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Force Feeding a Hunger Striking, Competent Inmate Allowed

William Coleman was convicted of sexual assault in a spousal relationship. He was sentenced to 15 years in the Connecticut prison system. Initially, Coleman weighed 250 pounds. He began a hunger strike and refused all solid foods. Now, he weighs 100 pounds and no one is kidding around about his glycemic index.

Coleman is protesting his conviction and his alienation from his children. He is considered by experts to be highly intelligent, mentally competent, and at serious risk of death should his refusal of solid food continue.

Prison officials, following a well worn script, opined that an inmate's death from a hunger strike could cause unrest and undermine authority.

In **Lantz v. Coleman**, 978 A.2d 164 (Conn. App. 2009), the court was confronted with the question of whether the state may force feed an inmate engaged in a hunger strike. There is case law on point from other jurisdictions but this is a case of first impression in Connecticut.

The court held, basically, that an injunction was proper; there was no adequate remedy at law; and that the prisoner's undoubted interest in the

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Severe Sexual Sadism

by James Knoll, M.D.

"... I thought 'I'm like God ... I too have the power to give life or take it away.'"

—Convicted sexually sadistic murderer[1]

"... your heart is proud, and you have said 'I am a god, ... Yet you are a man and no God ..."

—Ezekiel 28:2[2]

Perhaps one of the positive things to come out of the **Hendricks** wave of SVP commitment laws is that our research knowledge base on sex offenders has grown tremendously. For example, it may come as a surprise to some that until fairly recently, our scientific understanding of the paraphilia of *"sexual sadism"* had not been dramatically enhanced since the time of Krafft-Ebing and Freud. This was likely due to the difficulties inherent in defining and measuring sexual sadism.[3] Not surprising since until relatively recently, there has not been a "pressing" need or concern to measure such phenomena.

Because we must now enter the courtroom and testify about such matters with reasonable scientific certainty, we have found that the science has been lacking. Even issues as basic as definitional problems persist, with one example being the substantial differences between the International Classification of Diseases (ICD-10) and DSM-IV-TR definitions of sexual sadism. The differences would seem to be representative of the definitional confusion present in the literature on sadism (and masochism) generally.[4]

The ICD-10 does not even give separate definitions for sexual sadism and sexual

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autonomy of his body and choice of life was far outweighed by a list of factors related to the orderly administration of the prison. Indeed, while the court does not use inflammatory language it creates the impression that on learning of Coleman's death fellow inmates would likely demonstrate; engage in candlelight protest marches; refuse to eat, work, or accept visits, and—who knows.

Parenthetically, why this does not occur when the state executes a prisoner rather than simply standing by and allowing him to quietly slip away did not seem to trouble this court.

A Closer Look

Coleman appears to be very serious about the merits of his protest and his willingness to accept death as the natural outcome of his refusal of food. As noted, there is no issue as to decision-making capacity and the likelihood of death. What is at issue is the right of an inmate to die when and by what method and for what cause he chooses.

Cruzon, 497 U.S. 261 (1997), established generally that the doctrine of informed consent is so embedded in our law that a patient generally possesses the constitutional right to refuse treatment. On the other hand, prisoners do forfeit certain rights, even basic rights, and the question is whether voluntary death by starvation is one of them.

Legal Factors

The five factors stated in case law allowing state intervention to halt a hunger strike have been the orderly administration and security of the prison system, the prevention of manipulation by the prisoner of the prison and judicial system, the preservation of life, the protection of innocent dependents, and the maintenance of ethical integrity of the medical professionals involved.

The majority of state and federal courts addressing the issue of whether the state may intervene in an inmate hunger strike try to balance the interests of the state in the preservation of life and the orderly administration of the prison system and the interests of innocent dependents against the prisoner's right to self-determination and privacy. For one or more reasons, they have upheld the state's right to intervene.

Where courts conclude that a prisoner is trying to, as they put it, manipulate the system as by protesting a transfer, trying to circumvent the judicial process by refusing to eat when ordered to testify before a grand jury, they seem comfortable with an "eat or else" order.

One court actually likened the refusal to eat to an attempt to escape and that, stated the court, we cannot condone. Well! **In re Sanchez**, 577 F.Supp. 7 (S.D.N.Y. 1983).

As noted, the cases upholding forced feeding coalesce around maintenance of authority-security issues. "Why if we let prisoners decide for themselves whether to live or die, there would be anarchy in our prisons." Anon.

Decisions Favorable to Inmates

The Supreme Court of Georgia affirmed a trial court's decision to deny the state's petition to force feed a hunger striking inmate. **Zant v. Prevatte**, 286 S.E.2d 715 (1982). The court considered that,

> [the inmate] is not mentally incompetent, nor does he have dependents who rely on him for a means of livelihood. The issue of religious freedom is not present. Under these circumstances, we hold that [the inmate], by virtue of his right of privacy, can refuse to allow intrusions on his person, even though calculated to preserve his life. The State has not shown such a compelling interest in preserving [the inmate's] life, as would override his right to refuse medical treatment.

The state did not claim any of the traditional factors except a duty to preserve the inmate's health and life and may have thought this inmate worthy of an early demise.

The Supreme Court of California, in a well known decision, determined that the state had no authority to interfere with an inmate's hunger strike**. Thor v. Superior Court**, 855 P.2d 375 Cal. 1993). The court's holding specified that "under California law a competent, informed adult has a fundamental right of self-determination to refuse or demand the withdrawal of medical treatment of any form irrespective of the personal consequences." The court further stated that "[u]nder the facts of this case, we further conclude that in the absence of evidence demonstrating a threat to institutional security or public safety, prison officials, including medical personnel, have no affirmative duty to administer such treatment and may not deny a person incarcerated in state prison this freedom of choice."

Thor involved a prison physician petitioning the court to allow him to force feed a quadriplegic patient who had decided to die. The court considered four state interests: preserving life; preventing suicide; maintaining the integrity of the medical profession; and protecting innocent third parties. Finally, the court considered how this would affect orderly administration of the prison system. In considering the first four factors, the court, noted that this patient was quadriplegic and serving a life sentence; the patient's decision to refuse medical treatment was an informed decision, and there were no other persons involved in this decision. Finally, the state had presented no evidence on the effect this would have on administration of the prison system.

I should note that the evidence of likely prison disorder in the instant decision appears to have been limited to the opinion testimony of a prison official. While I do not quarrel with admissibility, that is not quite the same as evidence of actual disorder in Connecticut, or any other state's, prisons.

The third case involves a Florida inmate who went on a hunger strike to protest his transfer to a different prison and to protest the lodging of complaints against a prison chaplain. **Singletary v. Costello**, 665 So.2d 1099 (Fla. App. 1996). The court first recognized a strong interest in the inmate's rights to privacy and to refuse medical treatment. The court then weighed the state's interests in preserving life, preventing suicide, protecting third parties, maintaining the ethics of the medical profession, and maintaining order in the prison. On the facts of the case, the court stated that,

> although the state interest in the preservation of life is powerful, in and of itself, it will not foreclose a competent person from declining life-sustaining medical treatment.... This is because the life that the state is seeking to protect is the life of the same person who has competently decided to [forgo] the medical intervention.

The court found it important, also, that the prisoner had expressly stated that he did not want to die, meaning that the state's interest in preventing suicide was not implicated. Finally, no evidence was offered on the other factors; therefore, the court denied the state's petition.

This Case

The court concludes there is ample evidence (which I missed) that Coleman's death by starvation would upset other inmates and this would trigger serious security concerns. Coleman is trying to force an investigation of his conviction and this is a form of system manipulation.

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His death, we are told, would deprive his children of the possibility of receiving child support on his release.

Let the force feeding begin!

COMMENT: I find the supposed dichotomy between a person's right to choose life, or not, and prison administration issues to be entirely bogus. This is not to say this is an altogether easy decision. Not at all.

The tension is between a right to choose when and how one dies and a custodian's decision to not allow that choice. Is the logical conclusion in *Coleman* that the prison's self-proclaimed duty to preserve the life of its charges encompasses heroic measures and the cost be damned?

The moment we enter into a discussion of the seemingly correctness of the hunger striker's reasons we are on a very slippery slope. And yet that is what the court did here—children awaiting support, forcing an investigation. It may just be the better part of valor to inquire into competency and let it go.

However, if I were advising a jail or prison official, I would urge them to seek a temporary injunction to force feed pending a final decision. This is the legal insulation an official needs. On the other hand, the real debate—an inmate's autonomy—should continue. ■