

SUPREME COURT OF OKLAHOMA

Parsons v. District Court of Pushmataha County

2017 OK 97 · No. 115007 · Decided December 12, 2017

SUMMARY

The Oklahoma Supreme Court held that post-acquittal proceedings concerning therapeutic visits for a person acquitted by reason of insanity are civil in nature and within the Supreme Court's jurisdiction. It further held that the State, as the objecting party under 22 O.S. 2011 § 1161(F)(3), bears the burden of proving by a preponderance of the evidence that therapeutic visits are unnecessary or that their proposed nature and extent are inappropriate. The court reversed the trial court's order sustaining the State's objection and remanded for a new hearing.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Gurich, Vice Chief Justice
JURISDICTION	Oklahoma
DECIDED	December 12, 2017
DOCKET	115007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Parsons appealed the Pushmataha County District Court's order sustaining the State's objection to therapeutic visits recommended by the Oklahoma Forensic Review Board after Parsons was acquitted of murder by reason of insanity. The Oklahoma Court of Criminal Appeals transferred the matter to the Oklahoma Supreme Court, which assumed original jurisdiction, recast the proceeding as an appeal, and decided both jurisdiction and the merits.
STANDARD OF REVIEW	Jurisdictional questions and statutory interpretation are reviewed de novo. The Court exercised plenary, independent, and non-deferential review of the statutory issues.
PRECEDENTIAL VALUE	The opinion is marked in the source as not released for publication and subject to revision or withdrawal.
PARTIES	Robert Parsons v. District Court of Pushmataha County, The Honorable Jana K. Wallace, Associate District Judge

TOPICS

appellate jurisdiction

appellate procedure

statutory interpretation

criminal procedure

standard of review

PRACTICE AREAS

appellate jurisdiction

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mental health law

statutory interpretation

QUESTIONS PRESENTED

1. Whether proceedings concerning therapeutic visits for a person acquitted by reason of insanity under 22 O.S. 2011 § 1161(F) are civil or criminal for purposes of appellate jurisdiction.
2. Whether the State, as the party objecting to therapeutic visits, bears the burden of proof.
3. Whether the trial court was required to determine whether therapeutic visits were necessary for treatment and, if so, the nature and extent of the visits under 22 O.S. 2011 § 1161(F)(3)(b).

HOLDINGS

1. Proceedings concerning therapeutic visits for an insanity acquittee under 22 O.S. 2011 § 1161(F) are civil in nature because they concern ongoing mental-health treatment rather than punishment for a criminal offense; therefore, the Oklahoma Supreme Court has appellate jurisdiction.
2. The State, as the party objecting to therapeutic visits under 22 O.S. 2011 § 1161(F)(3), bears the burden of proving by a preponderance of the evidence that the visits are unnecessary for treatment or that their proposed nature or extent is excessive or inappropriate.
3. When the State objects to therapeutic visits, the trial court must determine whether the visits are necessary for treatment and, if so, the nature and extent of the visits, as required by 22 O.S. 2011 § 1161(F)(3)(b).

KEY QUOTATIONS

“The essence of a criminal judgment is punishment for wrongdoing and the amount of punishment being imposed.” (¶ 19)

“We find the language in the statute demonstrates a legislative intent to afford broad authority to the FRB when recommending therapeutic visits for NGRI acquittees.” (¶ 26)

“We hold that the trial court's decision to sustain the State's objection to therapeutic visits presents a question of civil law, and under the statute, the State had the burden to support any objection with sufficient evidence.” (¶ 27)

FACTUAL BACKGROUND

Robert Parsons was charged with first-degree murder but was adjudicated not guilty by reason of insanity and committed to the Oklahoma Forensic Center after the trial court found him dangerous to the public. After Parsons made treatment progress and had previously completed supervised off-site visits without incident, the Oklahoma Forensic Review Board recommended weekly supervised therapeutic visits at Grand Lake Mental

Health Center. The State presented no evidence opposing the recommendation, but the trial court sustained the State's objection without addressing the statutory criteria governing the necessity, nature, and extent of the visits.

PROCEDURAL HISTORY

Parsons was charged with first-degree murder and adjudicated not guilty by reason of insanity. He was committed to the Oklahoma Forensic Center after the trial court found him dangerous to the public, and the Forensic Review Board later recommended weekly supervised therapeutic visits. The district court sustained the State's objections without placing the burden of proof on the State or determining whether the visits were necessary and, if so, their nature and extent. After the OCCA denied an earlier mandamus petition and later transferred the proceeding to the Oklahoma Supreme Court, the Supreme Court assumed jurisdiction, converted the proceeding to an appeal, reversed, and remanded for a new hearing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded for a new hearing consistent with the opinion. The hearing must apply the State's burden of proof and determine whether therapeutic visits are necessary for treatment and, if so, the nature and extent of the visits.

CASES CITED

- Hall v. GEO Group, Inc., 2014 OK 22, ¶ 12, 324 P.3d 399, 404
- State ex rel. Henry v. Mahler, 1990 OK 3, ¶ 11, 786 P.2d 82, 85
- Carmichael v. Beller, 1996 OK 48, ¶ 2, 914 P.2d 1051, 1053
- Dutton v. City of Midwest City, 2015 OK 51, ¶ 21, 353 P.3d 532, 541
- Foucha v. Louisiana, 504 U.S. 71, 80 (1992)
- Jones v. United States, 463 U.S. 354, 369 (1983)
- Miller v. State, 1988 OK CR 29, ¶ 8, 751 P.2d 733, 736-37
- In re Initiative Petition No. 397, 2014 OK 23, ¶ 39, 326 P.3d 496, 512
- Tucker v. Cochran Firm-Criminal Def. Birmingham L.L.C., 2014 OK 112, ¶ 21, 341 P.3d 673, 682
- McKellips v. St. Francis Hospital, Inc., 1987 OK 69, ¶ 10, 741 P.2d 467, 471
- Welch v. Crow, 2009 OK 20, ¶ 10, 206 P.3d 599, 603
- Patterson v. Beall, 2000 OK 92, ¶ 18, 19 P.3d 839, 845
- Tyler v. Shelter Mutual Insurance Co., 2008 OK 9, ¶ 12, 184 P.3d 496, 499-500
- American Airlines, Inc. v. State ex rel. Oklahoma Tax Commission, 2014 OK 95, ¶ 33, 341 P.3d 56, 65
- State v. Powell, 2010 OK 40, ¶ 9, 237 P.3d 779, 781
- Harris v. Oklahoma County District Court, 1988 OK CR 26, ¶ 4, 750 P.2d 1129, 1131
- Rogers v. Lansdown, 1992 OK CR 25, ¶ 12, 829 P.2d 687, 688

- Meyer v. Engle, 2016 OK CR 1, 369 P.3d 37
- Marquette v. Marquette, 1984 OK CIV APP 25, ¶ 10, 686 P.2d 990, 993
- Hargrove v. State ex rel. Dennis, 1964 OK CR 105, ¶ 4, 396 P.2d 675, 675-76
- Williams Companies, Inc. v. Dunkelgod, 2012 OK 96, ¶ 18, 295 P.3d 1107, 1113

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