

University of Cincinnati College of Law/  
Forensic Psychiatry Fellowship Legal Didactics  
Mental Health Law II  
Spring 2013

Fr 12:30-2:30 p.m.  
UC College of Law, Room 306 (subject to change)

**Instructor:** A.J. Stephani  
**Office Hours:** By appointment—give me a call  
**Phone:** 313-0488 (cell)  
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**Required textbook:** Melton et al., *Psychological Evaluations for the Courts: A Handbook for Mental Health Professionals* (Guilford Press) [hereinafter Text], supplemental cases, Luhrmann, *Of Two Minds: The Growing Disorder in American Psychiatry* (Knopf)

I have included the readings for the spring class below. Every year is something of an ongoing work in progress, so don't be surprised if we change up the readings a little or play around with the schedule. A few notes:

- Due to the nature of forensic psychiatric practice and the vagaries of United States Supreme Court case selection, the landmark cases cover a much broader area of practice than the first semester cases did. If it seems we're jumping from one subject to another more often than we did last semester, you're right. Just hang with it, and try not to get too hung up on finding common threads.
- In a similar vein, the number of landmark cases assigned this semester will be larger than it was last semester. We covered about 35 landmark cases last semester; we'll cover around 50 this semester. Obviously, we can't discuss most of the cases as fully as we did last semester, but we need to get through them because of their AAPL "landmark" case status. Just be prepared to zoom through several cases, noting the facts in brief, the holding in brief, and then moving on.
- The primary readings each week will be the "landmark" or supplemental cases listed for each class. The "landmark" cases are collected on a DVD which you may purchase from AAPL, or you may locate and read (and print out, if desired) the cases on your own. Readings from the text are necessary to provide background information about the area of law covered and to provide brief coverage of other important cases on the subject. Supplemental cases will be included in a separate document that I will distribute.
- The "landmark" cases available on the AAPL DVD are NOT edited. Some of them are quite long, and you may find it slow going to get through the reading, especially at first. Try to focus on the most important holding(s) in the case, and don't let the details about, say habeas corpus practice and the intricacies of AEDPA get you down.
- There will be a final exam, details of which will be provided later. Your grade will be based primarily on the final exam, with class participation and class performance, including your readiness to discuss the readings, taken into account where appropriate.

January 25

► **Welcome Back/Last Semester Cleanup/Luhrmann Discussion/Competency**

**Readings:** Luhrmann, Chapters 2-7, Melton, 10.01-10.10, Superintendent of Belchertown State School v. Saikewicz, 383 Mass. 728, 370 N.E.2d 417 (1977), Zinermon v. Burch, 494 U.S. 113, 110 S. Ct. 975 (1990)

February 1

► **Guardianship/Right to Refuse Treatment**

**Readings:** Melton, 11.01-11.05, Rennie v. Klein, 720 F.2d 266 (3d Cir. 1983), Rogers v. Commissioner of Dept. of Mental Health, 458 N.E.2d 308 (1983), Washington v. Harper, 494 U.S. 210, 110 S. Ct. 1028 (1990), O.R.C. § 2111.01(D)

February 8

► **Right to Refuse Treatment**

**Readings:** Hargrave v. Vermont, 340 F.3d 27 (2003), Steele v. Hamilton County Community Mental Health Board, 90 Ohio St. 3d 176 (2000)

February 15

► **Juvenile Forensics and Children**

**Readings:** Melton, Chapters 14-17 (skim), Parham v. JR, 442 U.S. 584, 99 S. Ct. 2493 (1979), Board of Education v. Rowley, 458 U.S. 176, 102 S. Ct. 3034 (1982), Irving Independent Sch. Dist. v. Tatro, 468 U.S. 883, 104 S. Ct. 3371 (1984), Painter v. Bannister, 140 N.W.2d 152 (1966), DeShaney v. Winnebago County Dept. of Social Services, 489 U.S. 189, 109 S. Ct. 998 (1989)

February 22

► **Right to Treatment and the ADA**

**Readings:** Melton, 13.01-13.02, Rouse v. Cameron, 373 F.2d 451 (1966), Wyatt v. Stickney, 344 F. Supp. 387 (M.D. Ala. 1972), Youngberg v. Romeo, 457 U.S. 307, 102 S. Ct. 2452 (1982), Olmstead v. L. C., 527 U.S. 581, 119 S. Ct. 2176 (1999)

March 1

► **Expert Testimony and Evidentiary Issues**

**Readings:** Melton, 1.04, 18.06-18.07, Frye v. U.S., 293 F. 1013 (1923), Daubert v. Merrell Dow Pharmaceuticals Inc., 509 U.S. 579, 113 S. Ct. 2786 (1993), General Electric Co. v. Joiner, 522 U.S. 136, 118 S. Ct. 512 (1997), Kumho Tire Co., Ltd. v. Carmichael, 526 U.S. 137, 119 S. Ct. 1167 (1999)

March 8

► **Expert Testimony and Evidentiary Issues**

**Readings:** Melton, 1.04, 18.06-18.07, State v. Hurd, 414 A.2d 291 (1980), Rock v. Arkansas, 483 U.S. 44, 107 S. Ct. 2704 (1987), Article VII, Federal Rules of Evidence (read carefully), Washington v. United States, 390 F.2d 444 (D.C. Cir. 1967) (appendix)

March 15

► **Confidentiality and Privilege**

**Readings:** Melton, 4.04, People v. Stritzinger, 668 P.2d 738 (1983), State v. Andring, 342 N.W.2d 128 (Minn. 1984), In re Lifschutz, 467 P.2d 557 (1970), Doe v. Roe, 400 N.Y.Supp. 2d 668 (1977), Whalen v. Roe, 429 U.S. 589, 97 S. Ct. 869 (1977), Jaffee v. Redmond, 518 U.S. 1, 116 S. Ct. 1923 (1996), ORC § 2317.02(A), (B), (G), ORC § 2151.421, ORC § 4732.19

March 22 (No Class—Spring Break)

March 29

► **Informed Consent and Malpractice**

**Readings:** Melton, 4.04-4.05, 12.03, Canterbury v. Spence, 464 F.2d 772 (1972), Landeros v. Flood, 551 P.2d 389 (1976), Dillon v. Legg, 441 P.2d 912 (1968), ORC § 2317.54

April 5

► **Informed Consent and Malpractice**

**Readings:** Melton, 4.04-4.05, 12.03, ORC § 5122.34, Stepakoff v. Kantar, 473 N.E.2d 1131 (Mass. 1985), Littleton v. Good Samaritan Hosp. & Health Ctr., 529 N.E.2d 449 (Ohio 1988)

April 12

► **Malpractice and Tarasoff Liability**

**Readings:** Tarasoff v. Regents of University of California, 551 P.2d 334 (1976), Lipari v. Sears, 497 F. Supp. 185 (D. Neb. 1980), Jablonski v. United States, 712 F.2d 391 (1983), Naidu v. Laird, 539 A.2d 1064 (Del. 1988)

April 19

► **Malpractice and Tarasoff Liability**

**Readings:** Estates of Morgan v. Fairfield Family Counseling Ctr., 673 N.E.2d 1311 (Ohio 1997), Emerich v. Philadelphia Ctr. for Human Development, Inc., 554 Pa. 209 (Pa. 1998), O.R.C. § 2305.51

April 26

► **Sexual Harassment/Managed Care**

**Readings:** Meritor Savings Bank FSB v. Vinson, 477 U.S. 57, 106 S. Ct. 2399 (1986), Harris v. Forklift Systems, Inc., 510 U.S. 17, 114 S. Ct. 367 (1993), Corcoran v. United Healthcare, Inc., 965 F.2d 132 1 5th Cir. (1992), Aetna Health Inc. v. Davila, 542 U.S. 200, 124 S. Ct. 2488 (2004)

May 3

► **“Right to Die”/Hand Out Final Exams**

**Readings:** Cruzan v. Director, Missouri DMH, 497 U.S. 261, 110 S. Ct. 2841 (1990), Vacco v. Quill, 521 U.S. 793, 117 S. Ct. 2293 (1997), Washington v. Glucksberg, 521 U.S. 702, 117 S. Ct. 2258 (1997) (including concurring opinion)