

Guilty Verdict in a Murder Committed by a Veteran with Post-Traumatic Stress Disorder

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Post-traumatic Stress Disorder as a consequence of military service in Vietnam has gained visibility and attention by both mental health professionals and the general public.^{1,2} As awareness of this disorder increases, it has begun to surface as a successful legal defense against criminal responsibility for both violent and non-violent crimes.^{3,4,5} Psychiatrists are being called on by both the defense and prosecution to provide expert testimony in such cases. We present a case where such a defense was raised in a murder, but the defendant was subsequently found guilty, despite the presence of the disorder. The need to identify and differentiate personality traits unique to each individual, from the characteristics of the disorder itself, is highlighted as is the relevance of the disorder to the specific circumstances of the crime.

Case Report

Mr. A., a 30-year-old unemployed male, was arrested and charged with the firearm murder of a man while attending an outdoor music festival. Shortly after his arrest, he was transferred to a hospital from a local jail where he had threatened to harm himself. Subsequently, the Court ordered an evaluation concerning the defendant's criminal responsibility.

Witnesses described the defendant as having been quite intoxicated and argumentative prior to the killing. The victim requested the defendant leave the area, a verbal exchange escalated to a fist fight, and after that the defendant challenged the victim to a gun battle, drew his gun, and shot the other man through the chest. The victim, though he had been armed earlier, was not carrying a gun at the time of this altercation.

The defense advanced the theory that the event was precipitated by a Post-traumatic Stress Disorder resulting from Mr. A.'s experiences as a soldier in Vietnam 13 years earlier. While Mr. A. said he was unable to recall the moments of the shooting, he hypothesized that he had experienced a "flashback" where the victim had changed into a Vietcong.

Mr. A. enlisted in the Army at age 17, where he spent six months in combat-related activities. During his time in Vietnam he had become increasingly involved in the use of marijuana and sedative hypnotics. His tour of duty ended abruptly when he sustained shrapnel wounds and was evacuated to the "States."

After his discharge, Mr. A. gradually drifted to a rural setting where he thought he would be more able to experience a free existence. He reported

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wandering about, staying in abandoned dwellings, and stated that during his wanderings, he had begun to experience flashbacks of his Vietnam experiences. He said he feared his violent impulses and recognized the threat he might represent to others. In spite of this, he continued to carry weapons. He also continued to use many street drugs during his wanderings; he said the drugs helped him calm down. However, he also acknowledged that the drugs tended to make him act more violently.

During this period of his life, Mr. A. began to have increasing conflicts with legal authorities, usually centering on alcohol-related offenses. He also was evaluated for and considered disabled by the Veterans Administration because of a Post-traumatic Stress Disorder. Multiple offers of treatment for this disorder and his drug use were turned down by Mr. A.

At the time of his trial, the defendant pled not guilty by reason of insanity under a modified American Law Institute rule test; "Voluntarily" induced intoxication was specifically excluded as a defense. During the trial, it was established that Mr. A. had a long-standing pattern of drug abuse and was significantly intoxicated at the time of the offense. It was further established that he had refused to enter any treatment programs. It also became established, through eyewitness testimony, that the defendant had made some threatening statements toward the victim and others at the time of the shooting.

Psychiatrists for both the defense and the prosecution agreed that Mr. A. did have a history fully compatible with the diagnosis of Post-traumatic Stress Disorder. However, the prosecution proposed and established to the Court's satisfaction that the Post-traumatic Stress Disorder was not a direct cause of Mr. A.'s behavior, and did not directly interfere with the defendant's ability to understand the wrongfulness of his behavior or conform his behavior to the requirements of the law.

This was based primarily on the witness statements that indicated the defendant had performed some goal-directed actions both immediately before the shooting, did not assume a defensive posture, used a nonmilitary type weapon, and did not appear disoriented. It also became apparent there had been some distortions of the past history by the defendant, Mr. A., after the full medical record was exposed in detail. It was established that there was significant doubt about the defendant's ability to form the intent necessary for first degree murder and he was found guilty of murder in the second degree.

Discussion

Post-traumatic Stress Disorder may affect thousands of Vietnam veterans. Estimates of some level of readjustment difficulty among the 2.5 million veterans of this war range from 20 percent to 60 percent.¹ Criteria for the diagnosis of Post-traumatic Stress Disorder include the existence of a recognizable stressor, reexperiencing the trauma, numbing of responsiveness, reduced involvement with the external world, and emergence of certain symptoms such as hyperalertness, sleep disturbance, survival guilt, and

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memory impairment.⁶

High levels of drug abuse also have been recorded in Vietnam veterans. Drugs frequently used include alcohol, marijuana, amphetamines, opiates, and barbituates. Most veterans discontinued or reduced significantly the amount of drugs used on return to this country.⁷ While there is an overlap among veterans, of Post-traumatic Stress Disorder and drug abuse, neither is a subset of the other.

The development of Post-traumatic Stress Disorder is based on many factors including the premorbid personality of the individual, which influences the manner in which a stimulus, in this case Vietnam service, is experienced.⁸ Many who served in this war felt it as a positive experience, deriving an increased sense of self-esteem and mastery. On others, the effect was benign. As with all psychiatric disorders, the symptoms and course of Post-traumatic Stress Disorder are profoundly affected by the individual personality of the patient.⁹

A mental disease or defect that could justify an insanity defense is considered to be beyond the range of conscious choice for the defendant. An act resulting from Post-traumatic Stress Disorder might validly be considered in such a defense. However, personality disorders such as uncomplicated Sociopathy or Borderline Personality Disorders generally are not considered to constitute a defense against criminal responsibility nor is voluntary alcohol or drug abuse. Such problems have usually been considered by the Courts to be within the control of the individual.

The verdict in the case above was based on the opinion that acute intoxication and situational anger, and not the coexisting presence of a Post-traumatic Stress Disorder, was the pivotal factor in the shooting. It was further felt that Mr. A.'s preexisting personality was a significant contributor to his behavior and the way in which he responded to the stresses of Vietnam.

Post-traumatic Stress Disorder is likely to be claimed as a defense against criminal responsibility with greater frequency as the Courts, mental health professionals, and society gain experience with this diagnosis. However, there is a danger this defense may be abused. It is the obligation of the evaluating psychiatrist to clearly establish the diagnosis based not only on the patient's history but also on a careful review of collateral sources. It is also most important that independent and preexisting personality components be considered. Finally, the psychiatrist must assess the actual events and circumstances that surrounded the alleged offense to determine how they might relate to the diagnosis itself in order to best aid the court in making an informed verdict.

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