

1 A. Our officers do not administer medication. A
2 medical professional has to administer medication.

3 Q. Did you ask them?

4 A. Like I said, our officers do not administer
5 medication.

6 Q. But you didn't ask?

7 A. It's our policy that we do not do that.

8 MR. KIMBLE: No further questions, Your
9 Honor.

10 THE COURT: Redirect?

11 MR. PANOSH: No, thank you.

12 THE COURT: Thank you, ma'am. Come down,
13 please.

14 (Witness stood aside.)

15 MR. PANOSH: Dr. Tyson, please.

16 MR. ZIMMERMAN: If Your Honor please, we
17 object to the State calling this witness at this time.

18 THE COURT: State your grounds, please.

19 MR. ZIMMERMAN: If Your Honor please, the
20 confidentiality between psychologist and patient.

21 MR. PANOSH: I'm not going to ask about
22 confidential communications.

23 THE COURT: All right. The objection will be
24 overruled subject to your right to renew your objection
25 to a particular question or specific line of questions.

1 MR. ZIMMERMAN: All right.

2 MR. PANOSH: Please come up, Doctor.

3 DR. WILLIAM MICHAEL TYSON, being first duly sworn,
4 testified as follows during DIRECT EXAMINATION by MR.

5 RICHARD PANOSH:

6 Q. Would you state your name, please, sir?

7 A. William Michael Tyson, T-Y-S-O-N.

8 Q. And your occupation, please, sir?

9 A. I am psychologist licensed to practice by the
10 State of North Carolina.

11 Q. And, Doctor, do you do any work for the Department
12 of Corrections?

13 A. I'm not employed by the Department of Corrections,
14 but I do some consulting work that brings me into contact
15 with the Department of Corrections.

16 Q. In the course of your duties did there come a time
17 when you consulted with defendant in January of 1999?

18 A. Uh, I did go to conduct an evaluation of the
19 defendant in February of 1999.

20 Q. Did you meet with him on one or more dates?

21 A. On one occasion.

22 Q. What date was that, please?

23 A. Uh, that would be February 22nd, 1999.

24 Q. And the purpose of your meeting with him was to
25 evaluate his mental condition; is that correct?

1 A. Yes.

2 Q. And in the course of evaluating his mental
3 condition, did you obtain information from the Department
4 of Corrections or other sources as to what, if any,
5 medications he was taking on February 22nd?

6 A. The only information I---

7 MR. ZIMMERMAN: Objection.

8 THE COURT: Objection is overruled.

9 A. I'm sorry?

10 THE COURT: Answer the question, please.

11 A. The only information I obtained was by his self
12 report.

13 Q. And what -- based upon that information, what
14 medication was he taking on February 22nd?

15 MR. ZIMMERMAN: Objection.

16 THE COURT: Objection overruled.

17 A. By his report he indicated that he was taking an
18 antidepressant.

19 MR. ZIMMERMAN: Your Honor, I need you to ask
20 the witness to---

21 THE COURT: Can you keep your voice up,
22 please, Doctor, so these gentlemen over here are able to
23 hear you.

24 A. Oh, I'm sorry. I'm sorry. He indicated that he
25 was taking the antidepressant Paxil and a another

1 medication by the name Vistaril, and that this had been
2 prescribed for him by jail or prison authorities.

3 Q. And in the course of your dealings in the area of
4 mental health, are you familiar with those two
5 medications?

6 A. Yes, I am.

7 Q. And when you learned that he was taking these
8 medications, did that in any way deter you from
9 conducting your interview?

10 A. No, it did not.

11 Q. Would you describe the way his personal affect,
12 how he was able to answer questions, how he appeared to
13 you without getting into what he actually said?

14 MR. ZIMMERMAN: Objection.

15 THE COURT: Objection is overruled.

16 A. Uh, I didn't detect any indication that he was
17 unable to participate in the interview. He appeared
18 appropriate and engaged in conversation appropriately.

19 MR. ZIMMERMAN: Objection. Move to strike.

20 THE COURT: Motion is denied. Objection is
21 overruled.

22 Q. Now, did you in fact do an evaluation?

23 A. I did.

24 Q. And was your evaluation based upon the information
25 he provided you?

1 A. In part.

2 Q. In large part, correct?

3 A. In some part. I considered other facts.

4 Q. And did you consider any information he gave you
5 was reliable considering the fact that he was under those
6 medications? Well, let me rephrase that. Do you feel
7 that those medications would have in any way impaired his
8 ability to convey to you reliably the information he
9 wanted to convey to you?

10 MR. ZIMMERMAN: Objection, if Your Honor
11 please. This man is not a medical doctor.

12 THE COURT: Objection is overruled.

13 A. With the -- again, with the caution that I am not
14 a medical doctor, I did not detect any signs that would
15 cause me to question the reliability of what he was
16 telling me on the basis of a potential medication effect.

17 Q. Now, let me ask you about your personal
18 background. Do you have a doctorate in psychology; is
19 that correct?

20 A. Yes. I hold a doctorate in clinical psychology
21 from the University of Massachusetts at Amherst. And I'm
22 licensed to practice independently by the State of North
23 Carolina.

24 Q. And when you are practicing, you consult with a
25 psycholog--- excuse me, with a licensed psychiatrist when

1 it comes to prescribing medications; is that correct?

2 A. Yes.

3 Q. And how long have you been a licensed
4 psychologist?

5 A. I've been licensed permanently by the State of
6 North Carolina since 1986. I obtained a temporary
7 license in 1983 when I first came to the state. So,
8 effectively since 1983.

9 Q. Now, drawing your attention to these two drugs,
10 Paxil and Vistaril, are these drugs that you, uh, are
11 commonly used in the course of treating individuals who
12 have depression?

13 A. The Paxil is, yes.

14 Q. And is the Vistaril commonly used in treating
15 individuals who have anxiety?

16 A. Anxiety or sleep disturbance.

17 MR. PANOSH: No further questions.

18 THE COURT: Would you like to ask this
19 witness any questions about his testimony, Mr. Kimble?

20 MR. KIMBLE: Yes, sir, Your Honor.

21 **CROSS EXAMINATION by MR. THEODORE KIMBLE:**

22 Q. Does not environment affect judgment?

23 A. Yes, it does.

24 Q. So, in a controlled environment in front of you
25 when it's just one on one could be completely different

1 from being surrounded by armed guards and shoved into
2 cell, could it not?

3 A. The circumstance -- are you asking is the behavior
4 likely to be different, or the effect of the medication,
5 or just the circumstance?

6 Q. The effect of the behavior possibly conducted (sic)
7 by the medication. In other words, the medication
8 whereas under a controlled environment might be much more
9 effective than under an unusual or out of the ordinary
10 condition?

11 A. That's a possibility.

12 Q. So, other words, while the medication may work
13 under a controlled environment, it might not be near as
14 effective in an uncontrolled environment?

15 A. That's a possibility.

16 Q. So, therefore, taking the medication might cause
17 someone to react differently under a uncontrolled
18 environment?

19 A. I'm sorry? Are you asking would the medication
20 have a different effect in one environment than in
21 another?

22 Q. Yes.

23 A. It's possible.

24 MR. KIMBLE: Thank you, Your Honor. No
25 further questions.

1 MR. PANOSH: No further. Thank you.

2 THE COURT: All right, thank you, Doctor.

3 (Witness stood aside.)

4 MR. PANOSH: Agent Bowman, please.

5 AGENT JAMES BOWMAN, being first duly sworn, testified as

6 follows during DIRECT EXAMINATION by MR. RICHARD PANOSH:

7 Q. Would you state your name, please, sir?

8 A. James Bowman, B-O-W-M-A-N.

9 Q. And you're an agent for the State Bureau of
10 Investigation; is that correct?

11 A. Yes, sir.

12 Q. And over the recess did you -- were you present
13 when a subpoena was prepared for the records of the
14 Department of Corrections?

15 A. Yes, sir. I was.

16 Q. And did you read that to them over the telephone?

17 A. Yes, I did.

18 Q. And did they give you the information that the
19 subpoena requested?

20 A. Yes, they did.

21 Q. And that's being FAXed; is that correct?

22 A. That's correct.

23 Q. Can you at this time verbally give the Court that
24 information?

25 A. Yes, sir. I can.