene laws to include topics of discussion but there is so much more work to be done and expected of the legislators where there is a need for more legislation to protect the Civil Rights and Human Rights of the wrongfully accused. I would like to examine this topic further in my Master's thesis and discuss the direction that Mental Hygiene is moving toward Civil Rights and Human Rights where in so many other countries the death penalty is a Human Rights violation. International law is fascinating and with more research will prove to affirm the Supreme Court decisions mentioned in this paper and in other case I have found on this topic.

This paper will explore the topic of corporations that administer the death penalty. I have researched corporate law and will examine how death row and capital punishment is issued to corporate patients to bypass the constitution and will explore how this is illegal according to the Constitution of the US. . I will support my argument with the 14<sup>th</sup> amendment and the 8<sup>th</sup> amendment. I will explore the use of corporate constitutions corporations often hide behind the argument of immunity or sovernty and the abuse of county laws and State Constitutions. As these corporations rely on federal funding to issue capital punishment often this is done by injection. Because these corporations rely on federal funding they cannot state immunity or sovernty

Citations:

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[2] Linda Greenhouse, The Supreme Court: The Death Penalty: Citing 'National Consensus,' Justices Bar Death Penalty for Retarded Defendants, N.Y. Times, June 21, 2002, A6.

[3] – [8] Supra. Greenhouse

[9] – [12] Supra. Perlin

[13] Joel Samaha, Criminal Law 11 (2014). Supra at 126.

[14] Ford v. Wainwright, 425 So. 2d 1189, (1983).

[15] – [16] Supra. 1189

[17] Supreme Court: Execution for Mentally Ill Inmate Deferred, 2007, Facts on File World News Digest, B1 at 415.

[18] Id. Perlin

[19] Supreme Court: Execution for Mentally Ill Inmate Deferred, Supra note B1 at 415

[20] Supreme Court: Execution for Mentally Ill Inmate Deferred, Supra note B1 at 415

[21] Attorney Petition Supreme Court to Stay Mentally Ill Man's Execution, Legal Monitor Worldwide, December 2, 2014.

[22] – [25] Supra. 2014

[26] Samaha, Id. at 131.

[27] Samaha, Id. at 128.

[28] Samaha, Id. at 128

[29] - [31] Id. Greenhouse