When the Mentally Ill and the Criminal Justice System Collide—the Result

Kiera Welch
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KIERA WELCH
INTRODUCTION

In recent years, the mentally ill have once again begun to take over the prison population. They have become disproportionately represented in prisons and jails throughout the United States. Police forces do not have the skills or training to know how to handle such persons. Therefore, when the mentally ill cross paths with the criminal justice system, the results are devastating. They are forced to live in a system that was not designed for their well-being, thus deteriorating their health in the process. Prisons become overcrowded, causing the mentally ill to get sicker. Prisons and jails are unable to handle the demands of so many mentally ill and the proper medications and treatments are unavailable. Sadly, many will spend the rest of their lives in and out of the system, since there is no true treatment or rehabilitation process in place. They will become repeat offenders; victims of their own abnormalities of which they have little control. Unfortunately, the mentally ill are not only committing petty crimes, but also felonies such as murder. For this, many of the mentally ill will find themselves on death row, soon to be executed. What are they to do in a system that was not set up to handle them? Who are they to go to for some type of help or escape from the madness that lives within them? Is it fair to treat them the same as others without disorders or should there be some type of exception for those who do not cannot fully understand the consequences of their actions?
I. HISTORY

A. Hospitals

During the creation of what we now know as the United States, it was not uncommon for the mentally ill to be placed in prisons and jails, especially those that were prone to violence.\(^1\) In 1694, the Massachusetts Bay Colony passed legislation that would allow for the confinement of anyone who was a “lunatic and so furiously mad as to render it [sic] dangerous to the peace or safety of the good people.”\(^2\) These individuals were seen as a danger to society.\(^3\) In order to protect its citizens, the state needed to do away with them.\(^4\) Due to the imprisonment of the mentally ill, the citizens became angry and protests ensued.\(^5\) Colonists felt that the imprisonment of the mentally ill was inhumane.\(^6\) As a result, in 1752, the first psychiatric ward was established in the Pennsylvania Hospital located in Philadelphia.\(^7\) In 1773, “the nation’s first psychiatric hospital exclusively for the insane” was reluctantly authorized by Francis Fauquier—the governor of Virginia at the time.\(^8\) Later in 1825, Reverend Louis Dwight founded the Boston Prison Discipline Society.\(^9\) This was an organization created to advocate for the improvement of jail conditions and for the creation of mentally ill hospitals.\(^10\) Dwight

\(^2\) Id.
\(^3\) Id.
\(^4\) See id.
\(^5\) Id.
\(^6\) Id.
\(^7\) Id.
\(^8\) Id.
\(^10\) Id.
“began taking Bibles to inmates in jails” and he was shocked by what he had observed.11 Fortunately, through Dwight’s advocacy came the creation of a committee whose purpose was to investigate the conditions of jails throughout the states.12 The results were shocking, and they ultimately led to the creation of a hospital in 1833.13 During its first year, most of the patients at the hospital “were transfers from jails, prisons, and almshouses.”14

Following in Dwight’s footstep was Dorothea Dix, a school teacher.15 Dix taught Sunday school at the Cambridge jail in New Jersey and was horrified by what she saw.16 Given that Dix had a mentally ill father, this impacted her greatly, and she began investigating other jails throughout Massachusetts and other nearby states.17 Dix brought the conditions of the prisons to light and “urged the state legislatures to appropriate funds” in order to build special hospitals for the mentally ill.18 Dix believed that prisons were not capable of offering the proper treatment to the mentally ill because those in charge of the prisons were not trained to do so.19 Due to Dix’s efforts, there were seventy-five public psychiatric hospitals established by 1880.20

11 Id.
12 Id.
13 Id. at 9-10.
14 Id. at 10.
15 Id.
16 Id.
18 Id.
19 Id.
20 Id. at 11.
B. Deinstitutionalization

Unfortunately, by the 1960s “the emptying of the state mental hospitals” began to occur. This occurrence became known as “deinstitutionalization.” During this time, patients were discharged from the hospital and they were not given any type of follow-up treatment. The number of available hospital beds for the mentally ill declined “from 560,000 in 1955 to fewer than 60,000 in 2005.” Many relapsed and began committing crimes, thus landing them a stay in jail. About 50% of the mentally ill “reenter[ed] prisons within three years of their release” since they were not receiving adequate treatment and rehabilitation. By 1972, the effect of the practice of deinstitutionalization could be seen by the sharp increase of the mentally ill in the prison and jail system. This is due to the fact that once the hospitals began to shut down, the government did not provide the mentally ill with any alternatives.

C. Present

Today, the United States has the highest number of people incarcerated compared to the other developed countries—2.2 million. These prisons and jails are now the “largest providers of psychiatric services in the United States.” Those suffering from

21 Id.
22 Id.
23 Id.
25 Torrey, supra note 1, at 11.
27 Torrey, supra note 1, at 12.
29 Daniel, supra note 26, at 406.
30 Miller, supra note 24, at 270.
mental illnesses make up about “five times that of the general population.” Of the men in prison, 3.7% have a psychotic illness, 65% have a personality disorder, and of that 65%, 47% have an anti-social personality disorder. Of the women in prison, 4% have psychosis, 12% have major depression, and 42% have a personality disorder. In 2006, it was found that the inmates that suffered from mental illnesses made up 64% of the prison population, and 300,000 prisoners were in need of major psychiatric aid. In 2012, there were about 356,268 prisoners with a mental illness, and only 35,000 mentally ill patients in psychiatric hospitals.

II. DEFINING MENTAL ILLNESS

A. General

There are various ways that mental illness can be defined. It can be seen as any “impairment of an individual’s normal cognitive, emotional, or behavioral functioning.” These can be caused by various factors, including social, psychological, or genetic disorders. “Major depression, schizophrenia, bipolar disorder, obsessive compulsive disorder (OCD), panic disorder, and post-traumatic stress disorder (PTSD)” are some examples of a mental illness. Insanity is a severe mental illness and it is viewed

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31 Id.
32 Daniel, supra note 26, at 406.
33 Id.
34 Miller, supra note 24, at 270-71.
35 Torrey, supra note 1, at 6.
37 Id.
38 Id.
39 Id.
separately.\textsuperscript{40} Being insane consists of not knowing right from wrong and being unable to understand punishment and its purpose.\textsuperscript{41}

\textbf{B. Mental Retardation}

Mental retardation is defined as a “mental deficiency . . . or disease of the nervous system, dating from birth or from early infancy.”\textsuperscript{42} In efforts to create a more uniform definition, the American Association on Mental Deficiency (AAMD) stepped up to the plate.\textsuperscript{43} In 1959, mental retardation became known as a “sub-average general intellectual functioning, which originates in the developmental period and is associated with impairment in adaptive behavior.”\textsuperscript{44} In order to determine whether or not someone is mentally retarded, an Intelligence Quotient (I.Q.) test is performed.\textsuperscript{45} A person who scores a seventy or below on the test is considered to be mentally retarded.\textsuperscript{46} Mental retardation can be measured on a spectrum that spans from mild to profound.\textsuperscript{47}

A person who is considered to be “mildly retarded” will most likely score between a fifty and a seventy on the I.Q. test.\textsuperscript{48} Individuals who fall under this category may not even be detected by the “casual observer”, and are able to function successfully within the community.\textsuperscript{49} A person who is “moderately retarded” may receive between a thirty-five and a forty-nine on the I.Q. test.\textsuperscript{50} These individuals can conform

\begin{thebibliography}{99}
\bibitem{40} Id.
\bibitem{41} Id.
\bibitem{43} Id. at 1312-13.
\bibitem{44} Id. at 1314.
\bibitem{45} Id. at 1315-17.
\bibitem{46} Id. at 1317.
\bibitem{47} Id. at 1321.
\bibitem{48} Id.
\bibitem{49} Id. at 1322-23.
\bibitem{50} David L. Rumley, \textit{A License to Kill: The Categorical Exemption of the Mentally Retarded from the Death Penalty}, 24 ST. MARY’S L. J. 1299, 1323 (1993).
\end{thebibliography}
independently to customs, habits, and societal behaviors.\textsuperscript{51} “Severely retarded” individuals score between a twenty and a thirty-four on their I.Q. tests. They can adapt to “daily routines and repetitive activities”, but they are typically inept of self-maintenance.\textsuperscript{52} Lastly, “profoundly retarded” individuals score below a twenty on the I.Q. test.\textsuperscript{53} They cannot self-maintain, but physical activity is good for them.\textsuperscript{54} While it may seem like most mentally retarded individuals fall on the high end of the spectrum, 89\% are only mildly retarded.\textsuperscript{55}

III. THE MENTALLY ILL IN PRISON

Having the mentally ill in prison can cause several problems. The main issue is the overcrowding of the jails and prisons.\textsuperscript{56} This is mainly due to the fact that many people with mental illnesses remain in jail much longer than those without a mental illness.\textsuperscript{57} Another issue caused by the mentally ill being in prison is the staff having to deal with the behavioral issues associated with their illness.\textsuperscript{58} They disturb other prisoners, the staff, and may even physically abuse them.\textsuperscript{59} When the mentally ill are kept in prison, it not only affects others but harms them personally.\textsuperscript{60} Sadly, they often become victims of their situation more often than the others in prison.\textsuperscript{61} Their condition

\textsuperscript{51} Id. at 1323-24.
\textsuperscript{52} Id. at 1324.
\textsuperscript{53} Id. at 1324-25.
\textsuperscript{54} Id. at 1325.
\textsuperscript{55} Id.
\textsuperscript{56} Id.
\textsuperscript{57} Torrey, supra note 1, at 7.
\textsuperscript{58} Id.
\textsuperscript{59} Id.
\textsuperscript{60} Id.
\textsuperscript{61} Id.
begins to deteriorate due to the lack of treatment given to them. Those that manage the prison are not trained to handle the mentally ill, but they are forced to house several of them. Thus, because they are unsure of how to handle them, the mentally ill tend to get punished for involuntary actions that are symptoms of their condition. Often, they are unable to provide the inmates with the psychiatric medications that are needed to keep them stable. They are kept in solitary confinement or restraining devices for most of the day, causing their symptoms to worsen. Sometimes the situation becomes so bad that they unfortunately result to committing suicide. If the mentally ill do make it out of prison, they usually end up back in jail. The recidivism rate for the mentally ill is higher than that of the non-mentally ill inmates.

Taking a closer look, mentally ill prisoners are very often victims of their condition. They are more “likely to be picked on, physically or sexually abused, and manipulated by other inmates.” A Georgia inmate, who is mentally ill and mildly retarded, claimed that he was raped several times and that he exchanged sex for commissary. The mentally ill are punished for acting out in such a way that the staff does not know how to handle. If they engage in self-mutilation or attempt suicide, it is considered destruction of state property. If they yell or kick doors due to the voices in

62 Id.
63 Id. at 8.
65 Torrey, supra note 1, at 8.
66 Id.
67 Id. at 7.
68 See id.
69 Id.
70 HUM. RTS. WATCH, supra note 64.
71 Id.
72 Id.
73 Id.
their head, it is considered a disturbance.\textsuperscript{74} If they throw objects while in a delusional state, it is considered to be battery.\textsuperscript{75} If they smear feces on themselves or in the cell, it is considered to be untidy.\textsuperscript{76} The staff does not make the situation any better since they usually escalate the confrontations, sometimes with excessive force.\textsuperscript{77} It has been shown that “several mentally ill prisoners have died from asphyxiation after struggling” with untrained guards.\textsuperscript{78}

IV. LEGISLATION

A. Trials

Mental illness can affect the many stages of the trial process, including the assurance of not violating their due process rights. During police interrogation, the mentally ill are more likely than others to be manipulated into giving false confessions.\textsuperscript{79} The characteristics of their illness may also play a role in them giving a false confession, such as their impulsiveness, delusions, and compliance.\textsuperscript{80} Others do not fully understand their \textit{Miranda} rights.\textsuperscript{81} They do not know that they can gain access to a lawyer and that they do not have to speak if they wish not to.\textsuperscript{82} Since they do not comprehend this, they tend to waive the rights all together.\textsuperscript{83}

\textsuperscript{74} Id.
\textsuperscript{75} Id.
\textsuperscript{76} Id.
\textsuperscript{77} Id.
\textsuperscript{80} Id.
\textsuperscript{81} Id.
\textsuperscript{82} Id.
\textsuperscript{83} Id.
According to the Constitution of the United States, “a defendant must be ‘competent’ to stand trial.” 84 Competency hearings are held to determine whether the defendant will be able to understand what is occurring during the proceedings; and whether they can effectively communicate with their lawyer. 85 This test has a low standard, causing many mentally ill defendants to be considered competent enough to stand trial. 86

If a defendant wants to claim insanity as a defense, they must take the necessary steps to prove it. 87 This is usually done by using the M’Naghten test, which determines whether the defendant had the knowledge that the crime they committed was wrong at the time it was committed or if the individual’s mental illness hindered their understanding of their wrongdoing. 88 Unfortunately, juries tend to find the defendants sane and competent to stand trial. 89

The fact that the defendant has a mental illness can be used to mitigate the ruling or the sentence by presenting evidence of the illness. 90 However, the jurors often do not completely understand the evidence and misinterpret it. 91 They tend to treat it “as a reason to vote for death, rather than a reason to vote for life.” 92

84 Id.
85 Id. at 1-2.
86 Id. at 2.
87 AM. CIVIL LIBERTIES UNION 3, supra note 79 at 3.
88 Id.
89 Id.
90 Id. at 3.
91 Id.
92 Id.
**B. Guilty but Mentally Ill**

In the 1970s, states began enacting statutes that allowed for the “guilty but mentally ill” verdict.\(^93\) This allowed for the courts to say that the defendant was responsible for the crime, but they would need to be treated while in prison due to their mental illness.\(^94\) Various cases have shown that the use of this verdict does not lessen the chances of a mentally ill person to receive the death penalty.\(^95\) In *People v. Crews*, the court did not believe that the death penalty was an excessive punishment that would violate the Eighth and the Fourteenth Amendments.\(^96\) In *Harris v. State*, the court found that pleading “guilty but mentally ill to murder, kidnapping, and rape” did not violate the cruel and unusual punishment clause of the Eighth Amendment.\(^97\) In *State v. Bell*, the court affirmed the conviction and death sentence of a defendant, who pleaded guilty but mentally ill to murder and kidnapping.\(^98\) Recently, some states have begun to propose legislation that would exempt the execution of a defendant who was found to be mentally ill.\(^99\) However, the legislation has not been passed as of yet.\(^100\) As of 2009, Connecticut is the “only state that prohibit[ed] the execution of someone who is mentally ill.”\(^101\)

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\(^94\) *Id.*

\(^95\) *Id.* at 3.

\(^96\) *Id.*

\(^97\) *Id.*

\(^98\) *Id.* at 16a.


\(^100\) *Id.*

V. THE CASE OF ALVIN FORD

In *Ford v. Wainwright*, Alvin Bernard Ford was sentenced to death after being found guilty of first-degree murder. Ford murdered Officer Dimitri Walter Ilyankoff while robbing a Red Lobster Restaurant in Florida. At the time of the murder and during the trial, Ford appeared fine; however, he became mentally ill while on death row. In 1980, the Florida Supreme Court refused to hear Ford’s appeal and the United States Supreme Court refused to hear the case. After a year of no representation, Larry Wollin agreed to take the case and filed a post-conviction pleading. While the courts were trying to sort out the issues of the case, Ford’s mental condition continued to worsen. In December of 1981, Ford began to display various mentally ill characteristics. Ford believed that people were talking to him through the radio, that he possessed the power to see outside of the prison, and that the Ku Klux Klan had members serving as prison guards. He also believed that the guards kidnapped women, raped them behind his cell, killed them, and then put their bodies under his bunk in a concrete closure. His friends and his supporters were no longer on his side; they became his enemies. His condition became profound after 1982 when he completely

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http://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_cjm ag_22_3_executingmentallyill.authcheckdam.pdf.
104 *Ford*, 477 U.S. 399.
105 Id.
106 Id.
107 Id.
108 Id.
109 Id.
110 Id.
111 Id.
lost touch with reality.\textsuperscript{112} Ford began writing letters to President Reagan, the head of the FBI, attorneys, and judges asking them for help in ending “the hostage crisis.”\textsuperscript{113} He would often have arguments with himself and these arguments would lead to self-harm—punching himself until he became exhausted.\textsuperscript{114} Surrounding inmates stated that this was Ford’s regular behavior on a daily, nonstop basis.\textsuperscript{115}

Meanwhile, the court was debating about the proper way to handle the situation. They had to determine whether “the cruel and unusual punishment clause of the Eighth Amendment and the due process clause of the Fourteenth Amendment prohibit[ed] the imposition of the death penalty upon the insane.”\textsuperscript{116} They also had to determine whether the “Federal District Court err[ed] when it declined to hear Ford’s petition.”\textsuperscript{117} The United States Supreme Court answered “yes” to both of these issues.\textsuperscript{118} In 1986, “the Court held that it was unconstitutional to execute someone who was incompetent at the time of his execution.”\textsuperscript{119} Justice Lewis Powell established a two-prong test that would not allow for the execution of those who “(1) are unaware of the punishment they are about to suffer, and (2) why they are to suffer it.”\textsuperscript{120} Unfortunately, even if a person is considered to be mentally ill, they may still fail the test.\textsuperscript{121} One must be completely unaware of the penalty.\textsuperscript{122} Sadly, even though it was obvious that Ford was mentally ill,
the judge still found Ford to be competent enough to execute. 123 The lawyers were in the process of trying to appeal the decision, but Ford died of “natural causes.” 124

VI. THE CASE OF SCOTT PANETTI

In Panetti v. Quarterman, Panetti woke up early one morning in 1992 dressed in camouflage 125 with a shaved head. 126 Panetti was armed with a “sawed-off shotgun and a deer rifle”. 127 He drove to his estranged wife’s parents’ house and broke in to it. 128 Panetti shot and killed the wife’s parents while his wife and daughter were present to witness the act. 129 He then held his wife and daughter hostage, later surrendering to the police leaving them unharmed. 130 Panetti believed that his “in-laws were guided by the devil.” 131

While on trial, Panetti chose to represent himself. 132 He did so in a purple cowboy suit. 133 He attempted to subpoena Jesus Christ and former president John F. Kennedy, and believed people were conspiring against his alter-ego, “Sarge”. 134 He would often fall “into trances, [nod] off, and [gesture] threateningly to jurors.” 135 Panetti

123 Id. at 6.
124 Id.
128 Panetti, 551 U.S. at 935.
129 Id.
130 Id. at 935-36.
132 Miller, supra note 24, at 298.
133 Id.
134 Id.
135 Mello, supra note 103, at 35.
would speak incoherently when presenting his case as well.\textsuperscript{136} Unfortunately, even though it was quite obvious that Panetti was mentally ill, the legal standard that allows for self-representation is low.\textsuperscript{137}

In 2007, the United States Supreme Court reaffirmed the Ford decision—“a defendant cannot be executed if he is incompetent at the time of his execution.”\textsuperscript{138} The lawyers believed that Panetti was not afforded the opportunity to prove that he was incompetent for execution.\textsuperscript{139} The Supreme Court agreed, and stated that Panetti’s due process rights had indeed been violated.\textsuperscript{140} The Supreme Court also stated something very crucial to Panetti’s case.\textsuperscript{141} They stated that “a defendant must have a ‘rational understanding of the reason for the execution’”, unlike the lower court who stated that Panetti only needed to know “the fact of his impending execution and factual predicate for the execution.”\textsuperscript{142} Panetti was aware of the murders he committed and that he would be executed.\textsuperscript{143} However, he thought that he was being executed for preaching the gospel, which meant that he did not have a “rational understanding”.\textsuperscript{144} The United States Supreme Court believed that if this is what Panetti truly believed, then the punishment of execution would not be purposeful.\textsuperscript{145} In 2014, the United States Court of

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\textsuperscript{136} Jon Herskovitz, \textit{supra} note 126.
\textsuperscript{138} \textsc{A.M. Civil Liberties Union}, \textit{supra} note 79, at 4.
\textsuperscript{139} \textit{Id}.
\textsuperscript{140} \textit{Id}.
\textsuperscript{141} \textit{Id}.
\textsuperscript{142} \textit{Id}.
\textsuperscript{143} \textit{Id}.
\textsuperscript{144} \textit{Id}.
\textsuperscript{145} \textit{Id}.
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Appeals for the Fifth Circuit stayed Panetti’s execution in a five-to-four ruling. The court wanted more time to look over Panetti’s case in relation to the effect his mental illness had on his competency level. Panetti’s lawyers believed that the “execution of a severely mentally ill man would be morally and legally wrong.” There have yet to be any dates or details released for the furtherance of the case.

Panetti had an extensive history of mental illness before the occurrence of the crime that placed him on death row in Texas. He had been hospitalized about fourteen times previously due to his mental illness. Panetti “suffered from schizophrenia for more than thirty years.” He received his first diagnosis in 1978. The Brooke Army Medical Center stated that Panetti was exhibiting some early signs of schizophrenia. In January of 1981, at the Keriville State Hospital, Panetti was diagnosed with paranoia as a result of his hostile and suspicious behavior. By April of that same year, Panetti’s schizophrenia had advanced to chronic schizophrenia. In August, the Cumberland Memorial Hospital found Panetti to be close to a psychotic break. He was paranoid, heard noises, suicidal, and he felt like he was being controlled by someone else—a

147 Lilliana Segura, supra note 137.
149 Jon Herskovitz, supra note 126.
150 Id.
151 Id.
152 Id.
153 Id.
154 Montgomery, supra note 146.
155 Id.
157 Id.
158 Id.
159 Id.
greater power.\footnote{Id.} He was diagnosed with having depression, delusions, and hallucinations.\footnote{Id.} In the 1990s, Panetti suddenly stopped taking his medication and stopped going to the Kerrville hospital for treatment, which caused his condition to worsen.\footnote{Id.} One day, Panetti’s wife found Panetti burying his “devil-ridden” furniture in the backyard, and “nailing the curtains closed to keep Satan out.”\footnote{Montgomery, supra note 146.} Panetti was seriously ill, and there was no hiding it.\footnote{Texas Puts Execution of Mentally Ill Man on Hold, NAT’L PUB. RADIO (Dec. 3, 2014), http://www.npr.org/2014/12/03/368282918/texas-puts-execution-of-mentally-ill-man-on-hold.}

VII. HONORABLE MENTIONS

A. The Case of Nollie Lee Martin

Nollie Lee Martin set a house ablaze in North Carolina, causing three people to die.\footnote{Id.} Later, in Florida, he robbed a convenience store, raped the store clerk, then murdered her.\footnote{Id.} Martin made a confession to the police twice in Florida, but his Miranda rights were found to be violated.\footnote{Id.} From childhood, Martin suffered from serious brain damage that could be seen via CAT scan.\footnote{Id.} The courts found that the error in using Martin’s second confession was harmless, thus making it available to be used.\footnote{Id.} Martin was convicted of murder and sentenced to death.\footnote{Id.} Martin later attempted suicide, not because of the news of his future conviction, but because he had gotten in
trouble for possessing a cup of fruit cocktail. The prison treated Martin with
medication that allowed him to function somewhat normally while on death row. Eventually, a stay was issued that lasted for about six years, which was when Martin was killed via electric chair. The United States Supreme Court believed that he was competent enough for execution under the Ford test.

**B. The Case of Kelsey Patterson**

In 2004, the state of Texas executed Kelsey Patterson. Patterson had been diagnosed with paranoid schizophrenia, and voluntarily admitted himself to the hospital after committing one of his many violent crimes. Patterson was found to be competent for trial despite his mental illness. He had committed two murders and was sentenced to death row, despite the Texas Board of Pardons and Paroles’ recommendation of life imprisonment as an alternative.

**C. The Case of John Ferguson**

In 2013, John Ferguson was executed in Florida. For over forty years, Ferguson suffered from mental illness. In 1965, it was believed that he suffered from visual hallucinations and was diagnosed with paranoid schizophrenia and delusions.

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170 Id.
171 Id.
172 Id.
174 Id.
175 Id.
176 Id.
177 Id.
178 AM. CIVIL LIBERTIES UNION, supra note 79, at 5.
179 Id.
180 Id.
1975, the doctor at the mental hospital suggested that Ferguson not be released, no matter what, since Ferguson was so dangerous.\textsuperscript{181} The hospital staff did not heed the warning and Ferguson was released a year later.\textsuperscript{182} At the time of his execution, Ferguson thought of himself as the “Prince of God” and that he was being executed to save the world.\textsuperscript{183}

VIII. HOPE

A. Stopping Execution

In recent times, there has been a glimmer of hope for the mentally ill in prison. In 2008, Guy LeGrande of North Carolina, appearing to be psychotic, was found to be too incompetent to execute.\textsuperscript{184} LeGrande represented himself during his trial while wearing a Superman t-shirt.\textsuperscript{185} He also told the jury to “shake that groove thing.”\textsuperscript{186} Percy Walton of Virginia was also found to be too incompetent to execute in 2008.\textsuperscript{187} Walton believed he would come back to life after his execution and go to Burger King for burgers.\textsuperscript{188} Walton also believed that his victims and his grandfather would come back to life.\textsuperscript{189}

B. Stopping Solitary Confinement

In 2015, Pennsylvania declared that its prison system would stop putting the mentally ill prisoners in solitary confinement.\textsuperscript{190} The now allows them to go to special

\begin{flushright}
\textsuperscript{181} Id.
\textsuperscript{182} Id.
\textsuperscript{183} Id.
\textsuperscript{184} Id.
\textsuperscript{185} Id.
\textsuperscript{186} Id.
\textsuperscript{187} Id.
\textsuperscript{188} Id.
\textsuperscript{189} Id.
\end{flushright}
treatment areas to give “them more time outside their cells.” Inmates were previously confined in their cells for at least twenty-three hours daily, as a result of actions caused by their mental illness. These changes were made possible due to a “suit filed by the Disability Rights Network, a nonprofit group.” An investigation proved that the mentally ill prisoners’ rights were being violated, causing serious damage to their mental health.

Jerome Laudman was physically abused by an officer while being transferred to another cell. The officers attempted to cover up the incident by cleaning the cell before photographs were able to be taken. Laudman was said to suffer from “paranoid schizophrenia, mental retardation, and bipolar disorder.” He was abandoned in his cell, and the signs of his deterioration were ignored by officers. Soon after, he was discovered in terrible condition by the nurses and was taken to a hospital where he was found to have hypothermia. Laudman soon died of cardiac arrhythmia. Laudman’s estate sued the officers and the prison. They received a $1.2 million settlement, and changes in the prison system have since been implemented.

191 Id.  
192 Id.  
194 Id.  
196 Id.  
197 Id.  
198 Id.  
199 Id.  
200 Id.  
201 Id.  
202 Id.
C. Stopping Ignorance

The Crisis Intervention Teams (“CIT”) have begun training officers to handle the situations that occur between themselves and the mentally ill.\textsuperscript{203} The program was created in 1988 by the Memphis Police Department after a schizophrenic individual was shot and killed.\textsuperscript{204} Officers are taught new ways to approach the mentally ill, such as using soft voices and repetition instead of yelling or being aggressive.\textsuperscript{205} They also train with devices called “Virtual Hallucinations” that allow the officers to understand what a mentally ill person usually experiences.\textsuperscript{206} Programs like these allow for a change in the system, and improvements in the lives of the mentally ill in prison.\textsuperscript{207}

IX. CONCLUSION

The mentally ill being placed into prisons has been a pressing issue since the beginning of America’s creation. They have been treated inhumanely and unfairly, but this is not because they deserved to be treated this way. It is because few individuals have taken the time to truly understand them and their needs. The mentally ill should not be placed in prisons, because the prison system is not built to handle their various chronic conditions and needs. They lack the appropriate funding and means to provide all of the medication necessary to treat these individuals. The mentally ill should be placed into hospitals, even if they have committed crimes. Usually, the crime they are found guilty of committing is one over which they had minimal mental control. Voices in their heads

\textsuperscript{204} Id.
\textsuperscript{205} Id.
\textsuperscript{206} Id.
\textsuperscript{207} Id.
are telling them that the victim is a threat or harmful, so in their minds they must eliminate them. They may not understand what they are doing is completely wrong; rather, they may believe they are saving others in the process.

Fortunately, strides have been made in the progression of treating the mentally ill within the prison system. There have been programs implanted to help train officers, like the CIT; states have proposed or enacted legislation disallowing the execution and confinement of the mentally ill, and as a result, there are individuals whose lives have been spared. Hopefully, we will see a day in the near future when this is no longer an issue. Hopefully, they will begin to move the mentally ill out of prisons and jails, and into hospitals. Hopefully, the mentally ill will finally gain the peace they deserve.