

Ripple Effects of *Riese v. St. Mary's*

The effects of *Riese v. St. Mary's Hospital and Medical Center* (1987) 209 Cal.App.3d 1303, which held that a person under involuntary commitment under the L.P.S. Act could not be involuntarily medicated absent a judicial determination of incapacity to make treatment decisions, have spread to other contexts and commitment classes.

In re Qawi (2004) 32 Cal. 4th 1

People committed as Mentally Disordered Offenders (MDO's) under Penal Code section 2960 et. seq., cannot be involuntarily medicated absent judicial determination of incapacity to make treatment decisions, or particularized showing of imminent dangerousness under the Welfare and Institutions Code sections 5300 et seq.

In re Calhoun (2004) 121 Cal. App. 4th 1315

Riese and *Qawi* holdings apply to people committed as "Sexually Violent Predators" (SVP) under Welfare and Institutions Code sections 6600.

In re Greenshields (2014) 227 Cal. App. 4th 1284

Riese and *Qawi* holdings apply to people committed as "not guilty by reason of insanity" (NGI) under Penal Code sections 1026 and 1026.5.

Please note: There has been a recent increase in appeals on involuntary medication hearings, resulting in a need for more appointed counsel for these cases.

People v. Fisher (2009) 178 Cal. App. 3d 528

Person has a right to be present at involuntary medication hearing. There is no right to a jury trial on the issue.

In re Conservatorship of Pamela J. (2005) 133 Cal. App. 4th 807

Person has the right to be present at hearing to determine capacity to refuse ECT.

K.G. v. Meredith (2012) 204 Cal. App. 4th 164

Imposing decisional disabilities ex parte on temporary conservatees violates Due Process.

Scott S. v. Supreme Ct. (2012) 204 Cal. App. 4th 326

Involuntary medical treatment of LPS Conservatee requires judicial determination of lack of capacity and medical necessity.

Steele v. Hamilton Cty. Community Health Bd. (2002) 90 St. 2d 176, 736 N.E. 2d, 10

A court must find by clear and convincing evidence that a patient lacks the capacity to give or withhold informed consent regarding treatment, that the benefits of the antipsychotic medication outweigh the side effects, and that there is no less intrusive treatment before person can be involuntarily medicated.