

Federal Judge Uses Psychiatry as a Tool of Political Repression

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On June 29, 2006 Posr A. Posr [pronounced PÓzar] became a political prisoner in Federal prison for 39 lawless days after challenging an order by US District Court Judge Judge Lewis A. Kaplan to submit to an examination to determine his sanity, without a witness and without any recording equipment (Case #04-crim-1033 [LAK]). In America a Judge has absolute power to coerce an unwilling person to submit to a mental examination, without a jury, even if the person is perfectly sane and dangerous to no one. In fact, very little research exists about what actually happens in civil commitment proceedings, and researchers question whether Judges at these hearings respect the spirit and letter of the law, if alternatives are seriously considered, if individual rights to due process are respected, or if any therapeutic objectives are served.

Posr is a 52-year old electronic-journalist of African descent who has studied camera-in-the-court cases for the past 11 years. He has been a unique and passionate advocate for cameras in the courtroom. He explains "there have been too many transcripts with missing words and too many judges who are contradictory, corrupt, cowardly, rude, arrogant, biased, and incompetent. Cameras don't lie, but judges, officials, and government agents, do."

The case of USA v Posr began on June 22, 2004 when Posr, after filing motions, tried to film the trial of attorney Lynne Stewart. He explains why he went to court with his video camera: "This case was important to telecast because former Attorney General John Ashcroft reportedly intended to use secretly recorded conversations between Attorney Stewart and her client. Basically, the attorney/client privilege was under attack and the American people needed to see the dismantling of that privilege."

As Posr entered the U.S. Courthouse at Foley Square, a guard refused to permit Posr's entry and Posr attempted to step around the guard. Ultimately, instead of charging Posr with breaking the law against having cameras in the court, the guard charged Posr with Assaulting a Federal Officer, by allegedly "chest-bumping" him. The case went before US District Judge McKenna who inexplicably gave it to Magistrate Frank Maas to pursue, although the rules of selection of judge were violated. Posr was supposed to approve of a Magistrate overseeing a proceeding. The trial was invalidated by Maas after it was over, and, in March, 2006 Posr ended up in front of US District Court Judge Lewis A. Kaplan.

Judge Kaplan, at the beginning of a proceeding on March 6, 2006, challenged Posr's, sanity because Posr identified himself as "Attorney of Record for the Presumed Innocent". Posr has never been to law school and has never passed the bar-exam, but has been calling himself an "attorney" in his own 18+ cases involving cameras in the Court since 1999. He has never had his sanity questioned by anyone, before March 2006.

Does a person have to go to law school to be an attorney? Many people think so. However, through diligent research Posr discovered CPLR 105[c], which is a New York

State law that reads: "The "word" attorney" includes a party prosecuting or defending an action in person." This meant, Posr thought, that if self-representatives are included in the word "attorney", self-reps are attorneys. Are self-reps attorneys? The Hon. Judith Kaye [Chief Judge of the State of New York] said, in *People v Rosen*: "A defendant who elects to proceed for himself is an attorney."

Judge Kaplan then ordered Posr to take the witness stand to challenge, under oath, Posr's claim to the title "attorney" and asked, "Where is your authority/license to practice law?" Because there is a charge called "unauthorized practice of law", Posr then asked Judge Kaplan: "What is your definition of 'practicing law'?" Kaplan answered " Answer the question, I don't buy that."

Judge Kaplan began to be agitated as he continued, "He [Posr] deliberately obstructed that inquiry, and that is not the behavior of a sane man, at least, it may not be." The Judge then ordered Posr to submit to a mental competency exam on an outpatient basis because of his insistence that he was an attorney pursuant to the ruling by the New York Legislature and the Chief Judge of New York State.

Assistant US Attorney Michael Q English and the Court provided Posr with the name of Dr. Barry Rosenfeld (http://www.fordham.edu/academics/programs_at_fordham /psychology/department_faculty/dr_barry_rosenfeld_5473.asp) whose office is at 53 West 86th Street in New York City, and Posr was ordered to appear at Dr. Rosenfeld's office alone and without any recording equipment. Dr. Rosenfeld is a psychologist who teaches at Fordham University. Posr went to the psychologist's office with video camera in hand and a witness, the author of this article. Dr. Rosenfeld refused to conduct the interview on camera, even though his picture is figured prominently on Fordham's website. His reason was that "the Court ordered it" [an evaluation without any witnesses or recording equipment].

Judge Kaplan then declared, on June 29, 2006, that Posr was in contempt of his order, and remanded Posr into the custody of the US Marshal's service for the purpose of forcing an exam to take place without a video camera.

The US Marshals Service, with the authority to hold Posr in the Bureau of Prisons for no more than 30 days, took custody of Posr and sent him to rot in Brooklyn's Metropolitan Detention Center ("MDC"), a federal prison that is not staffed with the forensic psychologists necessary to do mental competency hearings. On July 26, 2006, after 26 days in the wrong facility, the Assistant US Attorney prosecuting the case sent Judge Kaplan a letter that Posr had been sent to the wrong prison. Judge Kaplan did not order Posr sent to the right prison. Judge Kaplan did nothing.

On August 2, 2006, after 33 days of custody in the wrong prison and 3 days over the time limit stated in the law, on August 2, 2006 Posr was transferred to the right prison, the Metropolitan Correctional Center ("MCC-NY"). By this time, the jurisdiction to hold Posr had expired.

Posr remained incarcerated for six more days, due to, he believes, his efforts to expose the corruption, arrogance, rudeness, bias, and incompetence in the courts of New York, the District court, and the courtroom of Lewis A. Kaplan. On August 2, 3, 7, and 8, 2006 Posr met with Dr. William J. Ryan, PH.D (New York License No. 09238) and was found “competent to stand trial”. Astonishingly, Dr. Ryan’s report includes the following sentence:

“In a collateral discussion with this evaluator, Michael English, AUSA, said he thinks Mr. Posr is completely competent and he had no reason to think otherwise.”

Then why didn’t Mr. English object to Judge Kaplan’s order to place Posr in the wrong federal prison for 39 days?

After numerous calls from the outside and papers filed on the inside, Posr was released on August 8, 2006, after 39 days.