

Wally McKean
3) Prob
4) Medical

Gerard F. Boyle
SUPERINTENDENT

Department of Correction
Bridgewater State Hospital
Bridgewater, MA 02324

(508) 697-6941

December 24, 1991

Francis X. Cunningham, Assistant Clerk
Boston Municipal Court
411 New Court House
55 Pemberton Square
Boston, MA 02108

BMC# 91C201 - 10188
A - False Bomb Report

BMC# 247726
A - Common Night Walker

RE: THOMAS SHAY BSH #50-32402

Dear Sir:

The above named patient was admitted to Bridgewater State Hospital on November 21, 1991 under the provisions of Chapter 123, Section 15 (b), ordered here by the Boston Municipal Court where he is currently awaiting trial on charge of Falsely Reporting Location of Explosion (Bomb Scare) and he is also charged with Common Night Walker.

We have completed our observation and forensic evaluation regarding Mr. Shay's criminal responsibility.

The reader is respectfully referred to the enclosed Criminal Responsibility Evaluation of December 23, 1991.

Sincerely,

Wesley E. Profit, Ph.D.
Director of Forensic Services

WEP/lis
Enc.



SHAY, Thomas

No.

50-32402

December 23, 1991 CRIMINAL RESPONSIBILITY Paul G. Nestor, Ph.D.
EVALUATION

IDENTIFYING DATA: This is the second Bridgewater State Hospital admission for this 20 year old, right-handed male. Mr. Thomas Shay was admitted on November 21, 1991 from the Boston Municipal Court where he is charged with Falsely Reporting Location of Explosion (Bomb Scare). The date of the alleged offense is November 13, 1990. He is also charged with Common Night Walker.

STRUCTURE FOR DETERMINING CRIMINAL RESPONSIBILITY: An individual is not responsible for criminal conduct, if at the time of such conduct, as a result of mental disease or defect, he lacked either the substantial capacity to appreciate the criminality (wrongfulness) of his acts or to conform his conduct to the requirements of the law.

STRUCTURE OF THE EVALUATION: Before beginning the evaluation, Mr. Shay was informed by the evaluator that this was a court-ordered evaluation for the purpose of gathering information that the court may use in determining whether he is criminally responsible. Mr. Shay was also told that he had the right to refuse all or any part of the evaluation, that the interviews are not confidential, and that anything he may disclose during the evaluation may be reported to the Court. Mr. Shay responded to this so-called Lamb warning by stating that "there is nothing I could share with you that could incriminate myself." Mr. Shay thus appeared to understand the significance of the warning, and consented to the evaluation on that basis.

SOURCES OF INFORMATION: Sources of information for the present evaluation were:

- (1) Approximately five hours of interviews conducted by Paul Nestor, Ph.D.
- (2) Neuropsychological evaluation conducted by Paul Nestor, Ph.D.
- (3) Formal psychological testing by Frank DiCataldo, Ph.D.
- (4) Neurological evaluation conducted by M. Flint Beal, M.D, dated December 21, 1991.
- (5) Bridgewater State Hospital records including notes of treating clinicians.

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(6) 15a evaluation conducted by Dr. Luber.

RELEVANT CLINICAL HISTORY: (The patient, as will be discussed below, is a poor historian and the reader is cautioned that the following is based on his own self-report.) Mr Shay reports that he was born in Brighton, Massachusetts, and is the youngest of fourteen children and the only son. His parents are divorced and live in the Boston area. There is no reported history of perinatal trauma, developmental milestone delays or significant childhood diseases. At the age five, however, the Department of Social Services took custody of Mr. Shay apparently because of fire setting and run-away behavior. In DSS custody until the age of eighteen, Mr. Shay had several placements including the now closed Nazareth Home, Spaulding Youth Center, and the Baird Center. He has also had several psychiatric hospitalizations, beginning the age of five at the Gaebler Institute of the Metropolitan State Hospital and including subsequent stays at Fuller Memorial Hospital, Bournemouth Hospital, and Medfield State Hospital. The nature of these hospitalizations is not particularly clear, although Mr. Shay states that they were related to DSS placement difficulties and apparent conduct disorder problems. He denies any history of a major mental illness. History is also noteworthy for substance abuse beginning in his teens and continuing until the past year. His drug abuse has included primarily alcohol and marijuana. He reportedly has been abstinent for several months.

At the age of seventeen, Mr. Shay was admitted to Bridgewater State Hospital under Section 18a from the Dedham House of Correction where he was awaiting trial for Possession of a Stolen Motor Vehicle. The 18a evaluation conducted by Charles Forbes, M.D. indicated longstanding characterological and gender identity issues, which at times may manifest as episodes of depression. Dr. Forbes, however, found no evidence of a mental illness and following his evaluation recommended that Mr. Shay be returned to the Dedham House of Correction where he was apparently subsequently received probation. Since his discharge, Mr. Shay has left DSS custody and reports that he has been living with his mother and her boyfriend in Milton. He has yet to earn his high diploma. He has worked sporadically and his most recent employment was as a masseuse in Providence. He also reports that he has worked on a

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volunteer basis for an ambulance company. He describes his sexual orientation as "gay but not proud." He reports that he witnessed the death of his lover in what he describes as a gay bashing incident in 1989. He is a recent father of a baby girl. He denies any history of head injuries and/or seizures.

MENTAL STATUS: Tall, lanky, and thin, Mr. Shay comes unescorted to the several interviews. He presents as friendly and pleasant, but clearly annoyed by his evaluation, which he seems to view as a frivolous waste of his time. Indeed, he conveys a decidedly provocative and, at times, devaluing attitude about his evaluation, especially with regard to the question of his mental health. This is evident by his sarcastic and flip comments about how he does not see "pink elephants" and by his reported plan to publicize what he apparently believes is a waste of tax-payer's money for his hospitalization. Mr. Shay is often irritated by the formality of the evaluation, for example the evaluator's note-taking, as he seems to disparage anything that may underscore the seriousness of his circumstances. He often responds to specific questions about his past by referring to newspaper clipping about himself, which he brings to the evaluation. Not surprisingly given his derisive attitude, he does not provide a particularly clear history, for the most part intimating that it is too painful and chaotic to discuss in detail. Also evident is a tendency to try to control the evaluation, as he seems impatient when certain topics, other than those which he prefers to discuss, are under consideration.

Notwithstanding his apparent disdain for much of the evaluation, Mr. Shay presents as a likeable young man, who clearly appears to enjoy and crave the attention inherent in the one-on-one clinical interviews. In fact, he seems to relish attention and publicity; for example, he often boasts about how news organizations have offered him financial inducements for his story and, on other occasions, he shows the evaluator professional cards of Boston news reporters, whom, he claims, were eager to talk to him. Beneath his apparent attention-craving and somewhat lighthearted veneer is a more serious and sad side, evident when he discusses his childhood and his family. He speaks with feeling about some of the losses and apparent rejections he has experienced in the past.

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In terms of specific psychiatric symptoms, his mental status indicates no disturbance in thought and/or perception. Indeed, his thinking is clear and organized; reality testing is intact. His mood, however, is elevated and inappropriate, particularly in light of his claim that he is a suspect in the death of a Boston Police officer in a bomb explosion. Indeed, he seems childish, self-centered, and egocentric, almost as if he were basking in the limelight of a tragic event. This elevated and grossly inappropriate mood, though, is not a product of a mental illness, but rather is more indicative of a poorly-developed, immature, and longstanding personality and/or characterological structure that appears to be driven by an insatiable need for attention. He denies any suicidal and/or homicidal ideation.

OFFICIAL VERSION OF THE ALLEGED CRIME: The Application For Complaint from the Boston Municipal Court was reviewed.

PATIENT'S VERSION OF THE ALLEGED OFFENSE: Mr. Shay is ambivalent about talking about his alleged crimes. On one hand, he admits to the current charge of calling in a bomb threat. But when pressed for specific details, he seems to recant and apparently does not wish to discuss the alleged crime. With regard to the charge of a Common Nightwalker, he reports that this charge has already been processed.

OBSERVATION RELEVANT TO THE DETERMINATION OF CRIMINAL RESPONSIBILITY: Mr. Shay's unwillingness to discuss specific details about his past history as well as about his current charges limits the scope of the present evaluation, as does the absence of records of his past hospitalizations. Mr. Shay does, however, deny that he has ever been treated for a mental illness, as defined by Chapter 123. At the time of the alleged crime of calling in a bomb threat, he also recalls no significant changes in his mental health, although he does state that he had a drinking problem around this time. He states that he presently has been alcohol abstinent for the past several months. And as noted in the report on his competency to stand trial, his present emotional difficulties, though clearly maladaptive and longstanding, do not fulfill the criteria for mental illness. Accordingly, the available clinical evidence, although limited, does not suggest his capacity to appreciate the wrongfulness of his acts or to

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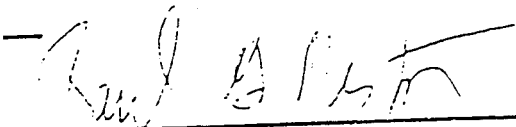
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conform his conduct to the requirements of the law was substantially compromised on the basis of a mental illness or mental defect at the time of the alleged crime. A more definitive opinion requires a review of past records and his willingness to discuss in greater detail circumstances surrounding his charge.

RECOMMENDATIONS AND CONCLUSIONS:

- (1) In my clinical opinion, Mr. Shay's current psychiatric problems of emotional immaturity, attention-seeking behavior, and manipulateness do not fulfill the statutory criteria for a mental illness, as defined by Chapter 123.
- (2) Observations relevant to the determination of criminal responsibility are found within the body of the report.
- (3) Mr. Shay should be returned to Court forthwith.


Paul G. Nestor, Ph.D.
Director of Neurocognitive Services
Designated Forensic Psychologist
Forensic Mental Health Supervisor

WAIVER OF RIGHT TO REMAIN SILENT AND OF RIGHT TO ADVICE OF COUNSEL

STATEMENT OF RIGHTS

You must understand your rights before we ask you any questions.

You have the right to remain silent.

Anything you say can be used against you in court, or other proceedings.

You have the right to talk to a lawyer for advice before we question you and to have him with you during questioning.

If you cannot afford a lawyer and want one, a lawyer will be appointed for you by the court. If you decide to answer questions now without a lawyer present, you will still have the right to stop the questioning at any time. You also have the right to stop the questioning at any time until you talk to a lawyer.

I have read this statement of my rights and it has been read to me, and I understand what my rights are.

Date _____

Time _____

Signature

WAIVER

I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or force of any kind has been used against me. I hereby voluntarily and intentionally waive my rights and I am willing to make a statement and answer questions.

Date June 11-92

Time _____

[Handwritten Signature]
Signature

CERTIFICATION

I hereby certify that the foregoing Waiver of Right to Remain Silent and of Right to Advice of Counsel were read by me to the above signatory, and that he/she also read it and has affixed his/her signature hereto in my presence.

[Handwritten Signature] 11:13 AM

Witness

[Handwritten Signature] 11:13 AM

Signature 6/11/92

Witness