

TOOLAN

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and full vodka bottles in rooms and a number of empty and partially full vials of medications, mainly sedatives, found in a file cabinet.

Other testimony came from Dr. Ronald Ebert, a state forensic psychologist who is certified by the Dept. of Mental Health and is on the teaching staff at MacLean Hospital in Boston and both at Harvard Medical School. According to Ebert, who assisted in an evaluation of Toolan for Reddington in late 2005, after reviewing extensive records, he met with Toolan first at the Barnstable House of Correction, and because he displayed such paranoia there, conducted the next three sessions in the Barnstable court building. Ebert said Toolan was anxious and intense, though cooperative, but at the jail he seemed preoccupied with whether people were listening in on the interview and interrupted the meeting by yelling at and slapping a wall intercom and making derogatory remarks to officers who might hear them.

After interviews with Toolan, Ebert said, "His history is replete with failure directly related to his alcohol [use]." Ebert also concluded that Toolan tested in a forthright manner, seemed mildly depressed, believes Toolan suffers from brain damage from alcohol and drug abuse, and that the damage affects Toolan's behavior in terms of controlling his behavior when under stress and using alcohol and drugs.

He further testified that Toolan's memory was spotty about what happened October 23 and 24, 2004, that Toolan believes he was intoxicated, crying and angry when Ms. Lochtefeld broke off their relationship, and that he tried to talk her into staying with him but fell asleep and found her gone when he awoke. Toolan also told Ebert that he did not recall many things about getting to or being on Nantucket on Oct. 25, 2004, other than throwing "something" in the bushes and at the island airport trash, and on the mainland, going to a doughnut shop and checking cell phone messages before being arrested.

Ebert said his opinion "to a high degree of psychological certainty" is that Toolan was not criminally responsible during the murder event, which he attributes to Toolan's long-term drinking and drugging that rendered frontal brain lobe damage causing him

to act impulsively and aggressively in inappropriate and irrational ways, and said he has a persevering nature. "Once he starts something he can't stop," said Ebert.

Ebert's testimony, particularly regarding Toolan's scattered memories of the weekend before and day of Ms. Lochtefeld's death, was challenged by the prosecutor, who elicited a response from Ebert who said many of Toolan's actions coming to and leaving Nantucket on the date of the incident indicated an ability to execute a plan, though he still maintained that alcohol relaxed inhibitions for Toolan and triggered impulsive behavior.

The final testimony of the day was from Dr. David Benjamin, a clinical pharmacologist and forensic toxicologist retained by Reddington, who spoke on the effects of excessive alcohol use and how it is compounded by ingestion of medications, such as sedatives. He testified that in examining Toolan's first breath alcohol reading taken a couple hours after he was arrested the afternoon of the murder, he calculated that at about noon that day, Toolan's alcohol level may have been at the end of the confusion stage and entering the stupor phase and possibly even reaching the alcohol coma stage. In cross-examination by Glenn, Benjamin stated that in nearing a coma stage a person "would be out like a light" and not be capable of driving a car, for example.

FRIDAY, JUNE 15

Friday's testimonies began with Dr. Martin Kelly, retained by the district attorney's office to evaluate Toolan and give his opinion after reviewing a volume of reports, including the autopsy report on Ms. Lochtefeld and some on Toolan's prior treatments, and conducting a nearly three-hour long interview with Toolan at the Barnstable House of Correction on May 17, 2007. Kelly said that during the interview Toolan was vague, guarded and suspicious, checking wall outlets because he thought someone was listening to the conversation.

Kelly, a psychiatrist at Boston's Brigham and Women's Hospital, a certified forensic psychiatrist, has a subspecialty in medical psychiatry and is an associate professor of psychiatry at Harvard Medical School, determined that Toolan was criminally responsible at the time of the murder and did not have a mental disease or defect that resulted in lack of capacity to

understand the wrongfulness of his actions or lack of capacity to control his behavior to conform with requirements of the law.

Kelly said he found that Toolan has a substance abuse disorder, primarily with alcohol and potentially with some medications, and likely a mixed personality disorder with anti-social and narcissistic features. He added that Toolan may qualify for having a mental disorder with disease defects and conditions such as substance abuse, personality disorders, brief reactions to life events that cause emotional reactions and possibly bi-polar tendencies, explaining that the term essentially replaces what was formerly referred to as manic/depressive behavior.

In further testimony, Kelly said a person with personality disorder can make choices regarding behavior, and that tests were run on Toolan, such as an MRI, that did not indicate organic brain disorders or injury, as well as tests done for neuro-psychological abilities including problem solving and the ability to execute an action.

Additionally, Kelly said that Toolan's attempt to conceal a knife on his first try to fly to Nantucket and the offering of various reasons for carrying the knife indicated his ability to appreciate the wrongfulness of the act and attempt to mitigate that wrongfulness; that traveling to the island, purchasing knives, parking his car out of sight of Ms. Lochtefeld's cottage and in the direction for a "quick getaway" indicated Toolan's ability to conform his behavior to serve his own self-

interests at that time and appreciation of wrongfulness; that Toolan's stabbing of Ms. Lochtefeld 23 times, placing items on her back, dumping items on a bloodied bed and taking, then throwing away items from her cottage indicated deliberate acts, appreciation of wrongfulness and an understanding of criminality; that Toolan's flying to Hyannis, engagement with persons at that air terminal and car rental indicated an intact appreciation of situations; that Toolan's changing clothes after the murder indicated his appreciation of the implications of bloodied clothing and ability to decide what to do about that issue; that Toolan's call to a friend the night he was arrested asking him to phone the victim indicated he was aware that something needed to be "straightened out"; and that his denial of seeing Ms. Lochtefeld for three days before the murder indicated that he appreciated the wrongfulness of the event on Nantucket.

Reddington aggressively challenged the doctor's credibility, saying he had not read enough reports, had not asked Toolan enough questions, had not run enough tests and had frequently, when testifying for the government at trials, found the defendants criminally responsible as opposed to when he testified for the defense and found the defendants not criminally responsible. At one point, when Reddington said medical records indicate that Toolan experienced several head traumas but that Kelly did not inquire about them, he stated, "You

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