



**LGIT'S COMMANDER'S LOG**  
**March 2009**

**Right of Inmates to Refuse Medical Treatment**

**QUESTION:** Does an inmate have the right to refuse medical treatment?

**ANSWER:** If the inmate satisfies the criteria established by the Maryland Court of Appeals, and the refusal is not an attempt to manipulate prison officials, the inmate may have the right to refuse medical care.

**CASE:** *J. Michael Stouffer v. Troy Reid*, Court of Special Appeals  
Decided February 6, 2009

The Court of Special Appeals recently was faced with a case in which an inmate imprisoned by the Department of Corrections (DOC) refused kidney dialysis and related medical treatment. The facts established that in 1995, Troy Reid had been sentenced to forty years. In 2007, Reid was diagnosed by prison medical personnel with end-stage renal disease. He was prescribed kidney dialysis three times per week. Reid objected to the dialysis and periodically refused to accept it, sometimes going weeks at a time without receiving any treatment. When in April 2008 he again refused treatment, J. Michael Stouffer, the Commissioner of Corrections, filed a lawsuit seeking to compel Reid to submit to medical treatment. When the Circuit Court for Baltimore City refused to do so, Commissioner Stouffer appealed.

On appeal, the Court of Special Appeals affirmed the decision of the circuit court. In doing so, the court relied on the 1993 Court of Appeals' decision in *Mack v. Mack*, 329 Md. 188. In that case, Maryland's highest court addressed the qualified common law right of a competent adult to refuse medical care. The opinion applied the universally recognized rule that a physician treating a mentally competent adult under non-emergency circumstances cannot properly undertake to perform surgery or administer other therapy without the prior consent of the patient. This doctrine is essentially derived from the patient's right to exercise control over his or her own body by deciding whether or not to submit to a particular course of treatment. The court did rule, however, that the right to refuse treatment is not absolute; rather, it is subject to at least four countervailing State interests: (1) the preservation of life; (2) the protection of interests of innocent third-parties; (3) the prevention of suicide; and (4) the maintenance of the ethical integrity of the medical profession.

Despite the test outlined in the *Mack* case, the Commissioner of Correction urged that because Reid was a prison inmate, a circumstance not present in *Mack*, its holding was not controlling. Specifically, he argued that in a prison environment, there are repercussions that arise when an inmate refuses medical treatment, particularly when that treatment is necessary to protect the inmate from serious bodily injury or death. The Court of Special Appeals disagreed and decided the case by applying the factors delineated in *Mack*. As to the first, the preservation of

life, the court agreed that Reid's refusal of treatment was potentially life-threatening. However, the court also found that Reid was mentally competent and that he had expressly stated his desire to forego medical treatment he deemed objectionable. Consequently, the concerns of the prison doctors and administrators were insufficient to overcome Reid's right to refuse medical treatment. As to the second factor, the protection of innocent third-parties, the court rejected the argument that such parties included other prison inmates and DOC employees. Instead, the court said that this factor generally is limited to concerns for public safety or the emotional and financial interests of the person's dependents, especially minor children. Since Reid's condition did not endanger public health and since he had no family or dependents, this factor also was decided in Reid's favor. As to the third, the prevention of suicide, the court did not equate Reid's refusal with suicide. There was no evidence that Reid wanted to die or that his refusal was intended to be a back door suicide attempt. Although his refusal would certainly cause his condition to worsen, it would not result in imminent death. As to the fourth factor, the integrity of the medical profession, the court ruled that a competent person's decision to refuse treatment does not harm the medical profession in any tangible way. For all of these reasons, the Commissioner of Corrections' effort to require Reid to submit to treatment failed.

This opinion unquestionably is controversial and it can be argued that it discounts the State's obligation to maintain the safety, security and good order of its prisons. In this regard, the Commissioner contended that Reid's refusal would create a perception among some inmates that the administration was not in control of the inmate population and that the allocation of limited DOC resources could be manipulated by an inmate's decision to refuse medical care. Essentially, he contended that allowing Reid's refusal to stand would have a "ripple effect" that could undermine order and authority in correctional institutions. In response, the court said that the case did not present a test of the "reasonableness" of a prison regulation, and to which the courts generally pay great deference. Instead, the focus here was very narrow, limited solely to Reid and the circumstances surrounding his decision. The court further responded by confirming that in cases involving a direct threat from an inmate or ones involving an inmate or inmates' protesting prison policies or otherwise attempting to manipulate corrections officials, the result would be different. Such circumstances, however, were not present in Reid's case. As a result, his refusal of treatment was allowed to stand.

**NOTE:** The circumstances in this case are unique and doubtful of repetition. In order to do so, an inmate would have to satisfy the same four-part *Mack* test that Reid passed and establish that his/her refusal was not an attempt to manipulate prison officials. As to the latter, the court discussed numerous opinions in which correctional officials were allowed to require the prisoner to undergo medical treatment. Examples included: allowing officials to forcibly medicate a schizophrenic prisoner who had a history of serious assaultive behavior that worsened when he was not medicated; allowing officials to administer dialysis to an inmate where the inmate's refusal was designed to protest his transfer from a minimum to maximum security prison; and allowing force-feeding of inmates who were engaged in hunger strikes to protest prison conditions. In all of these cases, the inmate's refusal of treatment or nutrition was an attempt to manipulate. Such attempts could not stand in the face of the interest in orderly prison administration.

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