

## Involuntary Treatment: Court Orders ECT Over Patient's Objection.

***The basic question is whether the patient has the mental capacity to make reasoned decisions about the course of treatment.***

***That principle applies to forced administration of anti-psychotic drugs or electro-convulsive therapy.***

***If the patient lacks mental capacity, caregivers can obtain informed consent from a spouse, parent or adult child or they can ask for a court order.***

NEW YORK SUPREME COURT,  
APPELLATE DIVISION, 2001.

The New York Supreme Court, Appellate Division, believed it was in the patient's best interests to have electroconvulsive therapy even though the patient himself did not want it.

The court emphasized that a patient being involuntarily committed to a mental health facility in and of itself does not authorize the facility to administer meds or perform procedures over the patient's objections, unless the facility obtains informed consent from a family member or gets a court order.

Consent can come from someone other than the patient only when the patient lacks the mental capacity to make choices. A competent adult can disagree with caregivers and refuse care that caregivers believe is in the patient's best interests. In re Adam S., 729 N.Y.S.2d 734 (N.Y. App., 2001).

## Involuntary Psychiatric Hold: Commitment Continued Based On Nurse's Testimony.

A patient was involuntarily committed in a mental health center. The Superior Court of Pennsylvania did not specify why it initially happened.

During her stay the patient agreed to convert her involuntary commitment to a voluntary admission. Later on, however, the facility filed a petition in court to convert her voluntary hospitalization back to an involuntary psychiatric commitment. The court ruled there were grounds to commit her for twenty days.

### **No Overt Act By This Patient To Justify Involuntary Hold**

The legal issue in this case was that there was no harmful overt act by the patient pointing to a need for involuntary psychiatric commitment within the thirty days before the filing of the second court petition. She was in a structured setting.

As a general rule, the judgment that a patient poses a danger to self or others must be based upon at least one overt act by the patient. General impressions and speculation by caregivers, family or law enforcement that the patient is potentially dangerous are usually not enough.

Our society strongly values personal liberty. Involuntary psychiatric commitment is justified only when the patient, due to mental illness, poses a clear and present danger of serious self-harm or harm to others. Some courts may require a suicide attempt or self-mutilation before they will order involuntary commitment.

Nevertheless, without an overt act within the previous thirty days, this court was willing to accept the testimony of the patient's psychiatric nurse as the basis for a short-term involuntary commitment.

### **Contract For Safety Refused**

The patient's nurse asked the patient to agree to a contract for her own safety. The nurse was alarmed when she refused. The patient's refusal to contract for her own safety was grounds enough to keep her in the hospital, the court ruled. Appeal of S.B., 777 A. 2d 454 (Pa. Super., 2001).

***The patient's psychiatric nurse testified in support of the facility's court petition to continue her hospitalization for her own safety.***

***The patient was placed on frequent checks for self-harm because she made statements that she was not clear whether she could be safe and was not clear whether she was suicidal.***

***A contract for safety was offered to the patient and the patient refused. That is, the patient refused to promise to approach staff and ask for help if she felt she was about to harm herself.***

***The nurse also stated that the patient had refused to take her medications for depression and anxiety. She also refused to eat her meals and the patient's personal hygiene was poor.***

***When the patient has been in a structured setting it is hard to find an overt act of self-harm or harm to others to meet the legal test for danger to self or others.***

***The law still allows caregivers to testify with reasonably probability that self harm or harm to others would occur without the patient being hospitalized.***

SUPERIOR COURT OF PENNSYLVANIA,  
2001.