IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY
CASE NUMBER CRC23-03157CFANO

STATE OF FLORIDA,

Plaintiff,

vs. VOLUME I

THOMAS MOSLEY,

Defendant.
_____/

PROCEEDINGS: COMPETENCY HEARING

BEFORE: THE HONORABLE SUSAN ST. JOHN
Circuit Court Judge

DATE: August 20, 2025

PLACE: Courtroom 2
Pinellas County Justice Center
14250 - 49th Street North
Clearwater, Florida 33762

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(Pages 1 to 44)

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VOLUME I

THE BAILIFF: All rise. Circuit Court is back in session.

THE COURT: All right. Welcome back, everybody. You can be seated.

All right. Mr. Mosley is entering the courtroom. Good morning.

What's on our schedule for today, then?

MS. RUSSELL: Your Honor, we have an express testimony, by Dr. Whitney.

THE COURT: Okay. Are we ready to proceed?

MS. RUSSELL: We are.

THE COURT: State, are you ready to proceed?

MS. ELLIS: Yes, ma'am.

THE COURT: Okay. Whenever you're ready.

MS. RUSSELL: We're going to call to the stand, Dr. Tyler Whitney.

THE COURT: And so, we're gonna do a hard stop around 12-ish.

MS. RUSSELL: I don't think I'll be able to finish with Dr. Whitney, but I will try to get as much done as possible.

THEREUPON,

TYLER TIPPETS WHITNEY,

the witness herein, having been first duly sworn, was examined and testified as follows:

THE BAILIFF: Sit there. Make yourself comfortable.

THE COURT: Good morning. Thanks for your patience, today.

THE WITNESS: Good morning.

THE COURT: I tried to be done earlier.

THE WITNESS: I've had those days before.

THE COURT: Yeah, I understand.

MS. RUSSELL: Your Honor, may I approach?

THE COURT: Yes.

MS. SULLIVAN: Okay. No objection to this.

MS. RUSSELL: Just to save time during cross exam.

THE COURT: Great. Thank you so much.

DIRECT EXAMINATION

BY MS. RUSSELL:

Q. Dr. Whitney, would you introduce yourself to the court, please.

A. Yes. My name is Dr. Tyler Tippets Whitney.

I'm a licensed clinical psychologist in the state of Georgia, in the state of Utah, and in the state of Arizona. I was asked to evaluate Thomas Mosley.

MS. RUSSELL: May I approach?

THE COURT: Yes.

BY MS. RUSSELL:

Q. Dr. Whitney, I'm showing you what's been premarked as Defense Exhibit 37. Do you recognize Defense 37?

A. That's my curriculum vitae.

Q. And it's a true and correct copy?

A. It is.

Q. Dr. Whitney, I'm also showing you what's been premarked as Defense 38. Do you recognize Defense 38?

A. That's my forensic experience over the past ten years.

Q. And it's basically a testimony log of the cases you've testified in?

A. That's correct.

Q. And, Dr. Whitney, did you complete a report in this case?

A. I did.

Q. Is that Defense Exhibit 39?

A. It is.

Q. And you recognize that as a true and correct

copy of your report?

A. I do.

MS. RUSSELL: At this time, your Honor, we would like to ask to move into evidence, Defense 37, 38 and 39.

THE COURT: Any objection?

MS. SULLIVAN: No.

THE COURT: They will be admitted as such.

(DEFENSE'S EXHIBIT NUMBER 37 WAS RECEIVED IN EVIDENCE)

(DEFENSE'S EXHIBIT NUMBER 38 WAS RECEIVED IN EVIDENCE)

(DEFENSE'S EXHIBIT NUMBER 39 WAS RECEIVED IN EVIDENCE)

BY MS. RUSSELL:

Q. Dr. Whitney, where do you work now?

A. I work in private practice, just north of Atlanta, about 25 miles, in a city named Alpharetta, Georgia.

Q. And what is your chosen profession?

A. I'm a licensed clinical psychologist.

Q. Do you have any specialities in your practice?

A. I do. I am a specialist in, um, clinical, developmental and forensic psychology.

Q. And do you have any subspecialties within that

practice?

A. I do. I, uh, see individuals that are involved in the legal system, that have neurodevelopmental disabilities. A lot of them, um, have autism spectrum disorders.

Q. And what's your educational background?

A. I have a doctorate in clinical psychology, from the Forest Institute of Professional Psychology. I received that in 2001.

I have postdoctoral experience, in formal fellowship training, in psychometric or standardized testing of individuals that are children, adolescents, and young adults.

I have postdoctoral training in neurodevelopmental disorders, through what's called the LEND Program. It's a nationally, federally funded program, that includes 32 universities or academic institutions and medical schools. It's to develop professionals -- cross-disciplinary professionals, so, talking about -- could be any number of medical professionals -- physicians, nurses, occupational therapists, physical therapists, psychologists, um, and they train together, to understand each other's specialities, and to understand the history of developmental disabilities, as well as what constitutes

diagnosis and treatment of developmental disabilities.

Q. Are you associated with Emory University in any way?

A. I am. I'm an adjunct assistant professor at the School of Medicine, assigned to the service of psychiatry and the law, which specializes in individuals that are involved in the legal system.

Q. Have you published any articles?

A. I have.

Q. How many?

A. I would say anywhere between six and a dozen, over the history, since my training.

Q. And what are the subjects of your publications?

A. Autism spectrum disorder -- more specifically, high-functioning autism spectrum disorder, so we're not talking about severe and profound, we're talking about individuals that could function at some level in a school setting.

Q. And are you a member of any professional organizations?

A. I am.

Q. What are those?

A. I'm a member of Forensic Psychology, Division 41.

I'm a member of the International Society for

Autism Research, which credentials their researchers. You have to have published in two peer-reviewed magazines, to be accepted as a member. This allows you to attend a conference that happens yearly: once outside the United States; and once in the United States, every other year, so that you are amongst researchers that are discussing their research, prior publication.

Q. Now, Dr. Whitney, I'm looking at Defense Exhibit 37, your CV, and I'm wondering, what are the most important things in here, that allow you to be a diagnoser of autism and autism spectrum disorder?

A. Well, I think, uh, first and foremost, my formal training, my postdoctoral training. And then, lastly, I have roughly 25 years of experience -- clinical experience; and in probably the past 15 years, a lot of that has involved the forensic capacity, which would be in the courts, both state and federal.

Q. Speaking of that, I'm looking at Defense Exhibit 38, which is your testimony log.

A. Yes.

Q. About 12 pages long?

A. Yes.

Q. How many jurisdictions have you testified in?

A. I've testified in roughly, um, eight to ten jurisdictions, state and federal.

Q. Dr. Whitney, how much do you charge an hour?

A. I charge $275 an hour, when I am in a non-face-to-face capacity, so that would be record review, that would be writing reports, those types of things. When I am face-to-face -- so that would be depositions or expert testimony -- I charge $500 an hour.

Q. And is that standard across all kinds of cases, civil, criminal?

A. That's correct.

Q. Now, Dr. Whitney, have you formed an expert opinion as to whether Thomas Mosley is currently competent, under the six criteria in Florida statute 916.12, and Florida Rule of Criminal Procedure, 3.211?

A. Yes, I have.

Q. All right. We're going to get to your opinion, in a minute, but first, I want to talk about what you were able to base your opinion on, and I want to talk a little bit about autism.

Now, you're an adjunct professor at Emory, and you've had a lot of experience, educational and otherwise, in working with autistic people.

What is autism?

A. Autism is a neurodevelopmental disability and neurological disorder, that is genetic, and is environmental, which means it is present through mutation,

prior to an individual being born, and then it is shaped environmentally, based on the environment that an individual is in, based on intervention, or lack thereof.

Q. So, autism is immutable. It starts at birth and continues throughout life?

A. That's it. It is a chronic condition, that is lifelong.

Q. What does the DSM-5 say about autism?

A. The DSM-5 says that autism is primarily based on two core criteria. Those are social communication, which includes social awareness, as well as restrictive and repetitive patterns of behavior. That would be behavior that is repeated over and over again, and is, um, disrupted, um, and is uncomfortable for the individual, if it is disrupted.

Q. Now, what is "autism spectrum disorder"?

A. "Spectrum disorder" means that there are various ranges of autism, and when you say "ranges," you're talking about a heterogeneous or diverse group of people, individuals that would be on the autism spectrum, and those individuals can have, but must meet certain criteria, for diagnosis, however, their profiles can look very, very different.

Their profiles would include difficulty or impairment disability, that would be pervasive in their

lives. It would cause them difficulty in day-to-day functioning, or adaptive functioning, and that adaptive functioning would be below, or would be beneath the level that would be expected for an individual of their chronological age.

Q. So, how is autism and ASD -- or "autism spectrum disorder" -- how are those two things different?

A. Well, there's a long history of autism, going back to the forties, to a guy named Leo Kanner, and a guy named Hans Asperger, and they were describing atypical behavior or characteristics that they were seeing in children.

Asperger was in Europe, and Kanner was in the United States. Through that, they determined that these individuals were perceptually different, they were seeing their world differently, and consequently, they were reacting to their environment, the people in their environment, the environment itself, differently.

Now that phenomenon has gone through lots of evolution, starting in the early DSM's, going back to DSM-4, which was the prior DSM to the DSM we have right now, in 1994, and then to DSM-5, which we now use, which came into print in 2013, and the text revision was done in 2022.

But, from the DSM-4 to the DSM-5, it's important

to distinguish that there were several components of autism in the DSM-4, that were broken out, including Asperger's syndrome, a verbal or high-functioning form of autism that was condensed, again, in the DSM-5, which means everything was put under the auspice of an autism spectrum disorder, and they were given three levels of care: Level one being mild; level two being moderate; and level three being severe.

Q. So, how do you diagnose "autism spectrum disorder"? So, is that what we should be calling it?

A. We should. We should be calling it an autism spectrum disorder, and my diagnosis has several steps, but one of the steps is to interview the individual that is suspected of having an autism spectrum disorder, and that interview is meant to measure the person's ability to relate to me, as well as their ability, limitations, in relating to me.

I then will find ancillary or collateral people, that know the individual well, and I will talk to them about their developmental history, so things that were different, or recognized to be different, at a very early age, definitely before the age of 18, and, um, how their development progressed, and I will compare those two things.

In addition to that, there are certain

instruments that are helpful in creating a relationship or interactions amongst myself and the individual that I'm evaluating, and I will employ some of those tasks, in order to create these social situations, social scenarios or social presses, to put pressure on the individual, to give me what would be an expected response.

Q. What about testing?

A. That was one of the things that I was talking about. Other psychometric tests that are useful would be things like an IQ test, an achievement test, language-based testing, to look at their language, acceptive -- excuse me -- expressive, receptive, relational or pragmatic, back-and-forth language, those types of things, as well as motor skills for some, as well as sensory evaluations, those types of things, so a full neuropsychological evaluation could or should be done over some period of time.

As an individual gets older, a lot of those types of assessments have been done, and if they have been done in a timely manner, it isn't necessary to repeat those psychometric tests, you can use some of those, because they are standardized, which means they are administered in a standardized, or the same fashion, each time.

Q. How many assessments for autism, or autism

spectrum disorder, have you done over the length of your career?

A. Hundreds.

Q. Are there stereotypes of people with ASD, or autism?

A. Absolutely.

Q. What are the stereotypes?

A. Well, there are lots of stereotypes that come to my mind, but, um, for the sake of the court, I'll keep it very simple.

One of the shows on TV, that's somewhat popular, is called the *Big Bang Theory*, and there is a gentleman, or a character, in that show, known as Dr. Sheldon Cooper. He would be an example of an extremely high-functioning individual on the autism spectrum.

There's also a movie -- a very recent movie, probably within the last ten years -- called *The Accountant*. Ben Affleck plays an assassin in this movie. He is also portrayed as an autism spectrum disorder character.

Q. And what are the types of behaviors that are stereotypical?

A. One of the things that you see is -- in stereotypical autism -- is, you see an affect, or an immediate mood difference. When I say a "difference,"

what I'm talking about is this idea that they don't seem to modulate their mood, based on the, um, factors around them.

So, if someone is talking to you, and they are excited, a lot of times, to show connection, the person that they're talking to would act excited as well, so that there could be a connection made there.

A lot of times with autism, you don't see the affected or affect modulation in an individual with autism, that you see in other people. Some people would refer to that as flat, some people would refer to that as atypical, but there typically is a difference in the way that they move their mood around, based on their interaction with another person.

Another type would be repetitive behaviors, which we mentioned earlier in the criteria. Some of that behavior is considered stimming. One very common stimming behavior is when an individual with autism gets excited, you'll see some motor movement. One that is recognizable by a lot of people would be a rocking behavior, moving back and forth, almost as though you're rhythmically feeling or experiencing some type of emotional affect, but it's not coming out in the way that you are relating to the other person, it's something that you're doing within your own physical body.

Q. Do all people with ASD rock back and forth?

A. They do not.

Q. Why not?

A. Well, again, that's one indicator, or one type of physical movement.

Another type of stimming behavior, that you can see -- and not everybody does this either -- is something called a fidgeting, or a visual stim. A lot of times with individuals with visual stims, you'll see them do the same thing over and over again, like, play with their fingers, or bring their fingers up by their faces, those kind of things. But, again, not everybody does those, those are just examples of stimming behaviors.

Q. Are there any myths about ASD?

A. There are lots of myths about ASD.

Q. What are those?

A. One very clear myth is that people with autism don't have feelings, or they don't relate to each other in a feeling fashion, and a lot of times that's related to the idea that they don't react or modulate their affect, as we talked about earlier, the same way other people do, and so people mistakenly believe that's because they don't feel, or that they're not being impacted by what's ever going on between them and another person, or between them and the environment.

Another one might be an idiosyncratic way in which they move. Sometimes, there are gait disturbances, or odd gaits, or odd ways in which they walk, or they run, or those kind of things.

I think another one that is very, very common is the idea that individuals with autism don't put forth effort, when they do things. A lot of times, if your affect doesn't match what's going on in your environment, or your interaction with another person, someone could be noted to not be trying, or not be putting forth good effort in what they're doing.

THE COURT: Can I interrupt for one minute?

Do me a favor and move that microphone on your table.

MS. SEIFER-SMITH: This?

THE COURT: Yes, away from you.

MS. SEIFER-SMITH: Oh, I'm sorry, the typing.

THE COURT: It is not bothering me, but when I order the audio, I can hear you more, typing, than the witness testifying.

And it's okay if you're taking notes. I'm trying to avoid that, because I do go back and listen to all the testimony. So, thank you.

BY MS. RUSSELL:

Q. Dr. Whitney, do these myths and stereotypes ever

get in the way of a clinical diagnosis of autism?

A. Absolutely.

Q. How so?

A. One of the things that's very interesting about human behavior is, it's a way in which we know how to react to one another, how to react to our environment.

So, if you encounter someone that is not behaving in a way that is expected, or you would expect them to respond, we tend to put our own type of perception over the other person's type. We give it a reason why they're not reacting in the way that you would expect them to respond, so that can be very problematic at times, when you're trying to diagnose an autism spectrum disorder.

Q. So, what unique things do you do to overcome the communication problems in assessing someone who might have ASD?

A. Sure. One of the things that I think is really important is, human beings need to be able to communicate. One of the problems with an autism spectrum disorder is, individuals perceive their world differently.

One of the things that I do to overcome that is, I try to find out a little bit of the background of the individual -- so their likes, their dislikes -- and individuals with autism typically tend to be very knowledgeable about the things they like in their

environment.

So if I have some idea or some understanding of what they like, or what they are inclined to like, I try to have conversations based on the things that they understand, or that they like, or that they have a lot of knowledge about.

Individuals with autism are more readily -- are more likely to talk about things that they have a high level of knowledge or a high level of understanding about, as opposed to things that are not preferred or not interesting to them.

So, if I can hit on one of those things, or several of those things that they like, the conversation will be much more similar to someone that I would have a conversation with, that didn't have an autism spectrum disorder. That's social understanding, and that's something that we all try to do, we try to take an interest in the other person; but with an individual with an autism spectrum disorder, that has difficulty connecting or difficulty communicating, it's critical that this happen.

Q. In your world, have you seen the autism diagnosis be missed because evaluators aren't able to make that connection?

A. I'm not sure why it's missed, but I have seen

individuals that have been evaluated and have not received an autism diagnosis, that were autistic. I think it would be a little bit presumptuous of me to make a statement as to why the diagnosis was missed, obviously not being there, but I know that if the person is not connected to the other person, they're less likely to get the information or the data that they need, in order to make a diagnosis like an autism spectrum diagnosis.

Q. Let's switch gears for a minute, Dr. Whitney, and talk about what you did to evaluate Thomas Mosley.

A. Sure.

Q. You came to the case a little bit late --

A. I did.

Q. -- in the process.

A. I did.

Q. Did you do an in-person interview with Mr. Mosley?

A. I did.

Q. When was that?

A. Uh, it was last month sometime, and, uh, it was in the Pinellas County Jail.

MS. RUSSELL: May I approach the witness?

THE COURT: Yes.

BY MS. RUSSELL:

Q. Dr. Whitney, I'm going to hand you back your

report, in case you need to refresh your recollection.

A. Sure.

Q. It was July 29th?

A. Okay.

Q. Does that sound about right?

A. It does.

Q. How long were you with Mr. Mosley?

A. Roughly, three hours.

Q. How did he present to you?

A. Initially, when I came in to meet with Mr. Mosley, you were with me. The reason that I liked having you with me is you were someone that's been involved with Mr. Mosley, from my understanding, for roughly two years, and so I wanted someone familiar there, to make the introduction, so that Mr. Mosley could be a little bit more at ease.

Now, obviously, when you're in a jail setting, you're not going to be at ease, but I wanted to give him some familiarity and an explanation about why I would be there.

So, after we did the advisement -- the forensic advisement, telling him I was not a doctor there to treat him -- you left, and Mr. Mosley and I began to have a conversation.

One of the things that I knew Mr. Mosley liked

was music, so I asked him about music, and that was something that he was very willing to talk about. And we were able to have a discussion about his likes and dislikes about music, the types of music he likes, and those kind of things. And it opened up the opportunity for us to have a conversation about other things -- other things being a recollection of his history, his childhood, his upbringing, things that were important to him, things that were not important to him, about his education, about his family life, all of those types of things -- and I was able to get that information because we connected, uh, and were able to talk about music, in the beginning.

I also administered portions of what's called the Autism Diagnostic Observation Schedule, the Second Edition. This is the gold standard, and it doesn't make the diagnosis of autism, but it gives us, as I said, again, sets, or questions, or understanding about the interaction between the person that you're interviewing and their response, that should have some similarity because the test is made that way -- and I was able to do that, as well as get collateral information from his mother, Renee -- and that's how I made my assessment of Mr. Mosley.

Q. I want to back up, for a minute. The test you gave is called the ADOS, A-D-O-S?

A. That's correct.

Q. And you're saying that's the gold standard?

A. The gold standard in the diagnosis of autism. It doesn't make the diagnosis, but, again, it gives you a semi-structured format by which you can glean information about the person's ability to respond.

And there is a pool of individuals that create the data for this test, and the responses are then graded on what's called a Likert scale: Zero being, not -- being no difference in the way that anybody with or without autism would respond; one, meaning there is some difference noted; two being, there's more substantial difference noted; and three being, marked, or the most difference noted.

Q. And how did Mr. Mosley score?

A. Mr. Mosley scored in the autism spectrum range, which is a combination of communication skills, restricted and repetitive patterns of behavior, imagination, um, and those types of things.

Q. Did you notice Thomas Mosley rocking back and forth during your interview?

A. I did notice what I would call "hyperkinetic movement." Would I call it "rocking back and forth"? It could be, but it wasn't as pronounced as I have seen in others that rock back and forth.

Q. Was that important to your diagnosis?

A. Well, what it did is, it showed me that he was experiencing certain feelings or emotions, and that those feelings or emotions were coming out in a physiological manner.

Q. Was there anything specific about his behavior that day, that confirmed to you that he has ASD?

A. Absolutely.

Q. What were those things?

A. One of the things that I noticed when I talked to Mr. Mosley was his telling me about how he learned to present to other people, and he described that in a very laid-back, very unaffected type of way.

And so, when I listened to more of what he was saying, he was talking about things like -- the word he used was "chill," or the word he used was "laid-back," those kinds of things. Those told me that the way he wanted to present to other people was in a way that he was like everybody else, or that he would fit in. But, in reality, when you look at some of the other behaviors that were present, when I was evaluating him, you could tell that he was very, very anxious, very nervous, or very stimulated by some of the things that we were talking about.

Q. Was there anything specific about his behavior,

or about the things that he said, that made you suspect ASD?

A. Some of his responses, the language that was used was not what I would consider to be the language that people without autism used, so they were extreme.

So, when you talk to him about certain things, and you say to him, uh, "How did this make you feel?" The responses were general. The responses were made in a way that I would have to ask follow-up questions, or do those types of things.

There were lots of things that I needed to do, to get more information, because the information he was giving me was so general, and not specific, even though the questions themselves were very specific.

Q. And you asked him questions from your very profound knowledge of ASD and how to examine and diagnosis it, right?

A. Yeah. One of the examples of that -- and I think this is important to note -- part of the ADOS is, you ask about what are known as "polar emotions" -- so, happy, sad, anxious, or angry, or mad -- those kind of things. And when you asked him what types of things make him feel any one of those emotions, his response being general, and querying him for more of the information about how it makes his body feel, it was clear to me that

he couldn't describe the bodily feelings that went along with the type of emotion that you were asking. So, a lot of times, you would get an answer that maybe wasn't the question that you were asking.

Q. Did you get the feeling that he was exaggerating symptoms, or faking?

A. I did not.

Q. Why not?

A. Well, I think the purpose of me being there, and the environment, as it was, initially appeared that his affect, as I said, was not appropriate -- it was chill or laid-back or relaxed -- but the more we talked, the more I recognized that there were things that were emotional, that -- that gave him rise to react in an emotional way, but, that that way wasn't consistent with the way that he generally acted or reacted.

So, that atypical affect, that atypical mood was a very clear indicator to me, that he was not as connected as someone that would be -- in the situation that we were meeting each other in would be.

Q. So, what's an "autism scale"?

A. I'm sorry?

Q. What is an autism scale?

A. So, an autism scale would be something that would measure -- say, communication would measure, say,

behavioral reaction; would measure imagination; would measure restrictive and repetitive patterns of behavior. Those are all scales that are found on the ADOS-2, that we've talked about.

Q. And how did he rate on those scales, exactly?

A. So, on the communication aspect, he rated within the autism spectrum range, which is: not autistic; autism spectrum; and then, autism. So he didn't rate at the highest level of the autism scale, but he also didn't rate in the non-autistic range; he rated in the middle, in the autistic spectrum range.

When you talked about, um, types of behaviors or patterns or things, again, he rated, um, in the middle range, in the autism spectrum range -- so, clearly, on the spectrum, but not at the extreme end of autism, but not -- not autistic, either.

MS. RUSSELL: May I approach the witness?

THE COURT: Yes.

BY MS. RUSSELL:

Q. Dr. Whitney, I'm showing you Exhibit 4, which are Thomas Mosley's educational records.

Did you review those records in conjunction with your diagnosis and report?

A. Yes, I did.

Q. What stood out to you, in the records?

A. Well, there was a clear pattern or theme of Thomas Mosley not being able to relate to the people that were trying to teach him, or to his peers in the classroom.

In fact, one that is in my report, that I recognized from an IEP, was a middle school teacher saying Thomas Mosley would not ask for help, when he needed it, but if help was offered, he would accept that help.

So that was one example to me of this idea of not being able to connect, or to understand the way he was being taught, or how to glean learning from -- from those things.

Q. Did you interview Renee Mosley?

A. I did.

Q. Did you find her credible?

A. I did.

Q. What did she tell you, that supports a diagnosis of ASD?

A. She talked to me about his development, and about the things that were difficult for her son, as he was a younger child. And then she talked to me about things that were more difficult, as he got older, and she talked to me about some of his reaction to those said things, in development.

And all of those things led me to believe that,

as Thomas Mosley was a young child, he was trying or making an effort to learn and to grow, and just was not able to; and by the time that he was in late elementary school, or moving towards middle school, that he was disengaging from behaviors that you would want for someone who is trying to learn, and he was opting for behaviors of his choice, instead. He was opting for behaviors or things that he wanted to do, as opposed to being in the academic or learning setting, in order to be able to learn.

Q. Did you look at any IQ testing?

A. I did.

Q. In conjunction with your report?

A. I did.

Q. And you saw an IQ test given by Dr. Railey?

A. I did.

Q. And Dr. Torrealday?

A. I did.

Q. Dr. Tenaglia?

A. Yes.

MS. RUSSELL: May I approach the witness?

THE COURT: Yes.

BY MS. RUSSELL:

Q. Dr. Whitney, I'm showing you what's been premarked as Defense Exhibit 40.

They are IQ test results by Dr. Valerie McClain?

A. Yes.

Q. Did you review those in conjunction with forming your opinion?

A. I did.

Q. And what were Dr. McClain's test results in the WAIS-5?

A. Dr. McClain's test results showed that Thomas Mosley was functioning in the mild range of intellectual disability, overall; and that his verbal comprehension, fluid reasoning, visual spatial skills, processing speed and working memory were all within ranges of the mildly intellectually disabled range, or borderline range, which is still significantly below average.

MS. RUSSELL: We ask to move Exhibit 40 into evidence.

THE COURT: Any objection to Exhibit 40?

MS. SULLIVAN: No objection.

(DEFENSE'S EXHIBIT NUMBER 40 WAS RECEIVED IN EVIDENCE)

BY MS. RUSSELL:

Q. Are those IQ test results consistent in any way with your diagnosis of autism?

A. Intellectual disability may or may not be present with an autism spectrum disorder. In this case,

with Mr. Mosley, it appears that it is, but it doesn't have to be, to make a diagnosis of an autism spectrum disorder.

Q. Did you also review the results of testing by Dr. Amy Fritz?

A. I did.

Q. And what did you glean from the work that she did with Mr. Mosley?

A. I think it's very important, Dr. Fritz is a speech and language pathologist, so she tested his ability to communicate.

She found him to have deficient expressive interceptive language, and also to have problems with pragmatic language -- now, pragmatic language is the language we use to communicate, or social language -- so that would indicate that his ability in the pragmatic realm, or in the realm that we use to communicate, would be deficient to the point where there would be a lack of understanding, or mistaken understanding about what other people's behaviors mean.

Q. Do you remember a test she gave, called the PPVT?

A. I do.

Q. And that relates to IQ in some way?

A. It does. The Peabody Picture Vocabulary Test

is a test where you show somebody a picture -- and typically, these are drawings, those types of things -- and you are supposed to talk about what's going on in the picture, the nature of the picture. And so, that is something that relates to IQ, in the manner that it is construing what you understand about an environment, and about individuals within that environment.

Q. And is there a reason why you might use pictures, as opposed to written words?

A. If there's a problem with communication -- um, typically, expressive interceptive language is important -- and if you know that those numbers are low, using nonverbal, or pictures, might be preferred.

Q. You saw, in Dr. Fritz' results on the CELF-5, which is C-E-L-F --

A. Self (phonetic).

Q. Pronounced "self"?

A. Self-five (phonetic), yeah.

Q. The CELF-5. Did Thomas Mosley have impaired language ability?

A. He did.

Q. Was it profound?

A. It was.

Q. Did you also review the other reports that other experts have done in this case?

A. I did.

Q. So that would be the reports of Dr. Hall, Dr. Railey, Dr. Torrealday, and Dr. Lana Tenaglia?

A. That's correct.

Q. Was there anything else in the reports of Dr. Valerie McClain, which you also reviewed?

A. Dr. McClain was of the opinion that Thomas Mosley was on the autism spectrum, and that appropriate testing should be done, for that diagnosis.

She used some instruments, but those were screening instruments, and those are typically less sensitive than other instruments, like the ADOS-2, that we talked about, which typically would be administered, when there was concern about an autism spectrum disorder.

Q. So she gave him the GARS?

A. She did.

Q. And that's a screening test?

A. It is.

Q. Did you look at some rap videos?

A. I did.

Q. What were those?

A. Those were videos of Thomas Mosley. Rap is a preferred genera of music that he enjoys, and those videos were of him being included in the videos about rapping, or rapping, himself. Most of them were difficult

to understand from a verbal standpoint, but that's not uncommon in rap music.

Q. Was there anything about Thomas Mosley's presentation in those rap videos, that made you question the diagnosis of autism or intellectual disability?

A. No, there was not.

Q. Why not?

A. Well, I believe that, uh, Mr. Mosley, from our conversation, would like to be a known rapper, and I believe that he was behaving in those videos as he thought a rapper should behave.

Q. Do you know anything about how involved he was in making those videos, or writing the songs?

A. I just know that he knew that it was being videoed, because, during our conversation, he told me to look at them, because he has a desire to be a known rapper.

Q. Tell me all the things that you diagnosed Thomas Mosley with?

A. I diagnosed Thomas Mosley with -- let me explain this first -- when you're making a diagnosis, going from DSM-4 to DSM-5, we used to use what were called "axes," and, on those axes, you would put different diagnostic labels.

In DSM-5, we did away with that. And so, what

we do in DSM-5 is we list the most pertinent diagnosis; and subsequent diagnoses to that, are secondary to the primary diagnosis.

So, if you'll notice, my initial diagnosis is -- if you go to my reports, and you go to the DSM-5 diagnosis page, you'll see that -- and it is page 7, about a third of the way down -- my primary diagnosis is an autism spectrum disorder, level two support for social communication; and level one support for restricted interest and repetitive patterns of behavior, with language impairment.

I followed that by mild intellectual impairment, and that was made by the numbers that I saw from other people's reports. I then followed that by schizoaffective disorder, which is part of the schizophrenia spectrum.

Again, schizophrenia has a spectrum, much like an autism spectrum, where there are different characteristics of individuals that are on the schizophrenia spectrum, and they have different levels of symptoms, and so, that's why we call it "schizophrenia spectrum disorder."

I then diagnosed him with major depressive disorder, recurrent, moderate in its intensity, without psychosis; and lastly, an atypical sensory profile, meaning that his reaction to certain sensory stimuli, like

light or sound or texture or feel, is different than other people's. And those were my diagnoses.

Q. When you say "mild intellectual impairment," is that intellectual disability?

A. That is.

Q. Now, how could it be, that somebody suffers from a profound mental illness, schizoaffective disorder, intellectual disability, and autism spectrum disorder?

A. One of the things that, uh, I think is really important, uh, in the case of Thomas Mosley, is that if you have a lot of different diagnostic disorders, that are being assigned, you have to know, developmentally, when they would come into play.

So, if we think about how Thomas Mosley's disabilities or disorders would come into play at birth, or the day he was born, he had an autism spectrum disorder, because he was genetically predisposed to have that. Okay?

He also had mild intellectual disability, the day he was born, because we're born with two types of intelligence. Okay? We're born with fluid intelligence, which is the intelligence we have at the time we were born, and we also accumulate skills that make us intelligent, which would be crystalized intelligence, like the intelligence we would gain by a formal education.

Right? So those two were there, from the day he was born.

If you contrast that, the schizophrenia spectrum disorder, or the schizoaffective disorder, in most cases -- even if it's early onset -- doesn't start to appear until a little bit later in childhood -- so, at least, school age, right? -- you start to see things that would be consistent with that disorder.

So those two, that were there at birth, were there before the symptoms started to develop. Even if they were subthreshold symptoms, or prodromal symptoms, before the psychosis or psychotic break occurred, they were there before the schizoaffective disorder.

Major depression, that would, again, be a behavioral disorder. And the sensory profile, again, was probably there, from birth, but it would have taken time for people to see that behavior.

But that order makes sense for Thomas Mosley, because two of them -- the autism spectrum disorder and the mild intellectual deficit, or disability -- were there, from the day he was born.

So, having all of those -- because they're not mutually exclusive, meaning that you can have more than one -- just because you have one, doesn't mean you can't have another -- means that all of these could come together, to create the profile that Thomas Mosley has.

Q. And what's the normal onset for schizophrenia, or schizoaffective disorder?

A. Late -- late adolescence or early young adulthood, so, late teens to early twenties.

Q. Is it more likely that you might have ASD, if you have ID?

A. Yes.

Q. Tell me about that.

A. There's lots of overlap between the behaviors that you see in young children, and behaviors that you see later on, in schizophrenia. In fact, there's a lot of research being done -- not from a categorical standpoint, but from a phenomenological standpoint -- saying that you have to differentiate these two. All right?

So the biggest differentiator between a schizophrenia spectrum disorder and an autism spectrum disorder is, the schizophrenia spectrum disorder is unstable, so it progressively gets more and more intense, or the symptoms get worse.

An autism spectrum disorder, because they both have perceptual differences, stays stable throughout. So what that means is, is that the autism traits and characteristics can be seen from the time that they manifest early in childhood, all the way through a person's life.

It's more likely that schizophrenia spectrum disorders, or the schizoaffective disorder, once that first psychotic break takes place, the symptoms are much more intense, or much more profound at that point.

Prior to that, they could have been seen as part of a different type of a disability, whether it was an intentional disability, a language disability, a learning disability, or an autism spectrum disorder.

Q. In the range of cases that you evaluate from day-to-day, is this one complicated?

A. Very complicated.

Q. How come?

A. Because of all the disorders. And, as a person gets older, one of the things that you recognize, is that -- if you ascribe to the metaphor of tabula rasa, or blank slate -- a person, when they're born, is a blank slate, like a clear broth, if you're making a soup -- and as they have experiences in life, things get added to that broth, and things become much more murky, or much harder to see, through life experience.

MS. RUSSELL: Your Honor, I only have the competency --

THE COURT: A good stopping point for you?

MS. RUSSELL: Yeah. I only really have the competency criteria and his opinion on some of the

other reports.

THE COURT: So, ballpark for me, how much time you have left, you think?

MS. RUSSELL: Forty-five minutes, maybe.

THE COURT: Do you want to come back at one o'clock and finish up?

MS. RUSSELL: We would love to, if you have time?

THE COURT: If that works for everyone. I'm all yours, all afternoon, anyway.

Doctor, you're fine at coming back at one o'clock?

THE WITNESS: Yes.

THE COURT: All right. I will see everybody at one o'clock.

Let's make sure Mr. Mosley has an opportunity to eat lunch, please.

THE BAILIFF: Yes, your Honor.

THE COURT: All right. Thank you.

THE BAILIFF: All rise. Circuit Court is in recess.

(RECESS)

(VOLUME I CONCLUDED)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Linda K. Fritsch, Registered Merit Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true record.

DATED this 27th day of August, 2025.

/S Linda K. Fritsch
Linda K. Fritsch
Registered Merit Reporter