



## Sell v. United States

539 U.S. 166 (2003)

**Country:** United States

**Region:** Americas

**Year:** 2003

**Court:** Supreme Court

**Health Topics:** Informed consent, Mental health

**Human Rights:** Right to bodily integrity, Right to due process/fair trial, Right to liberty and security of person

### Facts

Petitioner, Sell, had a long history of mental illness. In 1998, a federal grand jury issued an indictment charging Sell with attempting to murder an FBI agent who had arrested him in connection with a separate charge of mail fraud and a former employee who planned to testify against him in the upcoming fraud case. The attempted murder and fraud cases were joined for trial.

In 1999, Sell challenged his competency to stand trial and was sent by the Magistrate to the United States Medical Center for Federal Prisoners (Medical Center) for examination. The Magistrate determined that Sell was mentally incompetent to stand trial. Sell's hospitalization (up to four months) was ordered to determine whether there was a substantial probability that Sell would attain the capacity to allow his trial to proceed.

Sell refused to take antipsychotic medication as recommended by Medical Center staff. Permission was sought by the staff to administer the medication against Sell's will. The reviewing psychiatrist authorized the involuntary administration of antipsychotic drugs on the grounds that:

Sell was mentally ill and dangerous and medication was necessary to treat his mental illness; and Sell would then become competent for trial.

The Supreme Court reviewed the Court of Appeals' affirmation of the District Court's order requiring medication in order to render Sell competent to stand trial. Specifically, the Court of Appeals concluded that:

The Government had an essential interest in bringing a defendant to trial; the District Court correctly concluded that there were no less intrusive means; antipsychotic drug treatment was medically appropriate for Sell; and the medical evidence presented indicated a reasonable probability that Sell [would] fairly be able to participate in his trial.

### Decision and Reasoning

The Court first examined the question of whether the Constitution permits the Government to administer antipsychotic drugs involuntarily to a mentally ill criminal defendant in order to render that defendant competent to stand trial for serious, but nonviolent, crimes. The Court held that involuntary administration of antipsychotic drugs may be made only if the treatment was medically appropriate, [was] substantially unlikely to have side effects that may undermine the fairness of the trial, and, taking account of less intrusive alternatives, [was] necessary significantly to further important governmental trial-related interests.

The Court stated that this standard would only permit the involuntary administration of drugs solely for trial competence purposes in certain rare instances. The standard required that:

Important governmental interests must be at stake of which bringing an individual accused of a serious crime to trial is one. However, the importance of the Government's interests may be lessened by special circumstances. Moreover, the Government also has a concomitant constitutional interest in assuring the defendant's trial is a fair one.

Involuntary medication must significantly further the government's interests. Administration of drugs must be substantially likely to render the defendant competent to stand trial, and substantially unlikely to have side effects that will interfere significantly with the defendant's ability to assist counsel in conducting a trial

defense, thereby rendering the trial unfair.â€•

Involuntary medication must be necessary to further governmentâ€™s interests.

Administration of the drugs must be medically appropriate; i.e. they must be in the patientâ€™s best medical interests in light of his medical condition.

The Court held that before turning to the trial competency question courts must determine whether forced administration of drugs could be justified on alternative grounds, including the individualâ€™s dangerousness and the individualâ€™s own interests where refusal to take drugs puts his health gravely at risk. The Court stated that these determinations were more "objective and manageable than the inquiry into whether medication [was] permissible to render a defendant competent.â€• It noted that medical experts "may find it easier to provide an informed opinion about whether, given the risk of side effects, particular drugs [were] medically appropriate and necessary to control a patient's potentially dangerous behavior (or to avoid serious harm to the patient himself) than to try to balance harms and benefits related to the more quintessentially legal questions of trial fairness and competence.â€•

The Court then examined whether the Government demonstrated that the need for the forced administration of drugs was sufficiently important to overcome Sell's constitutionally protected liberty interest in refusing the treatment. The Court held that the Court of Appeals was wrong to approve the forced administration of antipsychotic drugs solely to render Sell competent to stand trial; the order of forced administration of antipsychotic drugs was vacated and the case was remanded for further proceedings.

Firstly, the Magistrateâ€™s opinion made clear that he did not find forced medication legally justified on trial competence grounds alone. The Court noted that the Medical Centre and the Magistrate had approved the forced treatment "substantially, if not primarily, upon grounds of Sellâ€™s dangerousness to others.â€• According to the Magistrate, forced medication was "the only way to render the defendant not dangerous and competent to stand trial.â€• However, the Court of Appeals affirmed the District Courtâ€™s determination that the Magistrateâ€™s conclusion regarding dangerousness was "clearly erroneous" (this finding was not contested by the Government).

Secondly, evidence from the Magistrate hearing demonstrated that the experts focused primarily upon the issue of dangerousness. Important questions, "the answers to which could have helped determine whether forced medication was warranted on trial competence grounds alone," e.g., regarding trial-related side effects and risks, were therefore not raised. The Court held that the failure to focus upon trial competence "could well have mattered" since it was left undetermined "whether the side effects of antipsychotic medication were likely to undermine the fairness of a trial in Sell's case.â€•

Finally, the Court noted that the lower courts did not take into account that Sell had already been confined at the Medical Centre for a long period of time, and that his refusal to take the medication may have resulted in further lengthy confinement. The Court held that these factors moderated "though they did not eliminate" the importance of the governmental interest in prosecution.

## Decision Excerpts

"In Harper, this Court recognized that an individual has a "significant" constitutionally protected "liberty" "avoiding the unwanted administration of antipsychotic drugs." 494 U. S., at 221. The Court considered a state law authorizing forced administration of those drugs "to inmates who are . . . gravely disabled or represent a significant danger to themselves or others." Id., at 226. The State had established "by a medical finding" that Harper, a mentally ill prison inmate, had "a mental disorder . . . which is likely to cause harm if not treated." Id. at 222. The treatment decision had been made "by a psychiatrist," it had been approved by "a reviewing psychiatrist," and it "ordered" medication only because that was "in the prisoner's medical interests, given legitimate needs of his institutional confinement." Ibid. 539 U.S., p. 178.

"These two cases, Harper and Riggins, indicate that the Constitution permits the Government involuntarily to administer antipsychotic drugs to a mentally ill defendant facing serious criminal charges in order to render that defendant competent to stand trial, but 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." 539 U.S., p. 179.

"First, a court must find that important governmental interests are at stake. The Government's interest in bringing to trial an individual accused of a serious crime is important. That is so whether the offense is a serious crime against the person or a serious crime against property. In both instances the Government

seeks to protect through application of the criminal law the basic human need for security. See Riggins, supra, at 135-136 (â€œ[P]ower to bring an accused to trial is fundamental to a scheme of â€œordered libertyâ€™ prerequisite to social justice and peaceâ€™ (quoting Illinois v. Allen, 397 U. S. 337, 347 (1970) (Brennan, J., concurring))).â€• 539 U.S., p. 180.

â€œSecond, the court must conclude that involuntary medication will significantly further those concomitant state interests. It must find that administration of the drugs is substantially likely to render the defendant competent to stand trial. At the same time, it must find that administration of the drugs is substantially unlikely to have side effects that will interfere significantly with the defendant's ability to assist counsel in conducting a trial defense, thereby rendering the trial unfair. See Riggins, 504 U. S., at 142-145 (Kennedy, J., concurring in judgment).â€• 539 U.S., p. 181.

â€œThird, the court must conclude that involuntary medication is necessary to further those interests. The court must find that any alternative, less intrusive treatments are unlikely to achieve substantially the same results. Cf. Brief for American Psychological Association as Amicus Curiae 10-14 (non-drug therapies may be effective in restoring psychotic defendants to competence); but cf. Brief for American Psychiatric Association et al. as Amici Curiae 13-22 (alternative treatments for psychosis commonly not as effective as medication). And the court must consider less intrusive means for administering the drugs, e. g., a court order to the defendant backed by the contempt power, before considering more intrusive methods.â€• 539 U.S., p. 181.

â€œFourth, as we have said, the court must conclude that administration of the drugs is medically appropriate, i. e., in the patient's best medical interest in light of his medical condition. The specific kinds of drugs at issue may matter here as elsewhere. Different kinds of antipsychotic drugs may produce different side effects and enjoy different levels of success.â€• 539 U.S., p. 181.

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