Kentucky Law Journal

Volume 25 | Issue 4 Article 6

1937

Involuntary Servitude--Release of a Voluntary Patient from Narcotic Farm

Sam Milner
University of Kentucky

STUDENT NOTES

INVOLUNTARY SERVITUDE—RELEASE OF A VOLUNTARY PATIENT FROM NARCOTIC FARM

Congress passed an act entitled "An act to establish two United States narcotic farms for the treatment of persons addicted to the use of habit-forming narcotic drugs who have been convicted of offenses against the United States, and for other purposes".[1] After certain provisions in regard to those inmates who are criminal offenders, the act provides that "Any person, except an unconvicted alien, addicted to the use of habit-forming narcotic drugs, whether or not he shall have been convicted of an offense against the United States, may apply to the Secretary of the Treasury or his authorized representative, for admission to a United States narcotic farm. . . . No such addict shall be admitted unless he voluntarily submits to treatment for the maximum amount of time estimated by the Surgeon General of the Bureau of the Public Health Service as necessary to effect a cure. . . . And provided further, that any person who voluntarily submits himself for treatment at a United States narcotic farm shall not forfeit or abridge thereby any of his rights as a citizen of the United States; nor shall such submission be used against him in any proceeding in any court, and that the record of his voluntary commitment shall be confidential and not divulged". In *Ex parte Lloyd*,[2] the petitioner had been admitted to the federal narcotic farm in pursuance of the act for the purpose of receiving treatment for addiction to the use of narcotic drugs after contracting to submit to confinement for the period estimated by the Surgeon General to be necessary to effect his cure, or until he had ceased to be an addict. Before the period stipulated in the agreement had expired, and while the petitioner remained an addict, he asked to be released. Those in charge of the narcotic farm refused to release him, and he petitioned for a writ of habeas corpus. The petitioner was granted his freedom.

In view of the ever increasing tendency toward institutional care of the unfit, together with other questions of social importance involved, this case becomes an important one. Since cases involving this situation are few, there being but one case cited in the opinion, it becomes important that the most desirable result be reached.

In deciding that Lloyd should be granted his freedom the court relied largely upon the Thirteenth Amedment to the United States Constitution. The court reasoned that if Lloyd were forced to remain an inmate against his will that the "involuntary servitude" clause of that Amendment would be violated.

---

[1] 45 Stat. 1085, 21 U. S. C. A. 221-237 (1929).
[2] 13 Fed. Supp. 1005 (1936).

Aside from any of the specific provisions of the narcotic farm statute, a rule which allows a drug addict, who has agreed to confinement for the purpose of cure, to regain his liberty and to roam at large, altho perhaps based upon sound legal reasoning, is not advantageous from the standpoint of the sociologist. On the contrary, it has been proved that the best interests of society are served by segregation and institutionalization of the unfit. It will not be contended by anyone knowing of the horrors of drug addiction that every possible means should not be exerted to effect the resurrection of a victim. As long as an addict remains at large, he will have access to drugs; and as long as he has access to drugs, there can be no cure. Cure may be effected solely by confinement, the only method possible to repress the victim's irresistible urge to procure more of the drug, which urge he may easily gratify so long as he is free to frequent the places where it is dispensed.

As authority for the conclusion reached, the court cites the New York case *In Matter of Walter Baker*.[3] In this case Baker signed an agreement to stay in an inebriate asylum for one year, during which time he was to pay for his board and nursing, and to pay in advance for six months treatment, and at the expiration of that six-month period to pay a similar sum in advance for the remaining six months. After having paid the first sum and at the conclusion of the first six-month period, Baker notified the superintendent of the institution that he could no longer remain, nor pay for his board and treatment. Despite these considerations the superintendent refused to release Baker, who thereupon applied to the court for a writ of habeas corpus, which was granted. It is submitted that with regard to social consequences, it might be feasible to permit one addicted to the use of alcohol to remain at large, while it is doubtful whether it is ever advisable to allow a user of narcotic drugs to remain at large.

The chief ground of the decision in the New York case as in the Lloyd case pertained to an asserted violation of the "involuntary servitude" clause in the Thirteenth Amendment. Numerous decisions involving an interpretation of this part of the Constitution have declared that adoption of the Thirteenth Amendment was an outcome of the Civil War, intended primarily to abolish slavery, and was also intended by the words "involuntary servitude" to prevent Mexican peonage and Chinese coolie trade, lest their operations might develop into conditions of actual slavery. The Amendment was not intended to introduce any new or novel doctrine with respect to services which had from time immemorial been treated as exceptional. Furthermore, in determining what types of servitude were meant to be included within the prohibition, the Supreme Court has said, "We know of no better answer to make than to say that service which has from time immemorial been treated as exceptional shall not be regarded as within its provisions.[4]"

[3] 29 How. Prac. (N. Y.) 485 (1865).

[4] Robertson v. Baldwin, 165 U. S. 275, 17 S. Ct. 326, 41 L. Ed. 715 (1896).

In furtherance of the principle laid down in these cases, the courts have often considered certain enforced services as without the prohibition of this amendment. Where sailors who had deserted and were arrested and forcibly placed on board their vessel sought relief through habeas corpus, the Court said, "The question whether these statutes (relating to enforced services by deserting seamen) conflict with the Thirteenth Amendment, forbidding slavery and 'involuntary servitude' depends on the construction to be given to the term 'involuntary servitude'. Does the epithet 'involuntary' attach to the word 'servitude' continuously, and make illegal any service which becomes involuntary at any time during its existence; or does it attach only at the inception of the servitude and characterize it as unlawful because unlawfully entered into? If the former be the true construction, then no one, not even a soldier, sailor, or apprentice, can surrender his liberty, even for a day; and the soldier may desert his regiment upon the eve of battle, or the sailor abandon his ship at any intermediate port or landing, or even in a storm at sea, provided only that he can find means of escaping to another vessel. If the latter, than an individual may, for a valuable consideration, contract for the surrender of personal liberty for a definite time and for a recognized purpose, and subordinate his going and coming to the will of another during the continuance of the contract; not that all such contracts would be lawful, but that a servitude which was knowingly and wilfully entered into could not be termed involuntary."[5]

If we accept the doctrine that the prohibition is applicable to involuntary services other than those involving slavery, peonage, and the Chinese coolie trade, there remains the fact that various types of involuntary service still do not come within its provisions. This conclusion is made evident by the exception made in regard to seamen in the above quoted case. Exceptions have also been made in regard to involuntary service as imposed by the acts passed during the war compelling all able-bodied men to be gainfully employed. In *Angelus* v. *Sullivan*[6] the court said, "The Conscription Act does not violate the Thirteenth Amendment to the Constitution, providing that neither slavery nor involuntary servitude, except as punishment for crime, shall exist within the United States, as the purpose of that amendment is to abolish slavery and to make peonage impossible, and men drafted into military or naval service are not held in slavery nor involuntary servitude within the meaning of the amendment. Quoting from *Butler* v. *Perry*, 'The term involuntary servitude was intended to cover forms of compulsory labor akin to African slavery, which in practical operation would tend to produce like undesirable results' ".

The chief reason assigned for holding the "gainfully employed" and the "draft acts" constitutional results from the extreme emergency created by the war situation, and it is indeed fortunate that that document permits of such elastic interpretation, as it has often

[5] *Ibid.*

[6] 246 Fed. 54 (1917).

been proved that every contingency can not be specifically provided for. It seems that the vast public interest involved in securing an adequate national defense offsets any notion of involuntary servitude when the servitude imposed pertains to any phase of this national defense. It would seem that in curtailing the drug menace, there is also a public interest involved, differing more in kind than in degree. It requires but little reflection to perceive that unsurpassed activity of the forces of drug addiction would wreak grave social consequences, consequences calculated to motivate alarm and deference equal to that incited by the exigencies of war. This contention is borne out and emphasized by the definition of a drug addict as defined by the Narcotic Farm Act under which the Lloyd case was decided: "The term 'addict' means any person who habitually uses any habit-forming narcotic drug . . . so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming drugs as to have lost the power of self-control with reference to his addiction".[1]

SAM MILNER.

JUDGMENTS: QUASI-JUDICIAL BODIES; RES JUDICATA

In an election held in a fourth class city in Kentucky, the certificate of the County Board of Election Commissioners filed with the common council showed that the plaintiff had received a majority of the votes cast for the office of councilman. He appeared at the proper place, took the required oath and assumed his duties as an authorized member of that board. The statute provides that, "The board . . . shall judge of the eligibility and election returns of its members".[1] Accordingly a contest was filed by his opponent before the common council. It asked that the plaintiff be declared ineligible to hold the office, and that his opponent be given the certificate of election. Plaintiff entered his answer and denial, but before the matter proceeded further the attorney for the contestant entered his motion for a simple dismissal. The order by the council allowing the motion declared further that the plaintiff had been duly elected. Four months later, represented by the same attorney, the contestant appeared before the council and stated that he had not advised or consented that the contest be dismissed, and that it had been done without his knowledge. He asked that the order of dismissal be set aside. This was done and a hurried trial resulted in a decision favorable to him. He was immediately sworn in as councilman, replacing plaintiff, and this action was entered in a circuit court of that state asking that he be restrained from in any way interfering with the plaintiff in his office as councilman. The Court of Appeals of Kentucky, in approving the judgment of the trial court in granting the relief sought, said, in the concluding paragraph of its opinion, "the order of the council made on January 28, 1936, seating Hughes and determining that he had

[1] 21 U. S. C. A. 221(b).