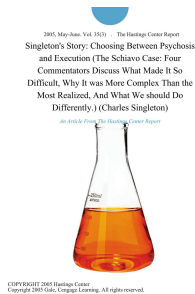


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SINGLETON S STORY CHOOSING BETWEEN PSYCHOSIS AND EXECUTION THE SCHIAVO CASE FOUR COMMENTATORS DISCUSS WHAT MADE IT SO DIFFICULT WHY IT WAS MORE COMPLEX THAN THE MOST REALIZED AND WHAT WE SHOULD DO DIFFERENTLY CHARLES SINGLETON EBOOKS 2019



Author: The Hastings Center Report

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In early 2003, an episode of "The Practice" featured a psychotic death row inmate who stopped taking medication in order to avoid execution. The court forced the prisoner to take the medication but then commuted the sentence to life imprisonment on the grounds that executing someone who is mentally ill would be cruel and unusual punishment. In real life cases where death row convicts think about foregoing antipsychotic medication, few endings are happy. Mentally ill convicts are sometimes executed, competent or incompetent, while being medicated forcibly, voluntarily, or not at all. (1) The Constitution requires defendants and convicts to be mentally competent at all stages of the criminal process. To be competent for execution, the prisoner must understand that he is to be executed and why. Applying that principle to the mentally ill, the Supreme Court's 1986 Ford opinion held that the "Eighth Amendment ban on cruel and unusual punishment prohibits a State from carrying out a sentence of death upon a prisoner who is insane." (2) The majority opinion did not mention antipsychotic medication and its potential for improving mental capacity, although these drugs had by then been used to treat the mentally ill for at least two decades. However, a footnote in a concurring opinion stated that "if [Ford] is cured of his disease, the State is free to execute him." (3) This opened up the possibility--a loophole for the prosecution--that antipsychotic drugs or some other treatment might make a mentally ill capital convict sane enough to meet the minimal competency requirement for execution, even though the treatment would not actually "cure" the underlying illness.

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