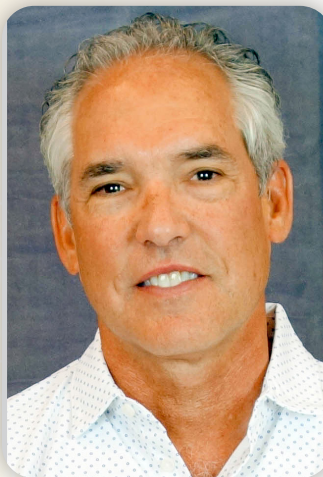


PRESIDENT'S MESSAGE

The Importance of Mental Health and Resources to Help

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With the holiday season and end of the year upon us, I thought it might be a good time to not only wish you each peace and joy for this month, but to reflect upon what a difficult year we have all gone through.

Not only have we all endured a pandemic with the possibility of illness for each of us and our families, but many of our businesses have been impacted, and a lot of us have had a reduction in income. In many ways, these stressors can be depressing and lead many of us to isolation, loneliness, and to dangerous distractions and temptations. I want you each to think back to the wonderful times you have enjoyed on your journey to get to where you are today, and all the hard work and support your family and friends provided you along the way. Be thankful for how far you have come on this journey and for how fortunate you are to have the skills to practice in this profession that can always provide a means to feed your family, and to, most importantly, help those who are far less fortunate than us reading this journal.

So, looking back as I have been these past six months, I thought this might be a good time to look at the U.S. Supreme Court cases that have examined a number of issues dealing with mental health. The first case I looked at was the case that established the standard of competency to stand

trial, which was *Dusky v. United States*, 362 U.S. 402 (1960). In that case, the court set the standard for adjudicative competence. The court held that the defendant must understand the charges against him and must have the ability to aid his attorney in his defense. Before the landmark case of *Jackson v. Indiana*, 406 U.S. 715 (1972), pretrial involuntary commitment of incompetent individuals often meant lengthy or lifetime commitment in a maximum-security institution with little concern for treatment. This 1972 case – for the first time – put time limits on the length of time a person could be confined.

Sadly, many people were tried and convicted, and even put to death, while lacking competency until these cases occurred in the last half of the 20th century. In *Ford v. Wainwright*, 477 U.S. 399 (1986), the Supreme Court ruled that the insane cannot be executed. In *Atkins v. Virginia*, 536 U.S. 304 (2002), the court stated that the Eighth Amendment should be interpreted in light of the evolving standards of decency that mark the progress of a mature society. As our society has evolved, the Supreme Court extended the prohibition of capital punishment for crimes committed while under the age of 18 in *Roper v. Simmons*, 543 U.S. 551 (2005). Thankfully, the court cited sociological and scientific research that

found juveniles have a lack of maturity and sense of responsibility compared to adults. And having raised two boys, I can fully attest to such, as what I have witnessed and experienced with my own lack of maturing.

In *Robinson v. California*, 370 U.S. 660 (1962) issued the first decision in which the Eighth Amendment was interpreted to prohibit criminalization of acts or conduct versus punishment for a crime. The court recognized that drug addiction is a disease, and that it is unconstitutional to impose punishment for having a disease. Thankfully, our state and others have established both mental health and drug courts to assist these lost souls to find hope of a new life without pain and sadness.

In *Washington v. Harper*, 494 U.S. 210 (1990), the U.S. Supreme Court ruled that the Due Process Clause permits a state to treat an incarcerated inmate having a serious mental disorder with antipsychotic medication against his will, under the condition that he is dangerous to himself or others and the

medication prescribed is in his best medical interest. *Riggins v. Nevada*, 504 U.S. 127 (1992), is a U.S. Supreme Court case in which the court decided whether a mentally ill person can be forced to take antipsychotic medication while they are on trial to allow the state to make sure they

remain competent during the trial. This decision highlighted two factors not previously emphasized in cases involving involuntary medication. First, the involuntary treatment must be the least intrusive treatment for restoration of competence. Second, the proposed treatment must be medically appropriate for the individual's safety as well as that of others.

Addington v. Texas, 441 U.S. 418 (1979), was a landmark decision of the U.S. Supreme Court that set the standard for involuntary commitment for treatment by raising the burden of

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proof required to commit persons for psychiatric treatment from the usual civil burden of proof of “preponderance of the evidence.” The court held that when the stakes are exceptionally high in civil matters, the burden of proof must be “clear and convincing evidence.” The case raised important issues regarding civil commitment by placing the burden of proof on the petitioner seeking the involuntary commitment of a person.

Youngberg v. Romeo, 457 U.S. 307 (1982), was a landmark U.S. Supreme Court case regarding the rights of the involuntarily committed and those with intellectual disabilities. Nicholas Romeo had an intellectual disability with an infant-level IQ and was committed to a Pennsylvania state hospital. He was restrained for many hours of the day and repeatedly injured. *O'Connor v. Donaldson*, 422 U.S. 563 (1975), was another landmark decision by the U.S. Supreme Court in mental health law, ruling that a state cannot constitutionally confine a non-dangerous individual who is capable of surviving safely in freedom by themselves or with the help of willing and responsible family members or friends.

As we go through this month with shorter days of sunlight and colder temperatures, and perhaps depression, loneliness or exhaustion from this crazy year, please keep in mind one of your member benefits is free counseling and a 24-hour, seven-day-a-week help line: 1-866-828-0022.

Please remember, we are not alone and have all struggled at some time in our lives and careers with some of the same or similar issues you are going through. We all want you to survive to live another day and to make our world, our country, our state and our profession a better place. Have a blessed holiday season and hope for a new year of peace and joy with less stress.

The holidays
can be hard...
...we have
resources
to help.



(866) 828-0022

If you are in need of help during a particularly tough time, call our Hotline number above. Leave your first name and a telephone number, and someone will call you back.