

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION ONE

In re Chunn

In re Chunn · No. A162583 · Decided December 19, 2022

SUMMARY

The California Court of Appeal reviews a Solano County standing order addressing delays by the Department of State Hospitals in admitting defendants found incompetent to stand trial and providing competency assessment and treatment. The court concludes that the order did not generally violate separation-of-powers principles or conflict with existing constitutional and statutory requirements, but that statutory amendments and intervening precedent required modification or reconsideration of some provisions. The matter is remanded for further proceedings.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division One
WRITING FOR THE COURT	Margulies, Acting P. J.; Banke, J.; Devine, J.
JURISDICTION	California
DECIDED	December 19, 2022
DOCKET	A162583
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Department of State Hospitals appealed from a Solano County Superior Court countywide standing order granting relief to defendants found incompetent to stand trial and requiring DSH to provide timely assessment, treatment, placement, reporting, and compliance measures.
STANDARD OF REVIEW	The court reviewed the permanent injunction for abuse of discretion. Factual findings were reviewed for substantial evidence, legal conclusions de novo, and the application of law to facts for arbitrariness or capriciousness. The trial court's weighing of evidence and balancing of competing interests in determining the necessity and scope of equitable relief were also reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published and certified for publication; precedential under California law.

TOPICS

habeas corpus

post-conviction relief

criminal procedure

due process

appellate procedure

PRACTICE AREAS

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health law

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remedies

QUESTIONS PRESENTED

1. Whether the trial court's countywide standing order violated separation-of-powers principles by imposing deadlines, treatment obligations, treatment-plan requirements, and weekly reporting requirements on DSH.
2. Whether the standing order conflicted with *Stiavetti v. Clendenin*'s holding that substantive competency-restoration services must commence within a maximum of 28 days after service of the commitment packet.
3. When legal responsibility for an incompetent-to-stand-trial defendant transfers to DSH.
4. Whether recent amendments to Welfare and Institutions Code section 4335.2 precluded the trial court from requiring DSH to evaluate defendants within 72 hours.
5. Whether Code of Civil Procedure section 177.5 authorized sanctions of up to \$1,500 per day per defendant for violation of the standing order.

HOLDINGS

1. An incompetent-to-stand-trial defendant is deemed committed to DSH's care when the court serves DSH with the commitment packet required by Penal Code section 1370, subdivision (a)(3), whether or not the packet is complete.
2. The maximum constitutionally permissible delay before commencement of substantive competency-restoration services for an incompetent-to-stand-trial defendant is 28 days from service of the commitment packet.
3. A county trial court may require DSH to provide prompt assessment, stabilization, and ameliorative treatment for severe symptoms while an incompetent-to-stand-trial defendant awaits commencement of full competency-restoration services; such a requirement does not necessarily conflict with *Stiavetti*'s 28-day deadline.
4. The trial court did not violate separation-of-powers principles by imposing deadlines and requiring treatment plans and weekly reports designed to enforce statutory and constitutional obligations concerning incompetent-to-stand-trial defendants.
5. Sanctions under Code of Civil Procedure section 177.5 are limited to \$1,500 per defendant or violation and may not be imposed at \$1,500 per day for the same defendant.

6. The trial court could not require DSH to evaluate incompetent-to-stand-trial defendants within 72 hours where Welfare and Institutions Code section 4335.2 grants DSH authority and sole discretion to conduct reevaluations and evaluations.

KEY QUOTATIONS

“IST defendants “cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he [or she] will attain that capacity in the foreseeable future.”” (at 21)

“The trial court’s decision in this case was a countywide order based on the record before it; unlike the Stiavetti court, we do not have before us a decision on a statewide basis.” (at 30)

“The judgment is affirmed in part, reversed in part, and the case is remanded for reconsideration and modification of the standing order in light of the statewide constitutional deadline announced in Stiavetti and the relevant statutory changes as discussed in this opinion.” (at 43-44)

FACTUAL BACKGROUND

Chunn was found incompetent to stand trial under Penal Code section 1368 and, after being ordered admitted to Napa State Hospital, waited 75 days before admission. Evidence before the trial court showed that incompetent-to-stand-trial defendants in Solano County commonly experienced lengthy delays, little or no ameliorative care, and worsening psychiatric symptoms while awaiting placement. The trial court found that DSH had tools, including jail-based treatment and telehealth, to provide assessment and treatment while defendants awaited placement, and entered a detailed countywide standing order requiring DSH to do so.

PROCEDURAL HISTORY

Walter Chunn III filed a habeas corpus petition challenging DSH's failure to promptly admit and treat him after he was found incompetent to stand trial. The trial court informally joined his proceeding with sanctions matters involving two other incompetent defendants, conducted extensive evidentiary hearings, and issued an amended standing order on February 26, 2021. DSH timely appealed. During the appeal, the California Court of Appeal decided *Stiavetti v. Clendenin* and the Legislature amended the statutory scheme governing incompetent-to-stand-trial defendants, prompting supplemental briefing. The appellate court affirmed some portions, vacated or reversed others, and remanded for reconsideration and modification.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Modify the standing order to provide that responsibility transfers to DSH upon service of the Penal Code section 1370, subdivision (a)(3), commitment packet, whether or not complete; limit section 177.5 sanctions to \$1,500 per IST defendant; vacate the provisions requiring DSH to evaluate IST defendants within 72 hours; and reconsider additional provisions in light of *Stiavetti*'s 28-day constitutional deadline and the amendments to Welfare and Institutions Code section 4335.2. The trial court may consider lawful orders addressing ameliorative

care pending substantive competency-restoration services. The court affirmed the provisions requiring treatment plans, continued treatment, and weekly reports when placement was not anticipated within 28 days.

CASES CITED

- *Stiavetti v. Clendenin*, 65 Cal.App.5th 691 (2021)
- *Jackson v. Indiana*, 406 U.S. 715 (1972)
- *People v. Rodas*, 6 Cal.5th 219 (2018)
- *Jackson v. Superior Court*, 4 Cal.5th 96 (2017)
- *In re Davis*, 8 Cal.3d 798 (1973)
- *In re Loveton*, 244 Cal.App.4th 1025 (2016)
- *Haraguchi v. Superior Court*, 43 Cal.4th 706 (2008)
- *People v. Brewer*, 235 Cal.App.4th 122 (2015)
- *People v. Hooper*, 40 Cal.App.5th 685 (2019)
- *People v. Aguirre*, 64 Cal.App.5th 652 (2021)
- *People v. Kareem A.*, 46 Cal.App.5th 58 (2020)
- *In re Mille*, 182 Cal.App.4th 635 (2010)
- *In re Williams*, 228 Cal.App.4th 989 (2014)
- *People v. Hooper*, 40 Cal.App.5th 685 (2019)
- *Craft v. Superior Court*, 140 Cal.App.4th 1533 (2006)
- *People v. Hahn*, 16 Cal.App.5th 349 (2017)
- *Fairfield v. Superior Court of Los Angeles County*, 246 Cal.App.2d 113 (1966)
- *People v. Gonzalez*, 2 Cal.5th 1138 (2017)
- *Even Zohar Construction & Remodeling, Inc. v. Bellaire Townhouses, LLC*, 61 Cal.4th 830 (2015)
- *People v. Arias*, 45 Cal.4th 169 (2008)
- *Oregon Advocacy Center v. Mink*, 322 F.3d 1101 (9th Cir. 2003)
- *Trueblood v. Washington Department of Social & Health Services*, 101 F.Supp.3d 1010 (W.D. Wash. 2015)
- *United States v. Brandreth-Gibbs*, 2021 WL 764771 (W.D. Wash. 2021)