

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF MENTAL HEALTH



April 2, 2013

Our Reference: DMH/SEH/SM/pas  
Your Reference: Criminal Case Number

Gary N. Montgomery (#928,665)  
2012 CF1 002614; PDID#: 368226

The Clerk  
Criminal Division  
Superior Court of the District of Columbia  
500 Indiana Avenue, NW, Room 4110  
Washington, D.C. 20001

Dear Sir:

We wish to call to your attention the case of Gary Montgomery, who was admitted to Saint Elizabeth's Hospital by Court order on January 29, 2013 under the provisions of Title 24, Section 531.03 of the D.C. Code for mental examination, with report due by April 5, 2013, with a charge of First Degree Murder While Armed (Premeditated) pending.

On April 1, 2013, Mr. Montgomery was assessed for competency to stand trial by Solomon Meltzer, M.D, Forensic Psychiatrist. The nature and purpose of the examination was explained to Mr. Montgomery, as well as the limits of confidentiality. Specifically he was informed that his competency to stand trial would be assessed and that a letter discussing this matter would be sent to the Judge, the prosecutor, and his defense attorney. Mr. Montgomery expressed verbal understanding and willingly participated in the interview.

Mr. Montgomery stated that his current charge is "murder." He was not able to specify the type of murder charge, however he quickly learned and was able to state that he is charged with "First Degree Murder," which he described as "a serious charge." When asked which is more serious, murder or shoplifting, he replied that "murder is a felony, felonies carry more time." He stated that in general one convicted of a felony could serve "one year to life" and when convicted of a misdemeanor once could serve "one day to one year."

Regarding courtroom personnel, Mr. Montgomery listed the jury, defense attorney, judge, and prosecutor as important participants in the courtroom. He said that the judge "hears the case," "listens to witness testimony," and "deliberates the sentence." He stated that during a bench trial the judge "decides if you did it or not." He also said that unlike the prosecutor and defense attorney, the judge is "impartial." He also said that the judge "makes a decision about objections" when they are raised during proceedings. He stated that the defense attorney "defends you against the alleged charges" and might raise objections during that process. He

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stated that the defense attorney "wants you to go home." He said that a prosecutor is "trying for a conviction" and he may "prove by a piece of evidence that you did do it, that you are guilty." He said that a jury "decides if you did it or not." He said that a jury makes such a decision "from the evidence." He said that a jury contains twelve people who must unanimously agree on the verdict. He said if the jury cannot agree on the verdict "it's retried."

Regarding evidence, he repeatedly expressed understanding of the manner in which evidence can affect the outcome of a trial. He listed potential evidence as "eye witness accounts, film, finger prints, confessions." When ask if a film or video depicting a person committing a crime is strong or weak evidence, he said "it depends on the film." He was able to distinguish the relative strengths of hypothetical videos as evidence when their content was described to him.

Regarding plea options, he stated that if he were to plead Not Guilty a trial would take place. He said that at that trial a verdict would be rendered "based on the evidence." He said that if he were to plead Guilty then he would proceed straight to sentencing. He said that when pleading Guilty a defendant gives up his rights "to a trial and an appeal." He indicated that an appeal is when the defendant tries "to exonerate yourself." He listed sentencing options as "time, time served, probation, and suspended sentence." He said that when on probation "you have to come back for periodic tests at a designated location." He said that pleading Not Guilty By Reason of Insanity (NGBRI) means "you were insane at the time did the act." He said that one found NGBRI is sent "to a mental institution." He initially said that one is sent "for as long as it takes to be cured." He said that if found NGBRI, a *Bolton* hearing is held during which "they look at if you are a danger to yourself or others."

Mr. Montgomery described his current preferred plea option. He explained his reasoning behind this choice in a clear and rational way. When his current legal strategy was challenged by describing hypothetical scenarios to him, he repeatedly modified his legal strategy in a way that would lead to best outcome in his case. For example, when faced with weak evidence, he was able to discuss his preferred plea in that situation in a sensible way. When he was presented with stronger evidence, he modified his legal strategy appropriately. Mr. Montgomery discussed in a reasonable manner whether he thought presenting "mitigating circumstances" might better lead to a lighter sentence when presented after a conviction compared to after pleading Guilty.

Mr. Montgomery was able to cooperate with this evaluation without difficulty and would likely be able to behave appropriately in the courtroom. He did not demonstrate any signs of mental illness during this evaluation such as being distracted by hallucinations or responding to internal stimuli. On one occasion he spoke off topic; however, he was very easy to redirect to the topic at hand. He was pleasant and cooperative throughout the length of the interview, and would likely demonstrate the same demeanor when working with his attorney. Mr. Montgomery demonstrated an adequate factual and rational understanding of the proceedings against him, and has exhibited a sufficient present ability to assist his attorney in crafting a defense with a reasonable degree of rational understanding. It is therefore opined that Mr. Montgomery is competent to stand trial.

Mr. Montgomery is currently diagnosed with Psychotic Disorder Not Otherwise Specified and Hallucinogen Abuse. He is currently being prescribed psychiatric medication to treat his symptoms. It is recommended that he continue to receive medication for his mental condition. However, it is not necessary for him to remain hospitalized for maintenance of competence.

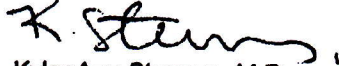
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In accordance with procedures for criminal defendants adopted by the Superior Court and approved by the Board of Judges, please make arrangements for taking this person into custody for further disposition.

Sincerely,

Patrick J. Canavan, Psy.D.  
Chief Executive Officer  
Saint Elizabeths Hospital

By:

  
KyleeAnn Stevens, M.D.  
Director of Forensic Services

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