

PHILIP KELLY

v.

COMMISSIONER OF MENTAL HEALTH, MENTAL
RETARDATION AND SUBSTANCE ABUSE SERVICES¹

Submitted on Briefs May 29, 2001
Decided June 19, 2001

Panel: WATHEN, C.J., and CLIFFORD, RUDMAN, DANA, SAUFLEY, and
CALKINS, JJ.

MEMORANDUM OF DECISION

Philip Kelly appeals from a judgment entered in the Superior Court (Kennebec County, *Mills, J.*) denying his petition for release from the Augusta Mental Health Institute (AMHI) pursuant to 15 M.R.S.A. § 104-A (Supp. 2000).² Contrary to Kelly's contentions, the court was not compelled to find by clear and convincing evidence that Kelly could be released or discharged from AMHI without causing injury to himself or others due to mental disease or defect. *See Taylor v. Comm'r of Mental Health and Mental Retardation*, 481 A.2d 139, 149 (Me. 1984); 15 M.R.S.A. § 104-A(1) (Supp. 2000).

The entry is:

Judgment affirmed.

1. Because this case was decided on Kelly's petition for release, the caption has been changed to reflect that Kelly is the petitioner and the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services is the respondent.

2. Kelly was charged with several crimes and was found not criminally responsible by reason of insanity. 17-A M.R.S.A. § 39 (Supp. 2000). Accordingly, he was committed to AMHI pursuant to 15 M.R.S.A. § 103 (Supp. 2000).

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