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S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from York County

John C. Hayes, III, Circuit Court Judge

PRINCETON THROWER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-001005

SUPPLEMENTAL APPENDIX

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State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

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July 10, 2012

Rebecca McNerney
Assistant Solicitor
1675-1A York Hwy.
York, SC 29745

Re: The State of South Carolina vs. Thrower, Princeton
DMH Case #: 204-0216
York County, Court of General Sessions

Dear Assistant Solicitor McNerney:

In accordance with the court order issued by the Honorable John C. Hayes, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 8 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

7/10/12
Date

Jeffrey E. Musick, Ph.D., ABPP
Jeffrey E. Musick, Ph.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

cc: Hemphill Pride, Attorney at Law, PO Box 4529, Columbia, SC 29240

JM/tl

MISSION STATEMENT
To support the recovery of people with mental illnesses.



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PERSONAL AND CONFIDENTIAL	COURT'S
	EXHIBIT NO. <u>1</u>
	IDENTIFICATION/EVIDENCE
	DKT.# _____
DATE: _____	

**COMPETENCY TO STAND TRIAL EVALUATION
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)**

DATE OF EVALUATION: June 29, 2012

PRESIDING EXAMINER: Richard L. Frierson, M.D., Professor of Clinical Psychiatry
University of South Carolina School of Medicine

SECOND EXAMINER: April Carpenter Richardson, M.D., Fellow in Forensic Psychiatry,
University of South Carolina School of Medicine

DIAGNOSES: **AXIS I:** Malingering of Cognitive Deficits
Polysubstance Dependence (Cocaine, Alcohol, Cannabis),
in a Controlled Environment

AXIS II: Antisocial Personality Disorder

AXIS III: Status Post Motor Vehicle Accident with Severe Traumatic Injuries
including: Liver Laceration; Pneumothorax; Pneumomediastinum;
Adrenal Hematoma; Mandible, Maxilla and Pterygoid Facial
Fractures; Fracture Transverse Process of Vertebra T9-L3;
Superior Inter-Plate Fractures of Lumbar Vertebra 1-4; and Left
Femur Fracture

OPINION REGARDING COMPETENCY TO STAND TRIAL: See report.

DISPOSITION: Mr. Thrower was returned to the Forensic Services Division of Bryan Psychiatric Hospital, the inpatient forensic facility of the South Carolina Department of Mental Health.

IDENTIFYING INFORMATION: Princeton Alex Thrower is a 27-year-old, African American male who was seen at the Forensic Evaluation Service pursuant to a court order from the York County Court of General Sessions. This court order requests an evaluation of his competency to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E. 2nd 536 (1981) and S.C. Code Ann. § 44-23-410 (1976). He is currently charged with Trafficking Cocaine Base and Failure to Stop for a Blue Light. According to the court order, it was issued because "there is reason to believe Princeton Thrower may lack the competency to understand the criminal proceedings against him or may lack the ability to assist with the defense as a result of mental competence."

Prior to participating in the evaluation, Mr. Thrower was informed of the limitations of confidentiality. He was informed that the evaluation was court ordered to determine whether he could understand the legal process and work with his attorney in his defense. He was also informed that the examiners

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were employed by the Department of Mental Health and were not being paid by his attorney or the solicitor. He was informed that after the evaluation, a report would be submitted to his attorney, the solicitor, and the judge in his case. He was finally informed that the evaluators could be called to testify at a hearing related to his competency to stand trial. He stated that he did not understand this information but he agreed to proceed with the evaluation.

SOURCES OF INFORMATION:

1. Court order requesting the evaluation.
2. Arrest warrant M-602637 for Failure to Stop for a Blue Light.
3. Arrest warrant M-602629 for Trafficking in Crack Cocaine.
4. York County Sheriff's Office Case File Summary.
5. Medical records from Carolinas Health System.
6. Medical records from Catawba Mental Health Center.
7. Medical records from Carolinas Medical Center.
8. Medical records from the South Carolina Department of Corrections.
9. Medical records from the York County Detention Center.
10. A social history obtained from the defendant's mother, Sheila Thrower.
11. Medical records from Bryan Psychiatric Hospital Forensic Services dated June 20, 2012 to the present.
12. Psychological consultation conducted by Sandra Stater, Ph.D. dated January 18, 2012.
13. Review of interview notes on Princeton Thrower from December 6, 2011 and March 6, 2012.
14. A one hour and twenty minute clinical forensic interview on June 29, 2012.

CLINICAL HISTORY: Mr. Thrower was initially seen for this evaluation by April Richardson, M.D. and Doris Thomas, LMSW on December 6, 2011. During that evaluation Mr. Thrower alleged that he could not remember anything prior to a motor vehicle accident that he suffered on the day of his alleged offenses. He claimed not to know what he was charged with. He also claimed not to know what a judge was. He said that a public defender consists of a lawyer helping. He did not know the role of the solicitor. He also did not answer other questions related to competency issues correctly, responding "I don't know" to most of them. His degree of cognitive impairment with viewed in relationship to the medical records related to his motor vehicle accident appeared suspicious for possible malingering. Mr. Thrower was then referred to a psychologist for psychological evaluation with psychological testing.

On January 18th he presented for the psychological evaluation. He stated that he could not recall his age, date of birth, or place of birth. He stated that he believed he was 19 or 20 years old. He could not name the current month, day, year or day of the week. He could not count backwards from 10 or perform simple mathematical calculations. For example, he stated that $2 + 2 = 2$, and he did not know what $5 - 2$ equaled. He said he could not spell words such as *dog* and *cat*. He claimed not to know the identity of the current U. S. President or the colors of the American flag. He was able to immediately recall three objects. However, after delay, he could not recall any of the objects. Mr. Thrower was administered psychological testing to assess both potential feigning of memory deficits as well as feigning of knowledge deficits as it relates to the courtroom and legal knowledge. The results from

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this testing indicate that Mr. Thrower feigned impairment on a cognitive measure of memory deficits. His low level of performance on this test was highly unlikely even among clinical populations with severe memory impairment. On a test measuring his response style involving legal knowledge, his score was indicative of an attempt to feign deficits in courtroom and legal knowledge. There was clear indication that Mr. Thrower was purposely choosing incorrect answers. Thus, his understanding and ability to participate in the legal process is likely much better than what he portrayed during the evaluation.

Mr. Thrower was seen again on March 6, 2012 by Dr. Richardson and Ms. Thomas for reevaluation. He was confronted about the results of the psychological assessment and the fact that it indicated he was malingering or faking cognitive deficits. During the second evaluation he did complain about problems in the detention center. He reports that they are not helping him with his problems. He also reported significant back pain. He frequently answered questions correctly when giving historical information, but stated when he answered them, "my momma says so." In other words, he denied all memories for personal factual information prior to his motor vehicle accident. When asked if he used alcohol or drugs, he states, "my mom and my sister tell me that I used to." On mental status examination during the March evaluation, he was able to register three objects and he recalled all three after five minutes. He was able to spell the word *Alex* forward and backwards with one error. He claimed not to know the President of the United States. He stated that $2 + 2 = 4$, $5 + 5 = 8$, and could not subtract 10 from 20. He also once again claimed not to know the colors of the American flag. On competency assessment, he continued to deny knowledge of his charges. He also claimed not to know the role of the judge, jury, or prosecutor. It is of note that Mr. Thrower has had prior legal experience in criminal court. He was able to correctly define the terms *guilty* and *not guilty*. He could not give an example of evidence.

After his poor performance on the March 2012 evaluation, he was placed on a waiting list for admission to the forensic hospital for fifteen days of observation. This was done out of an abundance of caution as he had been seen at a rehabilitation clinic in the Carolina's Healthcare System in December for potential rehabilitation for his physical injuries and possible traumatic brain injury. The assessment of that evaluation was that he has a history of multi-trauma and "possible mild cognitive deficits secondary to traumatic brain injury." He was subsequently placed on a waiting list and admitted to the Columbia Regional Care Center (the Forensic Services of Bryan Psychiatric Hospital) on June 20, 2012.

According to records from his 15 day admission, he claimed not to know why he was admitted. He could not state where he came from, what the date or year was, or what charges he has. He answered most questions with, "well my momma tells me something like" or, "I have no idea." His only psychiatric complaint was that he was "kinda sad sometimes." He complained of pain from injuries in his jaw, back, and leg. He denied suicidal or homicidal ideas. He was ambulating using a walker. He was able to give the treating doctor his mother's telephone number without hesitation. (Note: during today's evaluation he was unable to do so.) He was also able to give her address. During his hospitalization he was evaluated by a neurologist. The neurologist concluded "total anterograde and retrograde amnesia is not consistent with post-traumatic amnesia." His neurological examination was reportedly normal. He underwent an electroencephalogram (EEG), a measure of

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electrical brain activity, which was also normal. He has a history of a normal CT scan of his brain at Carolinas Medical Center following the accident on the day of his arrest and there is no evidence that he suffered structural brain injury. During his fifteen day inpatient observation, Mr. Thrower also gave numerous near miss answers on simple calculations. Hence, $10 - 4 = 5$ and $10 - 6 = 5$. He stated that the year was 2011 rather than 2012 but could not recall the month, day of the week or date.

PSYCHIATRIC HISTORY: According to his mother, Mr. Thrower has no history of inpatient or outpatient psychiatric treatment prior to the date of the motor vehicle accident where he incurred his charges. However, in searching South Carolina Department of Mental Health records, we found evidence that Mr. Thrower was seen from October 16, 2000 to January 27, 2001 at Catawba Community Mental Health Center. He was seen there for Disruptive Behavior Disorder, Not Otherwise Specified. He successfully completed a conflict management group and reported less anger outbursts. He ended treatment on January 27, 2001. There is no other history of psychiatric treatment.

ALCOHOL AND SUBSTANCE USE HISTORY: According to his mother, he has used alcohol, cannabis, and crack cocaine since his teenage years. He has a history of being involved in a drug court program. He has a history of chronic pancreatitis which was attributed to his use of alcohol or illicit substances. The exact extent of his substance use is not known to this examiner. However, because he has had legal and medical problems related to his use and he continues to use despite knowledge of the physical bad consequences of his continued use of illicit substances, we are assigning a diagnosis of Polysubstance Dependence.

MEDICAL HISTORY: Mr. Thrower was involved in a severe motor vehicle accident on July 9, 2011. According to records he was a non-restrained driver. There was evidence of potential loss of consciousness. He was discharged from Carolinas Medical Center on July 31, 2011. He had numerous injuries as a result of his motor vehicle accident including a grade 3 liver laceration that required surgical intervention, a small right pneumothorax (collapsed lung), pneumomediastinum (air in his middle chest cavity), a right adrenal gland hematoma, a left paraspinal muscle hematoma, a fractured jaw, numerous fractured facial bones, fractures to vertebra T9-L3 and L1-L4, and a significant left femur fracture. He required surgical intervention for his femur fracture and repair to his liver laceration.

He was seen in a Rehabilitation Clinic on December 15, 2011. At the rehabilitation clinic he indicated that he could remember what happened prior to the accident and also day to day events which is in contrast to his presentation during the current evaluation.

In addition to his motor vehicle injuries, he has experienced bouts of chronic pancreatitis which have been attributed to his use of alcohol and other illicit substances.

FAMILY HISTORY: Mr. Thrower's mother is Sheila Thrower and she is 48 years of age. She suffers from high blood pressure. She also states that she attended special education classes during school. The defendant has a maternal cousin who was diagnosed with a mental illness. The

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defendant's father is William Moore and is 52 years of age. He has no history of a mental illness. Mr. Thrower has a paternal uncle who allegedly sexually abused several of his children. Mr. Thrower is the youngest of four children. His oldest brother is incarcerated on drug charges. Another brother is incarcerated for shooting at a car with passengers.

SOCIAL HISTORY: He was born and raised in York County. For the first five years of his life, his siblings and mother lived with his maternal grandparents. His dad was also initially in the home but left when Mr. Thrower was a young child. His mother describes no difficulties with pregnancy or delivery. He reportedly met his psychomotor milestones at appropriate ages. He is described as a quiet child. There is no history of abuse or neglect. According to his mother, he did not get along well with his siblings. He also has a history of cruelty to animals. At times the family had to live with other people or in hotels. They were very poor and frequently lived off Ramen noodles and hot dogs. Mr. Thrower witnessed domestic violence in the home. At one point his mother had to turn the children over to his maternal grandmother.

According to his mother, Mr. Thrower adjusted to school okay. He was initially in regular classes but in the seventh or eighth grade began placement in some special education classes. His school records were destroyed when Mr. Thrower turned 25, but the York School District records custodian was able to report verbally that he had been placed in Educable Mentally Disabled (EMD) classes. He was suspended for fighting and disrupting school but was never expelled. He was sent to the Department of Juvenile Justice for two weeks at one point. He was involved in a fight at school that eventually turned into a riot. His mother gives conflicting information. During the social history she states that he left school in the eleventh grade. When I called her and asked her the last school he attended, she stated York Middle School.

Mr. Thrower has been in a relationship for six years with a Sharon Shyder. According to his mother, his girlfriend stalked him for years. There is a history of violence in this relationship. According to his mother, they fight daily and she has had to pull him off of his girlfriend several times. He has no children.

His first job occurred a year ago where he was in charge of cleaning meters. His mother reports that he had to quit this job because of recurrent pancreatitis. He has never had a driver's license. He currently does not receive disability. According to his mother, he has been arrested several times for drug-related crimes. She reports that his longest incarceration was for three and a half years. During that incarceration his mother was unable to visit him because he was in lockup for three years. He has been in and out of jail since age 17.

MENTAL STATUS EXAMINATION: On today's date, Mr. Thrower presented in a hospital gown and used a walker. He walked very slowly. When asked to read an information form regarding the evaluation, he could not read most of the form and missed such simple words as *here* and *have*. His hygiene was good which was not consistent with the degree of cognitive impairment that he presents on interview. (Most individuals with genuine cognitive impairment to the degree that Mr. Thrower is reporting would have great difficulty maintaining their hygiene.) He claimed not to know the month, day of the week or date. He states the year was 2010. He claimed not to know his current location

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including the city or state. He was able to register three objects with two attempts. He was unable to recall them after five minutes. When given a prompt, he was able to recall one of the three objects. He claimed not to know the current President. He could not name any basketball players in the NBA. When asked to spell the word *prince*, he spelled it "price." When asked to spell the word *cat*, he could not do so but did state the letter C and then became not responsive. He could not spell his nickname, Alex. (However, it is noteworthy that he was able to spell this during the March evaluation). His interpretation of similarities was concrete and he could not interpret a proverb. When asked to add 2 + 3, he used his fingers and then responded 8. When asked to add 2 + 2, he stated "2." When asked to name the colors of the American flag, he responded "I got to see it." It was noted that Mr. Thrower used the term *to be honest* repeatedly during the evaluation. For example, he would state "*to be honest* I have no idea—I don't know nothing." He could not state his mother's address although he was able to do so for the doctor in the Columbia Regional Care Center. He gave an erroneous phone number for his mother. His use of the phrase *too be honest* repeatedly is potential evidence for malingering also.

DIAGNOSTIC FORMULATION: Mr. Thrower has no history of mental health treatment prior to the alleged offense. He is now presenting with global cognitive deficits that are rarely if ever seen, even among severely head injured patients. Given the fact that he had a normal CT scan, normal EEG, normal neurological examination, and clear evidence of malingering as documented statistically with psychological testing, it is our opinion that his current deficits are malingered and there is little objective evidence that these deficits are genuine. Therefore, we are assigning a diagnosis of Malingering of Cognitive Deficits including factual and rational knowledge of how legal system functions and how criminal cases are handled in court. It is likely that his secondary gain is to avoid prosecution for his serious charge of trafficking cocaine base.

The reasoning behind the Polysubstance Dependence diagnosis is outlined earlier in this report. We are assigning the specifier *in a controlled environment* to indicate he is currently incarcerated without access to alcohol or drugs.

Additionally, given his long history of behavioral disturbances as an adolescent and his continued engage in interpersonal violence against his girlfriend and repeated criminal offenses, it is our opinion that he would meet diagnostic criteria for Antisocial Personality Disorder.

CONCLUSION REGARDING COMPETENCY TO STAND TRIAL: Mr. Thrower performed very poorly once again on an attempted competency assessment. He stated he did not know the charges. They were explained to him and he was asked what a blue light was and he states, "I have no idea." When asked, "where do you see a blue light normally?", he stated that he did not know. He could not define the term *cocaine*. He could not name the role and function of an attorney. He did not know the role and function of a judge and could not state where a judge works. He did not know the role and function of the solicitor. Finally, he was asked, "what do you know about court or the legal system," and he responded, "nothing." Once again, he was confronted about his responses and the fact that we would have to inform the court that he was malingering (faking). However, this did not lead to a change in his response style.

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Because competency is presumed absent evidence to the contrary, we have no reason to believe that the deficits Mr. Thrower is currently presenting are genuine or that they would impair his ability to work his attorney if he so chooses. Therefore, it is our opinion that although he does not respond to competency questions correctly, he should be presumed competent.




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RLF/lb

D: 06/30/12

RT/EM: 07/03/12

F/EM: 07/05/12


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