

"LSD AND COMPETENCE" – A Case Report

by

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During the past several years there has been an increased interest in the relationship of LSD intoxication (lysergic acid diethylamide 25) to criminal responsibility^{1,2,3,4,5}. A survey of the literature failed to reveal any reports concerning the relationship of LSD intoxication to question of legal competence. In a recent case a defendant successfully alleged that, at the time of his trial, LSD ingestion had rendered him incompetent:

"... Ernest J. Triplett a 70-year-old sometime traveling salesman (of music lessons), was freed from state prison after serving 17 years for kidnapping and murder – a conviction based, as it turned out last week, on a confession made under the influence of various drugs, including LSD."⁶

This paper will report a case in which the defendant made a similar claim which was rejected by the Court. He alleged that he was incompetent to stand trial due to LSD intoxication at the time of his guilty plea. This raised several difficult questions: How can one, in retrospect, assess whether a person took LSD or not on a certain date? Or, assuming LSD was ingested, how can one determine whether it altered the subject's behavior in general and his competence to stand trial specifically?

Barter, et al.¹ cite five criteria to assist psychiatrists in the evaluation of defendants claiming legal insanity secondary to drug ingestion. These included: prior drug experience; time relationship between drug ingestion and commission of the crime; drug dosage; concomitant useage of other drugs; and prior emotional stability of the individual. One would assume that similar criteria could be used in assessing competence to stand trial. This is usually defined as a defendant's ability to understand the charges against him rationally and factually and to collaborate with an attorney in his defense.

The following case report summarizes the testimonies in Durrell G. Smith vs. The United States of America⁷. The senior author, who had served as a prison psychiatrist for two years and knew the plaintiff, was subpoenaed as an expert witness.

Case Report

Mr. Durrell G. Smith is a 34-year-old white male who was sentenced to sixteen years in the Federal penitentiary following his pleading guilty to a charge of bank robbery. At the suggestion of a "jailhouse lawyer" he brought suit against the United States, claiming that he was legally incompetent when he pled guilty. He alleged that on the morning of his trial he unwittingly ingested a pink sugar cube containing LSD. In the ensuing hearing his two sisters testified that they observed him placing the pink sugar cube in his coffee. They further alleged that Mr. Smith appeared to be "confused and glassy-eyed." The plaintiff testified that before pleading guilty he felt that "the judge was laughing . . . the whole courtroom was smirking . . . the walls were closing in . . . it seemed they were going to do something to me so I had the urge to plead guilty." In response to these allegations the United States attorney introduced evidence to support his contention that Mr. Smith was fully competent to stand trial at the time of his guilty plea. A state trooper testified that shortly after entering his plea, Mr. Smith cooperated with him, resulting in a reduced sentence on another charge. Mr. Smith ably directed the trooper in locating a remote cache of stolen T.V. sets. This testimony satisfied the judge that Mr. Smith was indeed competent on the said date.

DISCUSSION

As noted by Hess and Thomas⁸, many psychiatrists confuse the legal issue of competence with that of responsibility. A number of papers^{9,10,11} have attempted to clarify and distinguish these concepts. The prevailing common law test of competency to stand trial is: can the accused understand the nature of the proceedings against him and render effective assistance in

his defense. Useful guidelines for assessing legal competence have recently been formulated by Bukatman et al.¹¹. In the present case the determination of competence was complicated by the fact that it had to be done retrospectively. The usual procedure of assessing the defendant's current mental status was therefore irrelevant. His own testimony attempted to support his allegations and was viewed with suspicion by the court. Thus, a more objective determination of his competence depended on historical inference. The testimony of the state trooper allowed the court to conclude that Mr. Smith displayed a high degree of judgment and orientation that was incompatible with his contention of drug intoxication.

The problem of a post facto evaluation of competence was simplified in this case by the fortuitous availability of independent testimony. Should a similar case arise in the future, it would be incumbent upon the court to pursue all avenues which may clarify the defendant's mental state on the day in question. Hopefully a reasonable estimate of some of the defendant's global ego functions would permit an inference regarding specific ego functions which are necessary for legal competence. For example, Mr. Smith's ability to intelligently collaborate with the state trooper in the expectation of the state court's lenience suggested that he could understand both factually and rationally Federal proceedings against him. His cooperation with an agent of the prosecution satisfied the second criterion of competence, namely, cooperation in his own defense.

In the inferential assessment of competence, testimony by officers of the court, correctional officers, and even fellow inmates will be relevant. In addition, a study of the court record may permit further conclusions. Hopefully this discussion will stimulate further examination of the difficult issue of competence to stand trial and drug abuse.

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