He killed 4 men. Now he seeks compensation from his care team.

DEC 9, 2022

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In 2018, a Pennsylvania man pleaded guilty to murder, robbery, abuse of a corpse and several other crimes after a multiday killing spree that left four young men dead. He was sentenced to four consecutive terms of life imprisonment and a concurrent term of five years' probation.

After the estates of the four victims sued the man, Cosmo DiNardo, his mother filed a lawsuit alleging her son wasn’t responsible for his actions. She claimed instead that DiNardo’s psychiatrist and other health professionals were negligent in treating his mental illness. The lawsuit alleges that it was their negligence that resulted in his murdering the four men. The lawsuit, among other things, asks that his psychiatrist and the other health professionals compensate him for the pain and emotional distress of being incarcerated and knowing he murdered people, along with the cost of defending himself.

The Supreme Court of Pennsylvania Eastern District is now considering whether the “no felony conviction recovery” rule stops the court system from awarding civil damages in a case where someone like DiNardo claims he wouldn’t “benefit” or “profit” from his own criminal acts, but instead would be “compensated” for alleged medical malpractice relating to crimes to which he pleaded guilty.

Physicians say the rule absolutely prevents that kind of payment.

In an amicus brief, the Litigation Center of the American Medical Association and State Medical Societies, the Pennsylvania Medical Society (PAMED), Philadelphia County Medical Society (PCMS) and others tell the state’s highest court it should uphold an appellate court decision that the “no felony conviction recovery” rule applies. Physicians agree with the court’s logic that calling recovering damages “compensation” rather than “profit” is purely a semantic argument.

Making physicians and other health professionals “the guarantors of the financial costs of crimes committed by their patients would lead to a drastic expansion of ‘defensive medicine’ practices that would exacerbate the longstanding problems of maintaining cost-containment and averting over-
treatment,” physicians tell Pennsylvania’s highest court in the case, *DiNardo v. Kohler*.

Find out more about the cases in which the AMA Litigation Center is providing assistance and learn about the Litigation Center’s case-selection criteria.

**Negative impact on care**

Physicians and health care organizations “would be forced to spend significant resources litigating against meritless or patently frivolous claims,” the AMA Litigation Center, PAMED and PCMS brief tells the court, noting that public and penal institutions provide a large percentage of mental health care in the United States.

That, in turn, would “significantly impact” how health care is delivered to patients.

If physicians are worried that they could be sued if a patient commits a crime, they will begin to overtreat patients in an effort to not be held liable for not doing enough.

Psychiatrists and other mental health professionals would err on the side of caution, institutionalizing more patients and prescribing more medication to try to “avoid the unfortunately substantial possibility that some of their patients will commit serious crimes for which providers may face crushing financial liabilities,” the brief tells the court.

Ultimately, the brief warns, psychiatrists and other mental health professionals are likely to be driven away from providing care to patients with serious mental illness—the patients who need mental health care the most.

**Credibility of justice on the line**

Physicians say allowing an exception to the “no felony conviction recovery” rule would run contrary to the commonwealth’s laws on medical negligence actions, which aim to ensure only valid claims go to court.

And, the brief says, allowing claims like these “would shock any reasonable person’s sense of justice,” and prompts the court to imagine the newspaper headline: “Serial killer takes four lives; makes millions for his trouble.”