

1
2
3
4
5
6
7
8
9
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11
12
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STATE OF MAINE

SUPERIOR COURT
Criminal Action

PENOBSCOT, ss.

Somerset Docket No. CR-06-298

STATE OF MAINE)

)

v.)

)

WILLAM BRUCE,)

)

Defendant.)

COPY

ARRAIGNMENT & HEARING

BEFORE: HONORABLE JOSEPH M. JABAR,
JUSTICE OF THE SUPERIOR COURT

Penobscot County Courthouse
97 Hammond Street
Bangor, Maine

March 27, 2007

APPEARANCES:

For the State: ANDREW B. BENSON, ESQ.

For the Defendant: PHILIP G. MOHLAR, ESQ.

Maureen A. Bradford
Official Court Reporter

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5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF TESTIMONY

Page

JEFFREY LOVE

Direct Examination by Mr. Benson

6

ANDREW WISCH

Direct Examination by Mr. Benson

27

DIANE SCHETKY

Direct Examination by Mr. Benson

43

* * * * *

INDEX OF EXHIBITS

<u>State's Exhibit No.</u>	<u>Description</u>	<u>Offered</u>	<u>Admitted</u>
1	Report	3	4
2	Report	3	4
3	Report	4	4

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1 (The witness left the witness stand.)

2 MR. BENSON: I call Dr. Diane Schetky.

3 THE CLERK: Please raise your right hand and
4 state your name for the record.

5 THE WITNESS: Diane Schetky. S-c-h-e-t-k-y.

6 THE CLERK: Thank you. Do you solemnly swear
7 or affirm the testimony you will give in the cause
8 now in hearing will be the truth, the whole truth,
9 and nothing but the truth, so help you God.

10 THE WITNESS: I do.

11 THE CLERK: Please be seated.

12 DIANE SCHETKY, having been duly sworn, was examined and
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. BENSON:

16 Q. Good morning, Dr. Schetky.

17 A. Good morning, Mr. Benson.

18 Q. Your name is Diane Schetky?

19 A. It is.

20 Q. And you're a physician licensed to practice in the
21 state of Maine?

22 A. I am.

23 Q. And in addition to being a physician, you're a
24 psychiatrist?

25 A. That's correct.

1 Q. And, sadly, you are about to retire from consulting
2 for the State Forensic Service; is that right?

3 A. That's true.

4 Q. Formerly, or at least currently up until a few
5 months from now, you did the bulk of the
6 psychiatric work for the State Forensic Service; is
7 that fair to say?

8 A. I guess so. I don't know the actual numbers.

9 Q. I can't think of anybody else.

10 A. But there are many more psychologists working for
11 the service than there are psychiatrists, and I
12 guess I've kind of specialized in the northern part
13 of the state, which I'm told starts in Falmouth.

14 Q. Augusta. Dr. Schetky, prior to your retirement,
15 the last couple of years, did you limit your
16 practice almost solely to the area of forensic
17 psychiatry?

18 A. That is true, since 2000. And, then, about a year
19 and a half ago, I eliminated the private practice,
20 and I've only been working part-time for the State
21 Forensic Service.

22 Q. And could you describe briefly what forensic
23 psychiatry is? It's probably largely similar to
24 forensic psychology, I assume.

25 A. It is, very similar. It's the application of

1 psychiatric expertise to legal issues. Our role is
2 not to help the examinee but, rather, to help the
3 Court weigh the mental health issues as they might
4 impact on the legal questions.

5 Q. And, briefly, Dr. Schetky, can you describe your
6 educational background?

7 A. Yes. I graduated from Sarah Lawrence College. I
8 then went on to Case Western Reserve University
9 School of Medicine in Cleveland. I graduated from
10 there in 1966. I did a year of an internship in
11 pediatrics. I then did a residency in adult
12 psychiatry and another residency in child
13 psychiatry.

14 Q. And could you describe just generally in a
15 post-education sense your experience in the field
16 of clinical psychiatry?

17 A. Yes. Until 2000, I maintained a private practice,
18 which consisted of both children and adults and
19 adolescents.

20 Q. And clinical psychiatry is what as opposed to
21 forensic psychiatry?

22 A. The diagnosis and treatment of mental illnesses,
23 as well as providing consultation to physicians and
24 other mental health personnel. But throughout that
25 time, I also did forensic psychiatry, initially in

1 the arena of child and adolescent forensic
2 psychiatry. Then branched out into doing civil
3 cases involving adults and children, and, then,
4 since '98, was seeing criminal defendants for the
5 State Forensic Service, as well as doing civil
6 cases.

7 Q. And you've done forensic psychiatry not just in the
8 state of Maine; is that fair to say?

9 A. Oh, I got started way back in Oregon in the 1970s
10 writing about child sexual abuse.

11 Q. Now, can you also describe, Dr. Schetky, the
12 experience that you've had in terms of identifying
13 major mental illness?

14 A. Well, certainly that was a major part of my
15 psychiatric education, my residency training, and
16 I've continued to focus on that area throughout my
17 years of private practice.

18 Q. And could you describe, again, for purposes of the
19 record, what major mental illness is?

20 A. Yes. Generally, as Dr. Wisch said, it consists of
21 psychiatric disorders that are often accompanied by
22 impaired reality testing such as mania or the
23 spectrum of schizophrenic disorders. Major mental
24 illness can also be a result of severe traumatic
25 brain injury. But, generally, there's a high

1 degree of impairment there, and, for legal
2 purposes, that impairment would impact on their
3 ability to appreciate the wrongfulness of their
4 behavior.

5 Q. And I know you've touched on this briefly in your
6 answer, but does major mental illness also
7 frequently involve psychosis?

8 A. Yes.

9 Q. And could you describe what psychosis is?

10 A. Yes. As Dr. Wisch said, it's impairment of reality
11 testing involving both cognition and perception.

12 Q. And throughout your career, how many times,
13 approximately, if you know, have you had occasion
14 to testify as an expert witness on forensic matters
15 in court?

16 A. Probably over 200.

17 Q. Now, I'd like to call your attention to late last
18 summer, early last fall. Did you have occasion to
19 receive a Title 15 order to evaluate Mr. Bruce, the
20 defendant in this case?

21 A. Yes, I did.

22 Q. And did you begin, as Dr. Wisch said he began, in
23 terms of sort of dealing with the issues
24 surrounding the issue of competence?

25 A. Well, I -- I usually begin with getting informed

1 consent to proceed.

2 Q. Probably a good way to start.

3 A. So Mr. Bruce was clear about my role and who I was
4 or was not working for.

5 Q. So --

6 A. And the implications of following through with the
7 investigation.

8 Q. You weren't there to treat him --

9 A. Exactly.

10 Q. -- but to provide information to the Court?

11 A. Exactly, and that I could be called upon to
12 testify.

13 Q. Now, in preparing for your evaluation of Mr. Bruce,
14 did you have occasion to read the police reports in
15 connection with this case?

16 A. I did.

17 Q. And did you also read the Acadia records and the
18 Riverview records in connection with the case?

19 A. I did. I think there was about 600 pages of
20 discovery.

21 Q. And there was also another forensic psychologist, a
22 University of Maine professor, Jeffrey Hecker, who
23 also did an initial evaluation of Mr. Bruce; is
24 that correct?

25 A. Yes, he did, yes.

1 Q. And did you have occasion -- did you have access to
2 Dr. Hecker's report?

3 A. I did review that.

4 Q. And would it be fair to say, Dr. Schetky, that when
5 you dealt with Mr. Bruce initially, it became clear
6 to you right from the outset that there were
7 concerns concerning whether he had the skills
8 associated with competence?

9 A. Yes, particularly in the area of his ability to
10 work with his attorney. His thoughts were so
11 scattered and fragmented and delusional, I thought
12 he would have trouble tracking procedures. I
13 thought he would have trouble probably retaining
14 new information because there was so much going on
15 on his radar screen, clutter in his mind.

16 Q. When you say there's so much going on there, you're
17 referring to psychotic delusions and
18 hallucinations?

19 A. A lot of paranoid thoughts, as well as grandiose
20 thoughts, that impaired his reasoning. If I could
21 give an example, he had this fantasy that somehow
22 he was going to defect to Russia and the KGB wanted
23 him to work for them. And in my initial
24 evaluation, I had a resident sitting in with me who
25 happened to be Russian, and he was so pleased when

1 he figured out that she was from Russia, and he
2 assumed that she had come over there -- come over
3 here just to meet with him and that she was going
4 to assure his safe passage -- passage somehow back
5 to Russia, and we had to spend a lot of time
6 clarifying that was not her role. So, as you can
7 see, he was perceiving a lot of things through that
8 very paranoid lens, attaching special meaning to
9 things.

10 Q. And sometime toward the end of summer or early
11 fall, you wrote an initial report to the Court
12 concerning Mr. Bruce; is that correct?

13 A. I did, yes.

14 Q. And in that report, do you essentially say that you
15 had concerns concerning competence and that you
16 really couldn't reach the other issues because you
17 couldn't get beyond competence?

18 A. That's true.

19 Q. And as a result of that report, there was an
20 initial finding that Mr. Bruce lacked the skills
21 associated with competence?

22 A. Correct.

23 Q. Is that your understanding? Now, Mr. Bruce, after
24 that, went back to Riverview; is that correct?

25 A. He was at Riverview when I saw him.

1 Q. All right. So he was treated at Riverview during
2 the fall and early winter of last year, going into
3 this year?

4 A. Well, it was more custodial care initially because
5 he was refusing antipsychotic medication, which
6 would have been the first line of treatment.

7 Q. Now, at some point, did Mr. Bruce begin to agree to
8 take the antipsychotic medication?

9 A. He did, in December.

10 Q. And did that cause a change in terms of his having
11 the skills associated with competence?

12 A. Indeed it did.

13 Q. And could you describe that?

14 A. Yes. His -- his thoughts were much more organized.
15 I found he still had some residual -- residual
16 paranoid thoughts.

17 Q. Mm-hmm.

18 A. The other remarkable change was he was starting to
19 have some insight into the fact that he had a
20 mental illness and perhaps he really did need to be
21 on medication. That was totally lacking when I
22 first saw him. So he was -- his reality testing
23 was much improved. He appreciated the severity of
24 this crime, even evidenced some remorse, and I felt
25 at this point he was capable of working with

1 Mr. Mohlar.

2 Q. You --

3 A. But I put in the proviso there that it was very
4 important that he stay on his antipsychotic
5 medication.

6 Q. And would it be fair to say that you still believe
7 that in spite of some of this paranoid thinking,
8 that by and large he has the skills associated with
9 competence?

10 A. I believe he does.

11 Q. Now, when Mr. Bruce began taking the antipsychotic
12 medication that you referred to, were you able to
13 go back to him and then look into the issues of
14 criminal responsibility?

15 A. Yes, I was.

16 Q. And did you take a history from Mr. Bruce at that
17 point about the events of June 20th?

18 A. I did.

19 Q. And could you briefly relate to the Court the
20 history that you took from Mr. Bruce?

21 A. Yes. He told me how he had left Riverview
22 Psychiatric Center the end of April. He was not
23 taking any medication because he didn't like the
24 side effects. He realized that his condition was
25 getting worse, although he was not conflicted