All correspondence to:

[redacted]

Dr Thomas Oldtree Clark

Consultant Forensic Psychiatrist
LRCP MRCS DPM (Conjoint)
MRC Psych
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FRANZCP

June 9, 2011

Peter Ryan
Solicitor & Attorney
PO Box 600
MILTON NSW 2538

Your Ref: PR:hfc:16/10

Psychiatric Report on Moses Kellie
DOB: [redacted]/85 Age: 26

I examined the above at your request on 11/04/11. I have read your letter of 25/03/11 and 04/04/11 and the enclosed charges, Police Facts and Justice Health notes.

I interviewed Moses by audio video link at the Legal Aid office in Castlereagh Street, Sydney. Moses is presently held in Long Bay Goal.

The opinion and details in this report are based on knowledge derived from my training, study and experience. I have been in practice as a Forensic Psychiatrist for over 40 years.

I am a Foundation Member of the Faculty of Forensic Psychiatry of the Royal Australian and New Zealand College of Psychiatrists.

The Case

Moses has pleaded guilty to Robbery Armed with an Offensive Weapon.

The circumstances of the offence, he said, are that he was alone when approached by the victim, who made sexual advances to him. Moses had a silver object and resisted the sexual advances. Moses took a mobile phone but did not take any money from his victim.

At the time of his plea, it became apparent that Moses suffers from a mental disorder. During his time in prison, he has been found to have a schizophrenic illness. This has been appropriately treated and he is now lucid and coherent and able to give a good account of his background.

The matter has now gone to the District Court.

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Background & Family History
Personal Development

Moses' family comes from Sierra Leone. Father was "missing in action", as Moses put it. His mother was also killed.

Moses' father was a diamond miner, who had three wives and 15 children.

Two of his sisters are living in Blacktown, both in good health.

One brother suffers schizophrenia and is on medication.

Background History

Moses is one of 15 children by his father.

It is necessary to understand the political background of the country.

Between 1991 and 2002, a civil war devastated the country, mainly due to government corruption and mismanagement of diamond resources and abuse of power by various governments since independence.

About 50,000 people were killed in the civil war. Hundreds of thousands of people were forced from their homes and many became refugees in Guinea, as did Moses' family.

In Guinea, the family lived in a UN camp, Moses spending the years from age 12 to 21 in the camp. Although this was a UNICEF camp, the hygiene was poor and several cousins died in the camp.

He learned English in the camp and then came to Australia. He has been here five years and has permanent residency.

Moses had a South Korean girlfriend about four years ago, he said, but she has returned to Korea. He was living with this woman for some time.

He then lived alone. He became isolated from people, losing contact with his sisters.

He had been unable to obtain employment in Australia and was living off NewStart payments. He said he was then refused payments by Centrelink and was forced to live rough, having "no choice".

On occasion, he found himself victim of racial attacks. He had also been attacked by youths in the past, he said, because of his African appearance.

He then decided to live in Centennial Park. He had a small camp there and existed off scavenging for some 8-9 months.

Matters came to a head in the park, when a homosexual man sexually harassed him. He resisted the man's advances. Moses was aware that the park is used for nocturnal homosexual meetings.

Following this, he became aware the police were looking for him and he decided to leave Sydney. He travelled by bicycle to Eden, where he was arrested 17 days later.

Medical History

He is an occasional drinker but there was no evidence of intoxication at the time of his offence. He smokes and has used cannabis in the past. He was not using cannabis at the time of the offence.

Psychiatric History

He has seen a psychologist from Justice Health, who found him to be quite paranoid, experiencing hallucinations and ideas of reference. At first, this was thought to be a major depression and he was commenced on an antidepressant. He stopped this, he said, as it made him too drowsy.

He was then found to be continually hallucinating, with ideas of reference, and was started on olanzapine, an antipsychotic medication. He actually said, "It helps with voices and stuff". He is now on quetiapine, trade name Seroquel, at night. This is another antipsychotic medication.

That is to say, he was found to have a paranoid psychosis, which was appropriately treated. This has all the characteristics of a schizophrenic illness.

On psychiatric state examination, he has no present signs of psychosis. He suffers no hallucinosis since taking the antipsychotic medication. He no longer expresses delusional beliefs or ideas of reference. His thought systems are now normal and logical. This is on the above antipsychotic medication.

His sleep is relatively good and he has put on weight.

Looking back at his mental state at the time of his offence, he was paranoid, feeling that people were after him. He was also experiencing hallucinatory voices, with threatening intimidating sexual content.

He said this state has not recurred.

Psychiatric Diagnosis

This is of a schizophrenic illness.

Opinion

This man suffers a psychotic illness which, in all probability, was present at the time of his offence. He shows the typical social and personal deterioration of a schizophrenic illness, with loss of supports.

For completeness sake, hereunder are the criteria from DSM-IV-TR for Schizophrenia. DSM-IV is the acronym for the Diagnostic and Statistical Manual of the American Psychiatric Association, 4th edition. TR is the latest Text Revision. This is a checklist of symptoms and should be used with the clinical findings above.

Schizophrenia

A. Characteristic symptoms: Two (or more) of the following, each present for a significant portion of time during a 1-month period (or less if successfully treated):

(1) delusions
(2) hallucinations

(3) disorganized speech (e.g. frequent derailment or incoherence)
(4) grossly disorganized or catatonic behaviour
(5) negative symptoms, i.e. affective flattening, alogia, or avolition

B. **Social/occupational dysfunction:** For a significant portion of the time since the onset of the disturbance, one or more major areas of functioning such as work, interpersonal relations, or self-care are markedly below the level achieved prior to the onset (or when the onset is in childhood or adolescence, failure to achieve expected level of interpersonal, academic, or occupational achievement).

C. **Duration:** Continuous signs of the disturbance persist for at least 6 months. This 6-month period must include at least 1 month of symptoms (or less if successfully treated) that meet Criterion A (i.e. active-phase symptoms) and may include periods of prodromal or residual symptoms. During these prodromal or residual periods, the signs of the disturbance may be manifested by only negative symptoms or two or more symptoms listed in Criterion A present in an attenuated form (e.g. odd beliefs, unusual perceptual experiences).

He fulfils the above criteria and therefore suffers a well recognised mental illness, at present in remission.

You ask my opinion as to Mr Kellie's mental health and whether he is fit to plead. I enclose the Presser Criteria.

Presser Criteria

1) The accused should be able to understand what it is they are charged with.

This is the case.

2) He needs to be able to plead to the charge.

This is the case.

3) Exercise his right of challenge.

This is the case.

4) He needs to understand generally the nature of the proceedings.

This is the case.

5) He needs to be able to follow the course of the proceedings and know what is going on in Court in the general sense.

This is the case.

6) He needs to be able to understand the substantial effect of any evidence given against him.

This is the case.

7) He needs to be able to make his defence to the charge.

He now understands he suffers from a mental illness.

8) Where he has counsel, he needs to be able to do this through his counsel, by giving instructions, letting his counsel know what his version of the facts is.

This is the case.

9) He need not have the mental capacity to make a defence but have sufficient capacity to be able to decide what defence he will rely upon.

This is the case.

10) To make his defence and his version of facts known to the Court and to his counsel.

This is the case.

11) It is his state of mind at the time of the trial.

He is now in a much more settled state of mind than at the time of the commission of the offence.

He is therefore fit to plead.

It is necessary then to consider whether he fulfils the criteria for The McNaughten Rules in respect of the offence.

There is evidence he was suffering a mental illness at the time. At the time of committing the act, he was in an abnormal state of mind, as defined above. Therefore, because of the presence of the mental illness, the first "leg" of the McNaughten Rules applies to his case.

The second "leg" of the McNaughten Rules states that, by reason of insanity, he would not know the nature of the act. It is apparent that he did know the nature of the act. His plea of insanity, therefore, does not apply in this case.

However, the third "leg" states that, if he did know the nature of the act, he did not know that what he was doing was wrong.

It is unclear, since he was paranoid and convinced that the victim was a sexual predator, whether he knew what he was doing was wrong. He fled the scene of the attack and went off down the South Coast. This suggests that he did know what he had done was wrong and therefore the McNaughten Rules do not apply.

I have read the Expert Witness Code of Conduct, contained within Schedule 7 of the Uniform Civil Procedure Rules, and agree to be bound by it.

My opinion relies principally on the clinical findings and the history obtained at the time of consultation.

Attached is a Certificate of Expert Evidence, pursuant to Section 177 of the Evidence Act 1995, outlining my qualifications.

Thank you for referring this patient. Should you require further information, please contact me at the Clinic above.

THOMAS O CLARK
Consultant Forensic Psychiatrist

Certificate of Expert Evidence
Section 177 of the Evidence Act, 1995

This document (and the report attached hereto) is a Certificate of Expert Evidence pursuant to Section 177 of the Evidence Act, 1995

in relation to Moses Kellie

(a) My name and address is – Dr Thomas Oldtree Clark

[redacted]

I currently hold the position of – Consultant Forensic Psychiatrist

(b) I have specialised knowledge based on my training, study and/or experience being -

I have ordinary medical qualifications registered in New South Wales.
I have a Diploma in Psychological Medicine from London.
I have a Masters Degree in the Neurophysiological Basis of Behaviour from London.
I have Membership and Honorarium of the Royal College of Psychiatrists in England.
I have Membership and Fellowship of the Royal Australian and New Zealand College of Psychiatrists.
I am a member of the Forensic Section of the Royal Australian and New Zealand College of Psychiatrists.
I have completed the certified Forensic Psychiatry course run by the New South Wales Institute of Psychiatry.
I have attended the seminar and qualified as an Approved Report Writer for Victims' Services.
I have attended the seminar and have been trained in the use of the Guide to the Assessment of Rates of Veterans' Pensions for the Department of Veteran's Affairs, "the GARP".
I have completed the certification course through the University of Sydney as an approved PIRS examiner for the Motor Accident Authority.
I have completed the certification course through the University of Sydney and am an approved WorkCover Trained Assessor of Permanent Impairment and WPI assessor for nervous system and mental and behavioural disorders.
I have attended The University of Sydney Refresher Training Programme in the Assessment of Permanent Impairment for both WorkCover and Motor Accident Authority.
I am an approved Psychostimulant prescriber under NSW Health Department regulations.
I am a Senior Specialist in the NSW Public Health Service and a VMO to The Royal Flying Doctor Far West Area Health Service.
I am a Foundation Member of the Faculty of Forensic Psychiatry of the Royal Australian and New Zealand College of Psychiatrists.

(c) The opinion held by me and detailed in the report attached hereto is wholly or substantially based on the subject knowledge derived from my training, study or experience referred to in (b) above.

(d) Annexed hereto is my Psychiatric Report.