

_____, M.D.
Forensic Psychiatrist

Hospital Court Clinic

FORENSIC PSYCHIATRIC REPORT
Competence to Stand Trial

Doe, John

Case #: 3624/06
DOB: 11-22-83
Date 7-10-07

REASON FOR REFERRAL:

The purpose of this evaluation is to determine whether Mr. Doe, a defendant facing charges of Criminal Possession of a Weapon and Resisting Arrest, is fit to proceed to trial. Mr. Doe was previously evaluated in the court clinic by Dr. S--- and Dr. M--- and found to be unfit.

I performed this evaluation at the request of Assistant District Attorney K---.

OPINION:

It is my opinion, with a reasonable degree of medical certainty, that Mr. Doe is not fit to proceed because symptoms of depression interfere with his ability to assist his attorney in his defense.

SOURCES OF INFORMATION:

1. Interview of the defendant at the District Attorney's office for 90 minutes on 7-1-07, preceded by a short discussion with the defense attorney and observation of her interaction with her client.
2. Criminal complaint, rap sheet, and grand jury indictment for arrests on 8-10-05 and 11-3-06, provided by ADA K---.
3. Review of prior fitness evaluations by Dr. S--- and Dr. M--- dated 5-9-07.
4. Jail Health Service records, 2007.
5. Telephone conversation with defendant's mother on 7-3-07.

CONFIDENTIALITY:

At the start of the interview, I explain to Mr. Doe the purpose of the evaluation, my role, and the limits of confidentiality. I give a similar disclaimer to his mother when I call her.

DATA RELATED TO THE INSTANT OFFENSE:

On the evening of 8-10-05, Mr. Doe was arrested and charged with Criminal Possession of a Weapon and Criminal Possession of a Controlled Substance. It is alleged that he threatened to cut a man with a box cutter. When he was arrested, the defendant allegedly had crack cocaine in his pants' pocket.

On 11-3-06, Mr. Doe was charged with Criminal Possession of a Weapon, Resisting Arrest, and Consumption of Alcohol in a Public Place. It is alleged that he was observed by a police officer to be standing on Greenwich Avenue holding an open 16-ounce can of beer. The defendant allegedly kicked and cursed at the officers when they attempted to arrest him. A metal razor was allegedly recovered from his arm cast. He then allegedly threatened to kill the officers. (The defendant says that he was wearing a cast because he had fractured his hand several weeks earlier.)

Mr. Doe has been incarcerated since 11-3-06. His charges were later consolidated.

RELEVANT PRIOR HISTORY:

Mr. Doe is a 23 year old man who reports that he was born in Canada but moved to the United States around 1992. His mother and sister also live in New York. He says that he attended school through the tenth grade but was finally kicked out because of his behavior. He says he has worked at several jobs, for example as a bicycle messenger. He says that he was living at a homeless shelter at the time of his arrest.

The defendant initially tells me that he does not remember whether he has ever received psychiatric treatment in the past. He denies seeing a therapist or psychiatrist or receiving psychiatric medication. He acknowledges, when asked, that he attended counseling briefly as a result of a school referral prior to his expulsion (as noted in Dr. M---'s report).

The defendant informed the court clinic evaluators that he has a history of suicide attempts, overdosing on painkillers as a teenager. During my evaluation, he initially denies any history of suicide attempts, then becomes angry when asked about his earlier statements in the court clinic. The defendant's mother confirms that he attempted suicide as a teenager.

Mr. Doe began drinking alcohol and smoking marijuana around age 14. He says that he was drinking one to two 40-ounce beers every day prior to his arrest, and smoking about two blunts of marijuana per week. He denies ever experiencing any blackouts or withdrawal. (He gave somewhat different answers in the court clinic regarding the frequency of use.)

According to his New York State rap sheet, Mr. Doe has several prior adult arrests, which have generally been resolved by plea bargain, in one case for time-served.

Mr. Doe's mother reports that he appeared angry and sad on the few occasions she saw him in the months prior to his arrest. He had telephoned her several times from the homeless shelter to tell her that he was struggling with alcohol use and that he had little desire to live.

EVENTS SINCE ARREST:

According to his attorney, Mr. Doe has been extremely hostile each time they have met. He has yelled at her and called her “b*tch.” She has found it impossible to engage him in a realistic discussion of legal options. During court hearings, he has been argumentative and verbally disruptive, demanding explanations for matters that had been discussed with him earlier.

On 5-2-07, the defendant was evaluated by Dr. S--- and Dr. M--- at the court clinic, at the request of his defense attorney. Mr. Doe told them that he was depressed and felt like killing himself. He said that he wanted to “see a ‘psych.’” He was observed to be irritable and depressed. Though his thinking was not loose, he reported hearing “voices” and having “flashbacks.” He was interviewed again, in the presence of his attorney, on 5-9-07. At that time he was significantly more hostile, yelling throughout the interview and addressing his attorney exclusively as “B” (presumably short for “b*tch”). Both examiners made a diagnosis of an unspecified psychotic disorder and concluded that the defendant was not fit. (Of note, the examiners provided no details of the claimed “voices” and “flashbacks” and did not document any consideration of whether the defendant might have been feigning these symptoms, given the absence of any known history of psychosis or other objective signs of psychosis.)

Since the time of his court clinic evaluations, the defendant has remained in the general population in jail. He says that he has gotten into several fights and is afraid because his broken hand might make him appear more vulnerable. He says he has started to see a psychiatrist, who has prescribed him a medication for anxiety. He does not recall the name of the medication but says he takes it in the morning and is sleepy all day and awake at night. He has not noticed any other change, except that his appetite has begun to improve.

Jail Health Service records confirm that Mr. Doe has been seen by a psychiatrist three times in the last two months and has been started on a low dose of trazodone, an antidepressant medication with sedating properties. Mr. Doe was referred for mental health care after attempting to hang himself in his cell with his belt on 5-12-07. Progress notes describe Mr. Doe as having decreased appetite with confirmed weight loss, trouble sleeping, guilty feelings alternating with explosive anger, and hopelessness.

MENTAL STATUS EXAMINATION:

Mr. Doe is a casually dressed young man who has notably sweaty palms when we shake hands. He is initially calm but becomes increasingly irritable as the interview progresses, becoming extremely hostile when asked about his legal circumstances or questioned about apparent inconsistencies in his answers (even though I question him in a non-confrontational manner). Speech is normal in rate and volume. Flow of thought is entirely coherent and goal-directed. Thinking is logical in general. No delusional thinking is evident. He denies hearing voices ever and does not appear to be internally distracted.

Affect is predominantly despondent and increasingly labile. He has a downward gaze, slumped shoulders, and furrowed brow. His eyes become red early in the interview, and he appears to be on the verge of tears frequently, particularly when he is asked about his family, suicidal thinking,

and the realities of his legal situation. He says that he has been feeling depressed for about a year and has thought about killing himself frequently before and since his arrest. He says that he has no current plan, except perhaps to overdose, though he currently does not have pills he would use. He is not hopeless, in that he wants to resolve his charges and be released. He believes that he has a mental illness and hopes to feel better with treatment. He wishes to keep taking his current medication, in spite of side effects. However, he demonstrates helplessness and hopelessness in his inability to imagine any constructive steps he could take to resolve his current legal circumstances.

In an open-ended discussion of his previous arrests and current circumstances, Mr. Doe demonstrates an understanding of the legal system. He appropriately uses the concepts of probation, plea bargain, public and private defense attorneys, consolidated charges, maximum sentence, felony, misdemeanor, complainant, witness, and intent, and he is able to define specific terms when asked. He understands specifically that his two arrests have been consolidated, that he is facing a felony charge with a maximum sentence of three years, and that several police officers may testify regarding his allegedly expressed intent to use the razor as a weapon. He repeatedly characterizes the charges against him as “b*llsh*t” and says that he finds it hard to believe that he is facing a potential sentence of several years. He says that he would be willing to consider a plea bargain for a misdemeanor sentence, but apparently no such offer has been made.

Mr. Doe says that he has given his attorney a full account of his recollection of events around the time of his arrest. He says that he remains suspicious of her ability to work with him, even though his conversation with her prior to this interview went relatively smoothly (in that he did not curse at her and was able to accept her explanation of the purpose of the interview). He says that he had a problem with her earlier that he says is no longer an issue, having something to do with her alleged failure to obtain medical records related to his fractured hand, which he thinks will be valuable in his defense, though he cannot explain how. He also objects to the consolidation of his two arrests, though he is unable to explain why it would be to his advantage to face the charges separately. He complains that “everyone lies,” including the judge and assistant DA, though he does not give an example or show any other sign of paranoia.

DIAGNOSIS:

Axis I: Major Depression, single episode, severe without psychotic features
Alcohol Dependence, in a controlled setting
Rule-out Marijuana Abuse or Dependence
Axis II: Rule-out Antisocial Personality Disorder
Axis III: none

FORMULATION:

Mr. Doe appears to be genuinely and severely depressed, based on both subjective complaints (trouble sleeping, poor appetite, sadness, helplessness, hopelessness, suicidal ideation) as well as objective signs (irritability, tearfulness, despondent affect, inability to think constructively, confirmed sleeping difficulty, weight loss, serious suicide attempt). Depression has been present for at least two months and, according to the defendant and his mother, began prior to his arrest.

There has been some improvement in the past month since he has seen a psychiatrist and started treatment with antidepressant medication. The improvement is evident in a relative decrease in hostility during this examination and in his brief interaction with his attorney before the interview.

The legal question is whether Mr. Doe has a factual and rational understanding of the charges against him and can assist his attorney in his defense. Mr. Doe has an excellent factual understanding of the court and his charges. He also has some ability to reason about legal strategy, as evident in his stated willingness to accept a favorable plea offer. However, no such offer has been made, and he appears to be unable to think constructively about other approaches. Mr. Doe's greatest impairment is in his ability to work with his attorney. He is too depressed currently to accept feedback from his attorney and realistically confront his legal circumstances. He responds in a hostile fashion that prevents any substantive discussion of his case. Legal strategies that he focuses on have no apparent usefulness.

It is possible, though less likely, in my opinion, that the defendant is malingering (feigning or exaggerating mental illness) in order to delay or otherwise influence the outcome of his case. In that regard, his report of symptoms and history are not entirely consistent from one interview to the next. His previous report of hearing voices and experiencing flashbacks are not consistent with his clinical picture and were likely exaggerated with the hope that he would receive psychiatric assistance or be found unfit to proceed. (It is also conceivable that he experienced genuine perceptual disturbances in the context of alcohol withdrawal following his arrest, though this would have been resolved by the time he was seen in the court clinic.) In any case, he does not currently claim such symptoms. Likewise, his expressed hostility serves to redirect and control the scope of the interview to some extent and might be intentional. Because of these elements, I have relied most heavily on the objective signs of depression that are more difficult to fake, including the observations of jail staff and the defendant's mother. However, observation over a greater period of time in a hospital setting would uncover malingering if it is present.

Even if he is genuinely depressed, Mr. Doe's impairment could be characterized as an unwillingness, rather than inability, to work with his lawyer in a rational manner. For example, his refusal to consider options other than a favorable plea bargain might reflect wishful or even strategic thinking. In the context of his depression, I have concluded that he is currently too helpless, hopeless, and irritable to interact more effectively. However, such lack of cooperation should be viewed more skeptically if it persists once his depression has been successfully treated.

The prognosis for Mr. Doe to become fit in the near future is good. He has capacity in most domains already, and his depression has already begun to improve in response to treatment.

Respectfully submitted,

_____, M.D.
Licensed Psychiatrist
Board-certified in Psychiatry, ABPN