

Motion in Limine

Defendant argues that Sharon Watts is unqualified to testify to clinical conclusions that the defendant seemed "catatonic," and that he was "malingering." The defendant argued that such terms are medical and psychiatric in nature and thus, require that Ms. Watts possess expertise in those practice areas. The State believes that the witness would be qualified as an expert to render an opinion that the defendant was "faking" during a counseling session which would be admissible evidence of the defendant's consciousness of guilt..

Witness's Expertise

It was proffered that Ms. Watts possesses a bachelor of science degree in nursing, a

masters in nursing, and 25 years as a guidance counselor and with special training as a grief counselor. The State offered her as an expert in nursing and counseling based upon this 25 years of experience. However, based upon the expertise proffered by the State, the Court cannot conclude that Ms. Watts' background and training provides sufficient evidence to find expertise in identifying and/or diagnosing catatonia or malingering.

The Fourth Edition of the Diagnostic and Statistical Manual ("DSM-IV"), a recognized diagnostic reference source, defines catatonia as a disorder related to either a general medical condition¹ or schizophrenia.

Black's Law Dictionary (5th Ed.) defines catatonic as:

Catatonic. A state found in some forms of schizophrenia, in which energy seems maintained either at a very high or very low level; changes in muscle tone allow subject to display the ability to maintain for hours either a fixed statuesque pose or a waxy flexibility of the limbs; during catatonic excitement, subject exhibits wild, blind stupor, subject fails to respond to, or pay attention to, external stimuli. There may be homicidal tendencies during alternating periods of excitability and stupor.

DSM-IV provides that "the essential feature of Malingering is the intentional production of false or grossly exaggerated physical or psychological symptoms, motivated by external incentives such as avoiding military duty, avoiding work, obtaining financial compensation, evading criminal prosecution, or obtaining drugs." Similarly, Black's Law Dictionary defines malinger:

Malingering. To feign sickness or any physical disablement or mental lapse or derangement, especially for the purpose of escaping the performance of a task, duty, or work. Person who consciously feigns or simulates mental or physical illness for gain.

It is important to note that the Cautionary Statement in DSM-IV states that “the proper use of these criteria requires specialized clinical training that provides both a body of knowledge and clinical expertise.” Upon review of the diagnostic criteria for a catatonic disorder and malingering, and counsel’s proffer of Ms. Watts’ professional background, it is evident that Ms. Watts is unqualified to testify that the Defendant was catatonic or malingering.