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THE CASE FOR A THRESHOLD FOR COMPETENCY IN SEXUALLY VIOLENT PREDATOR CIVIL COMMITMENT PROCEEDINGS

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Commitment of the sexually violent predator (SVP) is not only informed by restorative intent but also the desire to protect other members of society from the insidious propensities of the SVP. Thus, remanding an alleged offender to an SVP program constitutes some hybrid of civil ameliorative intervention and criminal containment and, as such, may be construed as “quasi-criminal.” Toward this end, most SVP laws endeavor to incorporate the preponderance of procedural due process rights accorded to accused individuals within the criminal justice system, except the right to be competent. However, the behaviors of sexually violent predators not infrequently find their origins in psychiatric or neurologic pathology. These same conditions, in fact, often compromise an SVP respondent’s mental competence to stand trial. If he is unable to rationally collaborate with his attorney, an accused SVP defendant’s fundamental right to counsel, which underpins all procedural due process, is subverted.

Furthermore, the outcome of extensive substantive due process rights litigation in civil commitment cases has consistently upheld that those who are involuntarily confined by civil means are entitled to non-punitive conditions of confinement including individualized medically appropriate treatment. However, in the absence of some standard for trial competency, we propound that SVP commitment proceedings fail to fulfill either the procedural due process rights for criminal containment or the substantive due process guarantees for civil commitment.

THE RELATIONSHIP BETWEEN A PSYCHOPATHIC PERSONALITY AND VIOLENCE IN SCHIZOPHRENICS

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This study was undertaken to explore the major contribution of psychopathy to the level of violence among hospitalized schizophrenics. A secondary aim was to examine the differences among court referred and self or psychiatric referred schizophrenics. Fifty-two schizophrenic patients hospitalized through the court and forty-eight through psychiatric or self referral participated in this study. Psychopathy was rated using the Hare psychopathy checklist (PCL-SV). Ratings of violence were severity of last offense committed using Wolfgang et al.’s offense severity scale. Demographic and clinical variables were taken from the patients’ files. As expected, level of psychopathy correlated with level of violence, as well as differentiating between court referred and psychiatric or self referred schizophrenics. These results point to the importance of considering psychopathy scores as major risk factors for violence among schizophrenics. In addition, the two groups (court referred versus self/psychiatric referral) appear to be fundamentally different, as suggested by psychopathy scores.

TIMING OF EYEWITNESS EXPERT TESTIMONY WITHIN A TRIAL

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Mistaken identity has been cited often as one of the leading causes of wrongful convictions in criminal trials. Several legal remedies have been proposed including eyewitness expert testimony (1). Geiselman et al. (2, 3) found expert testimony to improve jurors' discrimination between good and poor eyewitnessing conditions as described in a mock trial scenario. The present experiment was designed to explore an optimal timing of the expert testimony within a trial toward maximizing jurors' discrimination of the eyewitness evidence. Results showed that presenting the expert testimony before the trial evidence enhanced jurors' free recall of the testimony, increased perceptions of defendant guilt, but did not increase juror discrimination of the eyewitness evidence. It was concluded that the more optimal timing for the expert testimony is following the presentation of the trial evidence.

SERIOUS SIDE EFFECTS OF SSRIs

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The SSRI group of antidepressants represent an important advance in the treatment of mood and anxiety problems. Because they are difficult to overdose on, they have been marketed as if there were no adverse consequences to either taking them, or stopping them. Unfortunately, as their use has increased, there have been well documented reports of serious side effects which arise from these medications. These include: 1) violent behavior, including suicide in a small group of patients, prompting a Black Box Warning to be added to the manufacturer's insert; 2) a cluster of symptoms, known as serotonin syndrome, which may arise from one or a combination of these medications; and 3) a constellation of symptoms, known as SSRI withdrawal syndrome, which arise when these medications are stopped abruptly, or even tapered. It is often difficult to determine whether the symptoms that are occurring in a patient on these medications are the product of one of these clinical syndromes, or the result of the mental condition which caused the SSRI medication to be prescribed. Unfortunately, the consequences of misdiagnosing and then mistreating these syndromes can be catastrophic to the patient, and have significant legal consequences to the physician. This article explores these three problems, and presents case examples to illustrate each one.