

App. i

APPENDIX TABLE OF CONTENTS

	Page
APPENDIX A	
Louisiana Supreme Court opinion 22-KK-983 (November 1, 2022)	App. 1-10
APPENDIX B	
Louisiana Fifth Circuit Court of Appeal opin- ion 22-K-41 (May 25, 2022).....	App. 11-39
APPENDIX C	
Louisiana District Court order and transcript in case no. 13-4134 ordering Respondent's dis- charge (January 5, 2022)	App. 40-50
APPENDIX D	
Louisiana District Court order in case no. 13- 4134 finding Respondent not guilty by reason of insanity and providing reasons (July 20, 2016 and July 27, 2016)	App. 51-58
APPENDIX E	
Louisiana District Court transcript in case no. 13-4134 finding Respondent in violation of conditions of release (June 15, 2022).....	App. 59-71
APPENDIX F	
Louisiana District Court transcript in case no. 13-4134 imposing conditions of release after Louisiana Fifth Circuit Court of Appeal re- mand (May 31, 2022)	App. 72-92
APPENDIX G	
Louisiana District Court transcript in case no. 13-4134 conducting hearing on continued commit- ment and taking matter under advisement (December 16, 2021).....	App. 93-139

App. 1

APPENDIX A

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA
VS.
JAMAAL EDWARDS

No. 2022-KK-00983

IN RE: State of Louisiana – Applicant Plaintiff; Applying For Writ Of Certiorari, Parish of Jefferson, 24th Judicial District Court Number(s) 13-4134, Court of Appeal, Fifth Circuit, Number(s) 22-K-41;

November 01, 2022

Writ application denied. See per curiam.

SJC

JLW

JTG

WJC

JBM

PDG

Hughes, J., would grant.

App. 2

11/01/22

SUPREME COURT OF LOUISIANA

No. 2022-KK-00983

STATE OF LOUISIANA

VS.

JAMAAL EDWARDS

On Writ of Certiorari to the Court of Appeal,
Fifth Circuit, Parish of Jefferson

PER CURIAM

Writ denied. Respondent, Jamaal Edwards, shot and killed his fiancée, Tracy Nguyen, on August 10, 2013. He was incoherent when arrested and did not appear to understand his actions. Police hypothesized that respondent was under the influence of some synthetic drug, but the substance was never identified by chemical testing. It is believed that respondent used a substance or substances that induced his temporary psychotic state.¹ After a bench trial, respondent was found not guilty by reason of insanity on July 20, 2016. The trial court committed respondent to inpatient treatment at the Forensic Division of the Eastern Louisiana Mental Health System (ELMHS).

¹ About three months earlier, respondent voluntarily sought treatment for psychotic symptoms. It was also hypothesized at that time that the psychotic symptoms were induced chemically but this was never confirmed.

App. 3

Psychiatric notes during this inpatient hospitalization document multiple violent attacks by respondent on other patients and hospital staff as well as sexually aggressive behavior toward female staff.² In addition, the notes reflect numerous instances in which he destroyed property, openly masturbated in front of others, threatened staff and their families, was caught with contraband substances (the smuggling and distribution of which he appeared to have orchestrated), was disruptive, and refused to comply with treatment or rules. He is described in the notes as arrogant, manipulative, and, with the possible exception of the murder of his fiancée, free from any remorse for his actions.

During his hospitalization, respondent was diagnosed with antisocial personality disorder, multiple substance use disorder in forced remission in a controlled environment (i.e. involuntary inpatient hospitalization), and a prior episode of substance induced psychotic disorder now resolved (i.e. the psychotic episode during which he shot and killed his fiancée).

Respondent's potential for future violence is clear and apparent. His antisocial personality disorder in conjunction with his persistent substance abuse is a recipe for almost certain disaster. However, his diagnosis, according to expert testimony presented here, does not constitute a treatable mental illness that would

² During his prior hospitalization, respondent also engaged in unprovoked attacks on other patients. While jailed and awaiting trial, respondent similarly got into fights with other prisoners and refused to follow rules.

App. 4

justify his continued involuntary inpatient hospitalization under existing law. That law was enacted to implement the directives of the United States Supreme Court in *Foucha v. Louisiana*, 504 U.S. 71, 112 S.Ct. 1780, 118 L.Ed.2d 437 (1992).

In *Foucha v. Louisiana*, the United States Supreme Court held that Louisiana could not continue to confine insanity acquittee, Terry Foucha, in a mental hospital, since he could no longer be considered mentally ill. Like in the present case, an expert testified that "Foucha probably suffered from a drug induced psychosis but that he had recovered from that temporary condition; that he evidenced no signs of psychosis or neurosis and was in 'good shape' mentally; that he had, however, an antisocial personality, a condition that is not a mental disease and that is untreatable." *Foucha*, 504 U.S. at 75, 112 S.Ct. at 1782. Therefore, Foucha could no longer be considered legally insane or mentally ill. As such, the Supreme Court found that any further confinement of him would be subjected to the constitutional procedures for involuntary civil commitment proceedings set forth in *Addington v. Texas*, 441 U.S. 418, 99 S.Ct. 1804, 60 L.Ed.2d 323 (1979). The Supreme Court in *Addington* had held "that to commit an individual to a mental institution in a civil proceeding, the State is required by the Due Process Clause to prove by clear and convincing evidence the two statutory preconditions to commitment: that the person sought to be committed is mentally ill and that he requires hospitalization for his own

App. 5

welfare and protection of others.” *Foucha*, 504 U.S. at 75, 112 S.Ct. at 1783.

On May 31, 2022, respondent was ordered released from involuntary inpatient hospital care into the community pursuant to the recommendation of a psychiatric expert, who testified, in essence, that there is nothing else that can be done. The *Foucha* decision, as implemented statutorily, requires respondent to be released. However, his release clearly presents a risk to public safety, which the trial court, pursuant to the directives of the court of appeal, *State v. Edwards*, 22-41 (La. App. 5 Cir. 5/25/22) (unpub’d), available at 2022 WL 1657305, has tried to mitigate by imposing several strictures on respondent, including house arrest, electronic monitoring, and weekly drug screening.³ The State all but concedes that this is all that can be done to protect the public at present under existing law and *Foucha*,⁴ which decision the State acknowledges this court lacks the authority to overrule.

³ Shortly after his release, respondent had already violated those strictures by sending an electronic message to a female staff member at ELMHS. While the contents of the message viewed alone might appear nonthreatening, when viewed in the context of respondent’s history of violence and sexually assaultive behavior toward female staff it certainly would have caused alarm in the recipient. In response, the trial court increased the intensity of respondent’s home incarceration and ordered him to spend 15 days in parish jail.

⁴ The public might also be better protected if respondent faced criminal consequences for the violent acts he committed while in the hospital, one of which resulted in a broken jaw and permanent hearing loss for the victim. In *Foucha*, the United States Supreme Court envisioned such a possibility:

App. 6

The Legislature amended La.C.Cr.P. art. 657 to comply with the United States Supreme Court's directives in *Foucha*. Previously, that provision required a contradictory hearing to determine "whether the committed person can be discharged, or can be released on probation, without danger to others or to himself." 1992 La. Acts, No. 398. To comply with the *Foucha* decision, the article was amended to require a contradictory hearing "to determine whether the committed person is no longer mentally ill as defined by R.S. 28:2(14) and can be discharged, or can be released on probation, without danger to others or to himself as defined by R.S. 28:2(3) and (4)." 1993 La. Acts, No. 700.⁵

Furthermore, if Foucha committed criminal acts while at Feliciana, such as assault, the State does not explain why its interest would not be vindicated by the ordinary criminal processes involving charge and conviction, the use of enhanced sentences for recidivists, and other permissible ways of dealing with patterns of criminal conduct. These are the normal means of dealing with persistent criminal conduct. Had they been employed against Foucha when he assaulted other inmates, there is little doubt that if then sane he could have been convicted and incarcerated in the usual way.

Foucha, 504 U.S. at 82, 112 S.Ct. at 1786-87.

⁵ At present, La.C.Cr.P. art. 657 provides:

After considering the report or reports filed pursuant to Articles 655 and 656, the court may either continue the commitment or hold a contradictory hearing to determine whether the committed person no longer has a mental illness as defined by R.S. 28:2 and can be discharged, or can be released on probation, without danger to others or to himself as defined by R.S. 28:2. At the hearing the burden shall be upon the state to seek continuance of the confinement by proving by clear and

App. 7

Thus, as amended and at present, the State is required to prove by clear and convincing evidence “that the committed person is currently both mentally ill and dangerous.” The State concedes that it cannot make that showing here because antisocial personality disorder is not deemed a mental illness as defined by La.R.S. 28:2 and current diagnostic standards.⁶ Thus,

convincing evidence that the committed person currently has a mental illness and is dangerous. After the hearing, and upon filing written findings of fact and conclusions of law, the court may order the committed person discharged, released on probation subject to specified conditions for a fixed or an indeterminate period, or recommitted to the state mental institution. A copy of the judgment and order containing the written findings of fact and conclusions of law shall be forwarded to the administrator of the forensic facility. Notice to the counsel for the committed person and the district attorney of the contradictory hearing shall be given at least thirty days prior to the hearing.

⁶ La. R.S. 28:2(24) defines a “person who has mental illness” as:

any person with a psychiatric disorder which has substantial adverse effects on his ability to function and who requires care and treatment. It does not refer to a person with, solely, an intellectual disability; or who suffers solely from epilepsy or a substance-related or addictive disorder.

The psychiatric expert here testified that respondent does not have a psychiatric disorder that can be treated:

... He does not meet criteria as set forth by the DSM for a psychiatric illness. He has linear thought process. He does not suffer from delusional beliefs, and therefore, he doesn't meet criteria for a psychiatric illness at this time.

I have diagnosed him with antisocial personality disorder, but there is no treatment for that. It is simply a

App. 8

respondent must be conditionally discharged despite the State's clear and convincing evidence of his dangerousness because, under the law as amended to comply with *Foucha*, respondent must be *both* dangerous *and* mentally ill. *See State v. Roberts*, 620 So.2d 824 (La. 1993) (per curiam) ("An insanity acquittee confined by the state is entitled to release when he has recovered his sanity or is no longer dangerous, i.e., he may be held as long as he is both mentally ill and dangerous, but no longer.").

Judge Molaison, concurring in the court of appeal, is critical of the *Foucha* decision, and proposes that a legislative solution is needed to address the troubling situation presented here. Judge Wicker, also concurring in the court of appeal, offers a potential legislative roadmap. Judge Wicker reviewed legislation from several jurisdictions that had narrowly tailored enactments, within the parameters set by the United States Supreme Court in *Foucha*, designed to allow a limited form of continued confinement under certain circumstances when there is a substantial likelihood a person, if released, will commit criminal acts jeopardizing public safety, or will present a reasonably foreseeable danger to self or the community. We join Judges Wicker and Molaison in urging the Legislature to examine the

way of describing the way [respondent] interacts with the world around him, and basically, the way that he reacts to situations or how he obtains his goals; and therefore, it is not a treatable mental illness.

Transcript of hearing dated December 16, 2021, at pp. 6–7.

App. 9

concerning situation presented here and carefully craft a legislative solution to better protect the public.

Respondent was found not guilty by reason of insanity of murder. A finding of not guilty by reason of insanity is a determination that he undoubtedly committed the charged criminal act but he cannot be punished for it because he was legally insane at the time of his actions. *See State v. Branch*, 99-1484, p. 1 (La. 3/17/00), 759 So.2d 31, 32 (per curiam) (“A Louisiana jury considering an accused’s dual plea of not guilty and not guilty by reason of insanity must nevertheless first determine whether the state has proved the essential elements of the charged offense beyond a reasonable doubt before it may proceed to a determination of whether he was incapable of distinguishing between right and wrong at the time of the offense and therefore exempt from criminal responsibility for his acts.”); *see also Jones v. United States*, 463 U.S. 354, 363, 103 S.Ct. 3043, 3049, 77 L.Ed.2d 694 (1983) (“A verdict of not guilty by reason of insanity establishes two facts: (i) the defendant committed an act that constitutes a criminal offense, and (ii) he committed the act because of mental illness.”). Respondent has a well-documented history of violence while involuntarily confined. A psychiatric expert opined that he presents a risk for future violence. The State has shown by clear and convincing evidence that he is dangerous. Releasing him into the community under these circumstances endangers public safety. Despite all of this, we are constrained under United States Supreme Court precedent and existing statutory enactments in

App. 10

response thereto to deny the State's writ application, which we reluctantly do with trepidation. We issue reasons in conjunction with this writ denial to urge the United States Supreme Court to reexamine this area of law and the Louisiana Legislature to act.

APPENDIX B

STATE OF LOUISIANA NO. 22-K-41
VERSUS FIFTH CIRCUIT
JAMAAL EDWARDS COURT OF APPEAL
 STATE OF LOUISIANA

May 25, 2022

Susan Buchholz
First Deputy Clerk

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS

/s/ Susan S. Buchholz
Susan S. Buchholz
First Deputy, Clerk of Court

IN RE STATE OF LOUISIANA

**APPLYING FOR SUPERVISORY WRIT FROM THE
TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA,
DIRECTED TO THE HONORABLE SCOTT U.
SCHLEGEL, DIVISION "D", NUMBER 13-4134**

Panel composed of Judges Fredericka Homberg
Wicker, Hans J. Liljeberg, and John J. Molaison, Jr.

**WRIT GRANTED IN PART,
DENIED IN PART; REMANDED**

In this writ application, the State seeks review of the trial court's January 5, 2022 ruling, granting defendant's unconditional release from Eastern Louisiana Mental Health System ("state mental hospital"). For the following reasons, we deny this writ application in part and grant it in part for the limited purpose of re-opening the contradictory hearing for the trial court to determine what, if any, restrictions should be placed upon defendant's release from the state mental hospital.

Facts and Procedural History

On December 5, 2013, defendant was charged by indictment with the second degree murder of Tracy Nguyen, in violation of La. R.S. 14:30.1. On July 20, 2016, the trial court found defendant not guilty by reason of insanity and committed him to the state mental hospital. On December 16, 2021, the trial court held a hearing, pursuant to La. C.Cr.P. art. 657, to consider the recommendation of the Louisiana Office of Behavioral Health's forensic review panel that defendant be discharged from the state mental hospital because he does not have a mental illness.

At the hearing, Dr. Deonna Dodd testified that she is currently defendant's treating psychiatrist and that he has shown no evidence of a continued psychiatric illness during his hospitalization. Dr. Dodd stated that she diagnosed defendant with antisocial personality

App. 13

disorder, for which there is no treatment. She testified that during defendant's time at the hospital, he has had difficulty following the rules and has consistently demonstrated violent behavior with both patients and staff on many occasions. She noted that some staff members were significantly injured by defendant, including one person who suffered a broken jaw and hearing loss. Dr. Dodd described defendant as being inappropriate with and fixated on females. She said defendant "appears to be in control of his anger and aggressiveness and uses it at will in a calculated manner." Dr. Dodd testified that defendant "will use manipulation, criminal behavior, violence, to obtain whatever his goal is at that time."

Dr. Dodd further stated, "Our recommendations to the Court is [sic] that we would ask that the Court take into account is that, though we do believe [defendant] to be dangerous, he has proven himself to be a dangerous individual, we do not believe that he suffers from mental illness." Dr. Dodd recommended that defendant no longer be confined at the state mental hospital, because he does not have a significant, organic psychiatric illness. She stated that defendant's personality disorder is not recognized as a serious mental illness in the psychiatric community.

Dr. Shannon Sanders testified that she is a psychologist and was assigned to complete defendant's risk assessment as part of the forensic review panel. Dr. Sanders provided that defendant has multiple risk factors that increase his likelihood of engaging in violent behavior. She agreed with Dr. Dodd that the risk

App. 14

factors were concerning, but stated that they had a “confliction” because defendant did not have a diagnosable mental illness that is treatable. Dr. Sanders testified that defendant’s substance use is also a significant risk factor, noting that defendant acknowledged he was “under the influence” when he shot his fiancée, Tracy Nguyen. She stated that it was a “big concern” that defendant did not feel like he was addicted to any drug and that he did not see any real issue if he were to use drugs again. Dr. Sanders stated that defendant was “found to be at a moderate risk and that it could elevate to a higher risk if he were to be released directly into the community without any additional safeguards in place.” Dr. Sanders suggested the following regarding safeguards:

Could be him, you know, having drug tests, routine drug screens, and the ones that could test for synthetic marijuana use, contact with like a probation parole-type officer or meeting with a mental health professional to ensure that he is handling the stress of just day-to-day life and reintegrating back into the community, if he has any relationship stress, things like that, employment, money, that he has some additional person kind of checking in on him to make sure he is not faltering at all.

At the conclusion of the hearing, the trial court requested briefs from the parties and set another hearing for January 5, 2022.

App. 15

On December 29, 2021, the State filed its memorandum in opposition to defendant's discharge, in which it argued that defendant should continue to be confined, but acknowledged contrary law and jurisprudence, citing to *Foucha v. Louisiana*, 504 U.S. 71, 112 S.Ct. 1780, 118 L.Ed.2d 437 (1992). The State asserted that if the court found that it was required to discharge defendant, then it should order him released with strict conditions "to ensure the public safety from this highly dangerous defendant."

On January 2, 2022, defendant filed his memorandum in support of his discharge from the state mental hospital. Defendant submitted that because he is no longer mentally ill, *Foucha* and Louisiana law require that he be fully discharged, without any conditions. He alleged that La. C.Cr.P. art. 657 dictates that having a mental illness is a required condition for further detention and for placing any conditions or restrictions on his release.

At the hearing on January 5, 2022, the trial court ordered that defendant be discharged from the state mental hospital. The trial court then addressed whether it should place defendant on supervision, and stated:

Unfortunately, the Court does not find anything within the State statutes that has been drawn to address this situation. All of the State laws under 654 et seq. and, specifically, 657 go on to contemplate that the defendant is not dangerous to self or others and that he—whoever "he" may be—has a mental health issues that can continue to be treated while

under supervision. The State's laws do not contemplate when somebody has reached—has no mental illness but is still considered dangerous to others. This Court is left with no choice to unconditionally discharge him and hope that the State legislators address this issue in this coming session.

On that same date, the trial court signed a written judgment ordering defendant to be unconditionally discharged.¹

Law and Discussion

In this writ application, the State challenges the trial court's release of defendant from the state mental hospital, while also acknowledging that the United States Supreme Court's holding in *Foucha, supra*, is contrary to its position. Alternatively, the State argues that the trial court should have released defendant with strict conditions. The State asserts that the trial court erroneously interpreted the pertinent codal provisions as not allowing it to impose conditional release. It requests that this Court remand the matter for the trial court to make a determination of whether conditional release is warranted under a correct interpretation of the law.

¹ Also, on January 5, 2022, the State filed an emergency motion to stay with this Court, which was granted. This Court ordered that defendant's unconditional release from the state mental hospital be stayed pending resolution of the State's writ application.

App. 17

Defendant responds that the trial judge correctly applied the *Foucha* precedent and did not err in ordering his unconditional release. He argues that *Foucha*, *supra*, prohibits his further confinement based on a finding of dangerousness alone and no mental illness. He argues that La. C.Cr.P. art. 657.1 permits a court to place conditions upon an insanity acquittee's release only if the court finds that the acquittee has a treatable mental illness. He contends that La. C.Cr.P. art. 657.2 further reinforces the premise that having a mental illness is a threshold requirement before a court imposes conditions upon an acquitted person's release.

In 1992, the United States Supreme Court, in a plurality decision, held in *Foucha* that the State of Louisiana could not indefinitely institutionalize an insanity acquittee until he could show he is not dangerous to himself and others, where he did not suffer from a mental illness. *See Foucha*, 504 U.S. 71, 112 S.Ct. at 1781. In that case, the United States Supreme Court found that the Louisiana statute allowing continued confinement of an insanity acquittee on the basis of his antisocial personality disorder, after a hospital review committee had reported no evidence of mental illness and recommended conditional discharge, violated due process. *Id.* In *Foucha*, like the present case, the defendant had been involved in several altercations at the hospital and the doctor stated that he could not certify that the defendant would not be a danger to himself or others. *Foucha*, 504 U.S. at 74-75, 112 S.Ct. at 1782-83.

App. 18

In the present case, similar to *Foucha*, Dr. Dodd testified that although defendant has antisocial personality disorder and a continued potential for violence, he has no evidence of mental illness. As a result, she recommended that he be released from the hospital. Dr. Sanders agreed with this recommendation and suggested that defendant be released with safeguards in place.

Based on the United States Supreme Court's decision in *Foucha*, we find that the trial court did not err in finding that defendant may no longer be confined to the state mental hospital. Although there was testimony that defendant has been violent at the hospital and could be violent again in the future, both doctors testified that defendant does not currently have a mental illness. We acknowledge that *Foucha* controls and requires that defendant be released from custody. Accordingly, we deny the writ application in part, as to the State's argument that defendant should not be discharged from the state mental hospital.

Next, the State argues that if this Court finds that defendant must be discharged from the state mental hospital, there should be restrictions and conditions placed upon his release. It contends that the trial court erroneously interpreted the pertinent codal provisions as not allowing the trial court to impose conditional release, noting the trial court stated it was "left with no choice to unconditionally discharge him and hope that the State legislators address this issue in this coming session."

App. 19

The purpose of statutory interpretation is ascertainment of the legislative intent and the reasons which prompted the legislature to enact the law. *State v. Brooks*, 09-2323 (La. 10/19/10), 48 So.3d 219, 222. The Louisiana Supreme Court has held that the legislative intent of the law is “determined by considering the law in its entirety and all other laws on the same subject matter and placing a construction on the provision in question that is consistent with the express terms of the law[.]” *Caldwell v. Janssen Pharmaceutical, Inc.*, 12-2447 (La. 1/28/14), 144 So.3d 898, 907.

La. C.Cr.P. art. 657 provides in pertinent part that the court can “hold a contradictory hearing to determine whether the committed person no longer has a mental illness as defined by R.S. 28:2 and can be discharged, or can be released on probation, without danger to others or to himself as defined by R.S. 28:2.” Article 657 further provides that after a contradictory hearing, and upon filing written findings of facts and conclusions of law, “the court may order the committed person discharged, released on probation subject to specified conditions for a fixed or an indeterminate period, or recommitted to the state mental institution.”

Defendant seeks to have this Court interpret the articles pertaining to discharge or release on probation as authorizing conditional release of a committed person *only if* he or she continues to have a treatable mental illness. However, the codal articles pertaining to the discharge or release of insanity acquittees do not expressly prohibit the conditional release of a committed person who no longer has a mental illness. La. C.Cr.P.

App. 20

art. 657 provides that a committed person who no longer has a mental illness can be discharged, but it does not state that an individual may not be released on probation. Further, La. R.S. 28:2(11) defines “discharge” as “the full **or conditional release** from a treatment facility of any person admitted or otherwise detained under this Chapter.” (Emphasis added.)

The statutory language of La. C.Cr.P. arts. 657.1 and 657.2 also does not indicate that an insanity acquittee may only be placed on conditional release if he has a treatable mental illness. La. C.Cr.P. art. 657.1 provides, in pertinent part:

- A. At any time the court considers a recommendation from the hospital-based review panel that the person may be discharged or released on probation, it may place the insanity acquittee on conditional release if it finds the following:
 - (1) Based on the factors which the court shall consider pursuant to Article 657, he does not need inpatient hospitalization but needs outpatient treatment, supervision, and monitoring to prevent his condition from deteriorating to a degree that he would likely become dangerous to self and others.

The language of La. C.Cr.P. art. 657.1(A)(1) uses the term “condition” instead of mental illness and also focuses on “supervision” and “monitoring” to ensure the individual’s condition does not deteriorate to such

a degree that he would become dangerous to self or others. Article 657.1(B) further states the court “shall subject a conditionally released insanity acquittee to such orders and conditions it deems will best meet the acquittee’s need for treatment, supervision, and monitoring and will best serve the interests of justice and society.”²

We further note that *Foucha* did not address whether or not a defendant, who no longer has a mental illness, can be released on probation or with restrictions. In *Foucha*, the United States Supreme Court found that the continued confinement of an insanity acquittee who no longer had a mental illness violated due process. *See Foucha*, 504 U.S. at 77. However, the United States Supreme Court did not specifically define the circumstances under which a Louisiana insanity acquittee, who was no longer mentally ill, could be released.

In the present case, the trial court interpreted the relevant articles as requiring a committed person to have a mental illness in order to be placed on conditional release, stating, “All of the State laws under 654 et seq. and, specifically, 657 go on to contemplate that

² See also *State v. Watson*, 00-2185 (La. App. 4 Cir. 1/17/01), 779 So.2d 46, where the Fourth Circuit found that the defendant, who was no longer mentally ill, could be conditionally released from the State residential facility to either a forensic aftercare program in a group home or to family. The defendant’s only diagnoses in that case were hypertension and problems with incarceration and involuntary hospitalization. The Fourth Circuit noted that there was not even a diagnosis of antisocial personality disorder as was the case in *Foucha*.

App. 22

the defendant is not dangerous to self or others and that he . . . has a mental health issue that can continue to be treated while under supervision.” The trial court noted that Louisiana’s laws do not contemplate when a person has no mental illness but is still considered dangerous.

While we agree that some language in the applicable codal articles pertains to situations where the defendant still has a mental illness but can be conditionally released or released on probation, neither the codal articles nor *Foucha* prohibits the conditional release of a defendant who is no longer mentally ill.³

We find the trial court was not prohibited from conditionally releasing defendant with “such orders and conditions it deems will best meet the acquittee’s need for treatment, supervision, and monitoring and

³ Of note, comment (a) of the official revision comments to La. C.Cr.P. art. 657, states the following:

This article provides flexibility in release procedures, to cope with circumstances of individual cases, by allowing the court to act on the basis of the application and reports filed, or to order a full hearing to determine the propriety of the requested release. Further flexibility in release procedures, and additional protection to the public, is afforded by the provision authorizing the court to release on probation, on such conditions as it determines to be necessary. Probationary release, subject to continued supervision and double-checking of the defendant’s condition and habits, is most significant in this type of release; for there will be cases in which release is justified only if the defendant is to be carefully supervised upon his return to community life. The A.L.I. Comments state that seven states have such a statutory provision.

will best serve the interests of justice and society.” See La. C.Cr.P. art. 657.1(B). Based on our finding that the trial court had the authority to order the conditional release of defendant, we remand this matter for the limited purpose of re-opening the contradictory hearing for the trial court to determine what, if any, restrictions should be placed on defendant’s release.

Conclusion

For the foregoing reasons, we deny the writ application in part as to the State’s argument that defendant should continue to be confined at the state mental hospital. However, finding that neither *Foucha* nor the applicable Louisiana statutes prohibit placing conditions or restrictions on defendant’s release, we grant the writ in part and remand for the limited purpose of re-opening the contradictory hearing in order for the trial court to determine what, if any, restrictions should be placed upon defendant’s discharge from the state mental hospital.

Gretna, Louisiana, this 25th day of May, 2022.

HJL

WICKER, J., CONCURS WITH REASONS

I agree with the majority's thorough analysis and conclusion in this case and with the necessity for remand for imposition of permitted conditions of release pursuant to La. C.Cr.P. art. 657. Jamaal Edwards (defendant) is no longer mentally ill and therefore must be released. Despite the defendant's substantial history of violent behavior while committed at Eastern Louisiana Mental Health System, this Court is constrained by the limitations established by *Foucha v. Louisiana*, 504 U.S. 71, 112 S. Ct. 1780, 118 L.Ed. 2d 437 (1992), and the statutory language of La. C.Cr.P. art. 657. Resultantly, in Louisiana an insanity acquittee cannot be required to prove they are both no longer mentally ill and no longer dangerous in order to obtain release. *Foucha*, 504 U.S. at 86. La. C.Cr.P. art. 657 provides release guidance for defendants who continue to suffer from a mental disease or defect but no longer pose a risk of substantial harm to themselves or others. However, the Louisiana code does not account for a situation like defendant's, in which he has been declared free of mental disease or defect but remains a serious threat to the community at large.

I write separately only to discuss a possible path to resolve this undesired outcome in the future. The

rare circumstances of this case present a constitutional dilemma that is resolvable only by the legislature, not the courts. This issue requires a delicate balance to ensure the protection of Due Process rights, according to *Foucha*, while authorizing the government to safeguard the community from violent actors. Accordingly, the Supreme Court requires states to narrowly tailor statutory language to specific circumstances in which continued detainment is necessary to serve a clear governmental interest. *Foucha*, 504 U.S. at 86.

In *Foucha*, the Supreme Court clearly prohibited statutes that require insanity acquittees to prove they both no longer suffer from a mental disease or defect and also are no longer a danger to themselves or others. 504 U.S. at 86. Generally, once the mental illness is controlled or no longer present, the acquittees must be released. *Id.* at 82. Furthermore, the Court held in *Foucha* that the State of Louisiana had shown no evidence to support the conclusion that Terry Foucha was indeed dangerous. *Id.* On this basis, the Court held indefinite confinement was unconstitutional. *Id.* at 82-83. However, this decision does not prohibit statutes that require the State to meet a burden of proof of clear and convincing evidence that the defendant poses a substantial risk of bodily harm to themselves or the community at large, even if the defendant is free of mental disease or defect. *Foucha v. Louisiana*, 504 U.S. 71, 82 (1992); citing *United States v. Salerno*, 481 U.S. 739, 747-749, 95 L.Ed. 2d 697, 107 S. Ct. 2095 (1987) (holding to protect the community from danger a state may specify narrow circumstances for confinement).

Additionally, the State must specify the temporal and holding conditions of confinement for dangerous individuals. *Foucha v. Louisiana*, 504 U.S. 71, 82 (1992) (prohibiting indefinite confinement and requiring a defined term for continued commitment); *United States v. Salerno*, 481 U.S. 739, 749, (1987).¹

In addition to the requirement of narrowly tailored circumstances and conditions of confinement, as to the requirement of proof of continued dangerousness, the *Foucha* opinion indicates that states cannot use the crime the defendant was acquitted of as the basis for a finding of continued dangerousness after the acquittee is proven free of mental disease or defect.² A verdict of not guilty by reason of insanity

¹ In *Salerno*, the Court held, “in certain narrow circumstances persons who pose a danger to others or to the community may be subject to limited confinement.” *Foucha v. Louisiana*, 504 U.S. 71, 82 (1992); citing *United States v. Salerno*, 481 U.S. 739, 749, (1987). Such requirements include, “first demonstrating probable cause . . . [providing] a ‘full-blown adversary hearing,’ to convince a neutral decisionmaker by clear and convincing evidence that no conditions of release can reasonably assure the safety of the community.” *Salerno*, 481 U.S. at 751. Justice O’Connor in her concurrence stated, “it might therefore be permissible for Louisiana to confine an insanity acquittee who has regained sanity if . . . the nature and duration of detention were tailored to reflect pressing public safety concerns related to the acquittee’s continuing dangerousness.” *Foucha*, 504 U.S. at 8.

² Many states, including Louisiana, do have statutes authorizing continued confinement or restricted release of Sexually Violent Predators. In these cases, the defendant’s violent acts of their acquitted crime can be used as evidence to prove dangerousness because of the governmental interests in protecting the community from sexual predators. See La. R.S. § 15:541; *State v. Cook*, 16-1518 (La. 5/3/17), 226 So. 3d 387 (finding defendant’s insanity

establishes that the person committed a criminal act and that he or she committed the act because of mental illness. *Jones v. United States*, 463 U. S. 354, 364, 103 S. Ct. 3043, 77 L.Ed. 2d 694 (1983). Thus, the acquitted criminal act cannot be considered in the release danger analysis if the defendant's mental illness, as the cause of the acquitted violent act, is no longer present.³ However, violent or criminal acts committed after the illness subsides can be evaluated, and perhaps can also be pursued by the State through standard criminal procedures.⁴

An additional limitation provides that character traits, such as antisocial personality disorder cannot be the sole justification for continued confinement.

acquittal fell within the plain meaning of the statute and thus required him to register as a sex-offender despite being acquitted); *See also*, Mo. Rev. Stat. § 632.495; NY CLS Men Hyg § 10.06; Ariz. Rev. Stat. Ann. §§ 36-3701-3716; Minn. Stat. § 253B.02(18c); Fla. Stat. § 394.918; K.S.A. Ch. 59, Art. 29a.

³ Under *Foucha*, the defendant's charge of second-degree murder of his fiancée, Tracy Nguyen, cannot be used as evidence of his violent behavior because he was acquitted by reason of insanity. 504 U.S. at 82. However, his extreme violent behavior during his confinement and the expert testimony during his trial, affirming his continued potential for violence, are both factors that can be evaluated for conditional release. *See* State's Exhibit K, pp. 97-99.

⁴ The Court in *Foucha* noted that, "if Foucha committed criminal acts while [civilly committed], such as assault, the State does not explain why its interest would not be vindicated by the ordinary criminal processes involving charge and conviction," barring any sort of prescription or statute of limitations issues. *Foucha*, 504 U.S. at 82.

Foucha, 504 U.S. at 80.⁵ Antisocial personality disorder is not a mental illness, but it is untreatable and often considered a dangerous trait or a predisposition to harming others. *Foucha*, 504 U.S. at 80; See State's Exhibit K, pp. 97-99. However, the Court held that absent evidence of other violent acts, the disorder itself cannot lead to continued confinement because of the indefinite nature of the condition. *Foucha*, 504 U.S. at 84.

For these reasons, the Court held any statutory language regarding continued confinement must place the burden of proof of clear and convincing evidence on the State to prove the defendant is dangerous through the defendant's actions, in addition to any dangerous character or personality traits. *Id.* at 87.

Approaches of Other States

The purpose of civil commitment is twofold. The first is to help the individual suffering from mental illness, and the second is to ensure no harm befalls them or those they interact with.⁶ With the first purpose

⁵ Edwards, like Foucha, was diagnosed with antisocial personality disorder. Dr. Deonna Dodd testified to this disorder leading to violent outbursts, particularly directed at females. Dr. Dodd stated no treatment options exist for the defendant's disorder. See State's Exhibit K, pp. 97-99.

⁶ The Supreme Court holds, "a verdict of not guilty by reason of insanity establishes two facts: (i) the defendant committed an act that constitutes a criminal offense, and (ii) he committed the act because of mental illness." *Jones v. United States*, 463 U. S. 354, 103 S. Ct. 3043, 77 L.Ed. 2d 694 (1983). Additionally, Congress approves such findings justify "hospitalizing the acquittee

eliminated in this case, the State must narrowly tailor and clearly set the limitations to serve the second. The Supreme Court in *Foucha* reiterated that the state's interest in community safety is paramount, but not broadly infinite. 504 U.S. at 81. Resultingly, the State must clearly define dangerousness in terms of the defendant's actions, as well as a term limit for confinement. *Id.*

Several states seemed to have addressed this issue through the lens of the Supreme Court's narrowly tailored purpose and term limit requirements. *Id.* In Wisconsin the relevant statute reads that a court must order a defendant's release, "unless it finds by clear and convincing evidence that further supervision is necessary to prevent a significant risk of bodily harm to the person or to others or of serious property damage." Wis. Stat. § 971.17 (5). The statute continues to provide that a court may consider, "the nature and circumstances of the crime, the person's mental history, and current mental condition." Wis. Stat. § 971.17 (5); *see State v. Randall*, 192 Wis. 2d 800, 808-09, 532 N.W.2d 94 (1995) (holding a defendant who was proven dangerous could not be confined in excess of the maximum term for the offense charged).

Similarly, Hawaii's statutory code requires the acquittee to prove beyond the preponderance of the evidence, "that the person is no longer affected by a physical or mental disease . . . or may safely be either

as a dangerous and mentally ill person" *See H. R. Rep. No. 91-907; Jones v. U.S.*, 463 U.S. 354, 364 (1983).

released on the conditions applied for or discharged.” HRS § 704-415 (2). The Hawaii Supreme Court found that placing the burden of proof on the defendant did not violate their Due Process Rights and requiring them to show, beyond the preponderance of the evidence, that they were not mentally ill or dangerous was constitutional. *State v. Miller*, 84 Hawai’i 269, 933 P.2d 606 (1997).

The State of Washington requires acquittees who are convicted of a felony to prove they are fit for release to a community setting, “without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.” Rev. Code Wash. (ARCW) § 10.77.150 (c); *see also State v. Platt*, 143 Wn.2d 242, 249, 19 P.3d 412 (2001) (held, regardless of sanity, a defendant must show they do not pose a substantial risk to themselves or the community at large). The standard of proof in Washington, according to *Platt*, is beyond the preponderance of the evidence. RCW 10.77.200(2); *State v. Platt*, 143 Wn.2d 242, 252, 19 P.3d 412 (2001).

Additionally, Washington DC requires defendants to recover from insanity and no longer be a danger to the community. D.C. Code § 24-501(e). If an individual has recovered from their mental illness but will, “in the reasonable future be dangerous to himself or others,” continued confinement is appropriate. D.C. Code § 24-501(e); *see also United States v. Hinckley*, 2021 U.S. Dist. LEXIS 257289 (evaluating only the risk the defendant poses to others after their mental condition is subsided or controlled via medication).

App. 31

In a broader sense, Arkansas' statutory code states a defendant must, "recover to the point" they are no longer a danger to themselves or others. A.C.A. § 5-2-315; *see Ark. Dep't of Corr. v. Bailey*, 368 Ark. 518, 247 S.W.3d 851 (2009) (interpreting *U.S. v. Jones* to allow for indefinite commitment for "treatment and protection of society"); *Jones v. U.S.*, 463 U.S. 354, 366 (1983). If the defendant does not prove recovery to "the point" necessary, they will continue to be committed by the Arkansas Department of Human Services. A.C.A. § 5-2-315.

While some of these states' statutory constructs place the burden upon the defendant to prove they are not a danger, and some permit consideration of the nature of the original crime for which the defendant was found not guilty by reason of insanity in analyzing the defendant's ongoing dangerousness, none of these statutes have to date withstood Supreme Court scrutiny. The safer course of action is legislation which places the burden upon the state to prove by clear and convincing evidence the defendant's ongoing dangerousness based upon acts committed after the defendant became free of ongoing mental disease or defect. Further, any contemplated legislation should require term limits for continued confinement, specific conditions of confinement tailored to addressing the defendant's particular dangerousness and for period review of the defendant's ongoing danger to himself or others.

Conclusion

In the current case, the constraints of *Foucha* and La. C.Cr.P. art. 657 bind this Court to release Jamaal Edwards, albeit not unconditionally, as the majority clearly outlines. However, this issue may be redressed by the appropriate branch of state government, the Louisiana Legislature, to address the prospect of other dangerous individuals being released into the community upon a finding that they no longer suffer from mental disease or defect.

FHW

MOLAISON, J., CONCURS WITH REASONS

I agree with the majority we are constrained by *Foucha v. Louisiana*, 504 U.S. 71, 112 S. Ct. 1780, 118 L.Ed. 2d 437 (1992), and La. C.Cr.P. art. 657 to reach the result of confirming the defendant's release from the Eastern Louisiana Mental Health System on the basis that he no longer has a continuing psychiatric illness, as determined by his treatment providers. I also agree that a remand is appropriate to allow the trial court to consider what conditions should be imposed on

App. 33

the defendant's release. As Judge Wicker suggests, the remedy for avoiding these types of issues in the future may, in fact, lie with the legislature. I write separately, however, to express my concern over the result that the application of the relevant *current* law to the facts of this particular case produces.

Here, the record before us leaves little doubt as to the defendant's propensity for extreme violence both before and during his confinement at a mental health facility. He did commit the second-degree murder of his girlfriend, Tracy Nguyen.¹ Then, while undergoing treatment for what providers opined was a mental state caused at the time of the murder by illegal drug

¹ As noted by the court in *State v. Cook*, 16-1518 (La. 5/3/17), 226 So.3d 387, 390-91:

A finding of not guilty by reason of insanity is a determination that defendant undoubtedly committed the charged criminal act but he cannot be punished for it because he was legally insane at the time of his actions. See *State v. Branch*, 99-1484, p. 1 (La. 3/17/00), 759 So.2d 31, 32 (per curiam) ("A Louisiana jury considering an accused's dual plea of not guilty and not guilty by reason of insanity must nevertheless first determine whether the state has proved the essential elements of the charged offense beyond a reasonable doubt before it may proceed to a determination of whether he was incapable of distinguishing between right and wrong at the time of the offense and therefore exempt from criminal responsibility for his acts."); see also *Jones v. United States*, 463 U.S. 354, 363, 103 S.Ct. 3043, 3049, 77 L.Ed.2d 694 (1983) ("A verdict of not guilty by reason of insanity establishes two facts: (i) the defendant committed an act that constitutes a criminal offense, and (ii) he committed the act because of mental illness.").

App. 34

use, the defendant continued to commit numerous “controlled” and “calculated” acts of violence on both patients and staff, including acts of sexual nature. In some instances, the defendant’s attacks resulted in severe bodily injury to his victims. Of more immediate concern is the apparent consensus among the mental health experts on record that the defendant is, and will continue to be, a danger to others in the community upon his release.²

In subsection (b) of the official 1966 revision comment to La. C.Cr.P. art. 657, it states:

... “It seems preferable to make dangerousness the criterion for continued custody, rather than to provide that the committed person may be discharged or released when restored to sanity as defined by the mental hygiene laws. Although his mental disease may have greatly improved, such a person may still be dangerous because of factors in his personality and background other than mental disease. Also, such a standard provides a possible means for the control of the occasional defendant who may be quite dangerous but who successfully feigned mental disease to gain an acquittal.”

² In my opinion, the record supports a finding that the defendant is “dangerous to others” as defined in La R.S. 28:2(6):

(6) “Dangerous to others” means the condition of a person whose behavior or significant threats support a reasonable expectation that there is a substantial risk that he will inflict physical harm upon another person in the near future.

In deciding *Foucha*, our Louisiana Supreme Court implicitly acknowledged the legislature's intent and set forth valid considerations for the continued detention of individuals who were still deemed to be dangerous after being "cured" of the mental illness that absolved them of liability for their criminal acts. Specifically, the court found that the State has a "substantial interest in avoiding premature release of insanity acquittees," which justifies placing the burden on insanity acquittees to show that they no longer present a danger. *State v. Foucha*, 563 So.2d 1138, 1142, citing *Powell v. Florida*, 579 F.2d 324, 333 (5th Cir. 1978). To that end, the court concluded that the dangerousness test of La. C.Cr.P. arts. 654-657 was constitutional.³

Foucha was decided nearly 30-years ago and overturned by a U.S. Supreme Court whose composition is different today, yet the concerns raised in Justice Thomas' dissenting opinion are still very much relevant. As noted by Justice Thomas:

... I believe that there is a real and legitimate distinction between insanity acquittees and civil committees that justifies procedural disparities. Unlike civil committees, who have not been found to have harmed society, insanity acquittees have been found in a judicial proceeding to have committed a criminal act.

³ Of note, Louisiana law still requires consideration of whether a defendant poses a danger to himself and others prior to discharge or release, in addition to the requirement that he or she "no longer has a mental illness."

That distinction provided the *ratio decidendi* for our most relevant precedent, *Jones v. United States*, 463 U.S. 354, 103 S.Ct. 3043, 77 L.Ed.2d 694 (1983).

...

The Court today attempts to circumvent *Jones* by declaring that a State's interest in treating insanity acquittees differently from civil committees evaporates the instant an acquittee "becomes sane." I do not agree. As an initial matter, I believe that it is unwise, given our present understanding of the human mind, to suggest that a determination that a person has "regained sanity" is precise.

...

A State may reasonably decide that the integrity of an insanity-acquittal scheme requires the continued commitment of insanity acquittees who remain dangerous. Surely, the citizenry would not long tolerate the insanity defense if a serial killer who convinces a jury that he is not guilty by reason of insanity is returned to the streets immediately after trial by convincing a different factfinder that he is not in fact insane.

Foucha v. Louisiana, 504 U.S. 71, 103-123.

In the instant case, I find that the strict application of La. C.Cr.P. art. 657's requirement for an ongoing psychiatric diagnosis, in the absence of which the defendant is presumed "sane," results in a troubling circumstance where the underlying policy consideration

App. 37

of keeping our community safe from violent offenders is seemingly set aside. While I am convinced that we reach the proper result under the law as it currently stands, I join with the trial court in the hope that this particular issue is revisited by our legislature soon to produce more robust guidelines that account for circumstances such as the one raised in this writ application.

JJM

App. 38

[SEAL]

FIFTH CIRCUIT

101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNNA, LOUISIANA 70054
www.fifthcircuit.org

SUSAN M. CHEHARDY	CURTIS B. PURSELL
CHIEF JUDGE	CLERK OF COURT
FREDERICKA H. WICKER	MARY E. LEGNON
JUDGE G. GRAVOIS	INTERIM CHIEF DEPUTY CLERK
MARC E. JOHNSON	SUSAN S. BUCHHOLZ
ROBERT A. CHAISSON	FIRST DEPUTY CLERK
STEPHEN J. WINDHORST	MELISSA C. LEDET
HANS J. LILJEBERG	DIRECTOR OF CENTRAL STAFF
JOHN J. MOLAISON, JR.	(504) 376-1400
JUDGES	(504) 376-1498 FAX

NOTICE OF DISPOSITION
CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION
IN THE FOREGOING MATTER HAS BEEN TRANS-
MITTED IN ACCORDANCE WITH **UNIFORM
RULES - COURT OF APPEAL, RULE 4-6** THIS
DAY 05/25/2022 TO THE TRIAL JUDGE, THE TRIAL
COURT CLERK OF COURT, AND AT LEAST ONE
OF THE COUNSEL OF RECORD FOR EACH PARTY,

AND TO EACH PARTY NOT REPRESENTED BY
COUNSEL, AS LISTED BELOW:

/s/ Curtis B. Pursell
CURTIS B. PURSELL
CLERK OF COURT

22-K-41

E-NOTIFIED

24th Judicial District Court (Clerk)
Hon. Scott U. Schlegel (DISTRICT JUDGE)
Zachary Orjuela (Respondent) Thomas J. Butler (Relator)
Darren A. Allemand
(Relator)

MAILED

Marquita D. Naquin (Respondent)	Honorable Paul D. Connick, Jr. (Relator)
Attorney at Law 848 Second Street Third Floor Gretna, LA 70053	District Attorney Twenty-Fourth Judicial District 200 Derbigny Street Gretna, LA 70053

APPENDIX C

**24th JUDICIAL DISTRICT COURT
FOR THE PARISH OF JEFFERSON**

STATE OF LOUISIANA

NO. 13-4134

DIVISION "D"

STATE OF LOUISIANA

VERSUS

JAMAAL EDWARDS

FILED: 1/5/22

/s/

[Illegible]

DEPUTY CLERK

ORDER

The Court held a hearing on December 16, 2021, pursuant to La. Code Crim. Proc. art. 657, to consider the recommendation of the Office of Behavioral Health, Louisiana Department of Health, State of Louisiana that the defendant be discharged from Eastern Louisiana Mental Health Systems Hospital. During the hearing, the Court heard the testimony of Dr. Deonna Dodd and Dr. Shannon Sanders was presented with a copy of the Forensic Review Panel's report along with the dangerousness assessment. Upon completion of the hearing, the Court ordered the parties to file memoranda, which they subsequently filed. On January 5, 2022, counsel for the state and the defense appeared and submitted the matter.

Based upon the law and evidence presented and for the reasons orally assigned, accordingly,

App. 41

IT IS ORDERED that the defendant, Jamaal Edwards, be **UNCONDITIONALLY DISCHARGED**.

IT IS FURTHER ORDERED that the attached transcription of the Court's oral ruling be considered the Court's written findings of fact and conclusions of law.

Gretna, Louisiana, this 5 day of January, 2022.

/s/ Scott U. Schlegel
JUDGE
SCOTT U. SCHLEGEL

24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA

STATE OF LOUISIANA
VERSUS
JAMAAL EDWARDS

PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED AND NUMBERED CAUSE BEFORE THE **HONORABLE SCOTT U. SCHLEGEL** PRESIDING, TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, IN GRETNA, LOUISIANA, ON THE 5TH DAY OF JANUARY, 2022.

APPEARANCES:

**TUCKER H. WIMBERLY, ESQ.
RACHEL AFRICK, ESQ.**

COUNSEL REPRESENTING THE STATE OF
LOUISIANA

**MARQUITA NAQUIN, ESQ.
COUNSEL REPRESENTING THE DEFENDANT**

REPORTED BY:

BARBARA MCGEE, CCR, CDR
OFFICIAL COURT REPORTER
IN AND FOR THE PARISH OF JEFFERSON
STATE OF LOUISIANA

INDEX

	PAGE
Proceedings.....	3
Reporter's Page	9
Reporter's Certificate	10
Exhibits:	
(None attached.)	

[3] **PROCEEDINGS**

MS. AFRICK:

Mr. Wimberly, I don't have a copy of the docket, but this is State of Louisiana versus Jamaal Edwards.

THE COURT:

All right. This is Jamaal Edwards, Case No. 13-4134 and 13-6018. Mr. Edwards is physically present in court.

MS. AFRICK:

Rachel Africk appearing on behalf of the State of Louisiana.

MS. NAQUIN:

Marquita Naquin representing Mr. Edwards, Your Honor.

THE COURT:

All right.

MS. AFRICK:

Judge, I believe both State and defense have filed written pleadings after the hearing last time. I believe after speaking with Ms. Naquin we are both submitting on those pleadings.

THE COURT:

Okay. Thank you.

MS. NAQUIN:

That is correct, Your Honor. I also submitted a memo. And we will submit.

THE COURT:

Thank you. One moment.

What is the motion titled?

[4] MS. NAQUIN:

Mine?

THE COURT:

Not yours, the hospital's. Is it a – it's no motion they titled. I'm just trying to see the language.

All right. Before the Court is a recommendation by the State of Louisiana, Louisiana Department of Health that Mr. Edwards be discharged. It is the opinion of the forensic review panel that Mr. Edwards no longer suffers from a mental illness. And as a result under Foucha or Foucha v. Louisiana, they are recommending a discharge.

App. 45

The Court gave the defense and the State an opportunity to brief this matter, first, whether or not Foucha was distinguishable from the matter before this Court on the issue of discharge from the mental hospital. And, secondarily, if this Court were to order the defendant be discharged whether or not the defendant would be placed on supervised – on supervision.

After considering the evidence presented to the Court and considering Foucha, the Court hereby discharges Mr. Edwards. Obviously, this Court is bound by U.S. Supreme Court decision. It's on all points. It is the same fact pattern as relates to the diagnosis that he has, that he has – I'm just looking for the – antisocial personality; which, again, this Court disagrees that it's not a mental illness. But under Foucha, it's not considered a mental illness. So [5] this Court has absolutely no discretion not to discharge Mr. Edwards from the mental health facility, Louisiana Department of Health.

The next question that this Court must consider is whether or not to put him on supervision. The State's argument that the plurality decision of Foucha should – this Court should consider the more narrowly tailored opinion of Justice Sandra Day O'Connor. And I am simply going to read a few of Justice Sandra Day O'Connor's words.

She emphasized that: The Court's opinion addresses only the specific statutory scheme before us, which broadly permits indefinite confinement of sane insanity acquittees in psychiatric facilities. This case does not require us to pass judgement on

App. 46

more narrowly drawn laws that provide for detention of insanity acquittees, or on statutes that provide for punishment of persons who commit crimes while mentally ill. That's at 86 going into 87 of 504 U.S. 71.

Justice O'Connor further goes on a little bit further down at 87: It might therefore be permissible for Louisiana to confine an insanity acquittee who has regained sanity if, unlike the situation in this, the nature and duration of detention were tailored to reflect pressing public safety concerns related to the acquittee's continuing dangerousness.

And further on in 89, Justice O'Connor again notes that: Two of the states Justice [6] Thomas mentions have already amended their laws to provide for the release of acquittees who do not suffer from mental illness but may be dangerous.

And, finally: Today's holding – this is under 90. Today's holding follows directly from our precedents and leaves the states appropriate latitude to care for insanity acquittees in a way consistent with public welfare.

Unfortunately, the Court does not find anything within the State statutes that has been drawn to address this situation. All of the State laws under 654 et seq. and, specifically, 657 go on to contemplate that the defendant is not dangerous to self or others and that he -whoever "he" may be – has a mental health issue that can continue to be treated while under supervision. The State's laws do not contemplate when somebody has reached – has no mental illness but is still

considered dangerous to others. This Court is left with no choice to unconditionally discharge him and hope that the State legislators address this issue in this coming session.

MS. AFRICK:

Thank you, Your Honor. Would you please note the State's objection and notice I intend to seek writs.

THE COURT:

Please do.

MS. AFRICK:

And we'd ask for a stay of the release at [7] this time pending those writs.

THE COURT:

The Court is going to deny the stay as so far as this is a U.S. Supreme Court case. This is a due process issue. And I would encourage you to seek an emergency stay from a higher court. Again, this Court doesn't have – believe that it has the authority to stay something that's on all four points and keep him confined.

MS. AFRICK:

Yes, Your Honor. Would the Court prefer I get a transcript of the oral reasons today, or would the Court prefer to issue written reasons?

THE COURT:

I'm just going to repeat the typed –

MS. AFRICK:

Then can I request a transcript of the proceedings?

THE COURT:

Thank you.

Can we get that to them today?

(The court reporter responds in the affirmative.)

THE COURT:

Yes.

MS. AFRICK:

All right. Thank you, Your Honor.

THE COURT:

Thank you.

MS. NAQUIN:

Thank you, Judge. May I approach?

THE COURT:

[8] Yes.

(Off-the-record bench conference held.)

THE COURT:

All right. Let's go back on the record. This is back on the record for Jamaal Edwards, Case No. 13-4134 and 13-6018. The Court is going to give the State of Louisiana 30 days to seek a writ.

MS. AFRICK:

Thank you, Your Honor.

THE COURT:

Thank you.

(Conclusion of proceedings.)

[9] REPORTER'S PAGE

I, BARBARA MCGEE, Certified Court Reporter in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or article 1434 (B) of the Louisiana Code of Civil Procedure, before whom this proceeding was taken, do hereby state on the Record:

That due to the interaction in the spontaneous discourse of this proceeding, dashes (–) have been used to indicate pauses, changes in thought, and/or talkovers; that same is the proper method for a court reporter's transcription of proceeding, and that the dashes (–) do not indicate that words or phrases have been left out of this transcript;

That any words and/or names which could not be verified through reference material have been denoted with the phrase "(spelled phonetically)."

/s/ Barbara McGee
BARBARA McGEE
Certified Court Reporter

[10] **CERTIFICATE**

This certification is valid only for a transcript accompanied by my original signature and original required seal on this page.

I, BARBARA McGEE, Official Court Reporter in and for the State of Louisiana, employed as an Official Court Reporter by the 24th Judicial District Court, Parish of Jefferson, for the State of Louisiana, do hereby certify :hat this testimony was reported by me, using the digital reporting method, was transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding;

That the transcript has been prepared in compliance with transcript format guidelines required by statute, or by rules of the board, or by the Supreme Court of Louisiana;

That I am not of counsel, not related to counsel or the parties herein, nor am I otherwise interested in the outcome of this matter.

Thus done and signed this 5th day of January, 2022.

/s/ Barbara McGee
BARBARA McGEE
Certified Court Reporter
State of Louisiana
Certificate No. 83384

[SEAL]

APPENDIX D

STATE OF LOUISIANA * **DOCKET NO.:**
VS. * **13-4134** [& 13-6018]
JAMAAL T. EDWARDS * **PARISH OF**
* **JEFFERSON**
* **24TH JUDICIAL**
* **DISTRICT COURT**
* **STATE OF**
* **LOUISIANA**
*

* * * * *

FILED: 7/20/16 **DY. CLERK: /s/ [Illegible]**

NOT GUILTY BY REASON OF INSANITY
COMMITMENT ORDER

This matter having come before the Court on the 20th day of July, 2016, and the defendant, NAME, having been found not guilty by reason of insanity to the charge of 14:30.1, Murder/Second Degree, pursuant to C.Cr.P. Art. 558.1,

IT IS HEREBY ORDERED that **JAMAAL T. EDWARDS**, be and is hereby committed pursuant C.Cr.P. Art. 654 to the Eastern Louisiana Mental Health System, Forensic Division, when a bed is available, for care, custody and treatment, and

IT IS ALSO ORDERED the District Attorney shall provide Eastern Louisiana Mental Health System, Forensic Division with the following documents:

App. 52

- (1) The name and address of the defendant's attorney.
- (2) The crime or crimes with which the defendant is charged and the date of such charge or charges.
- (3) A copy of the report of the sanity commission.
- (4) Any other pertinent information concerning the defendant's health which has come to the attention of the court such as injuries sustained at the time of arrest or injuries sustained following incarceration.
- (5) A copy of the defendant's criminal history record.
- (6) A copy of the police report concerning the charged offense.
- (7) A copy of the judgment and order specifying the nature and purpose of the commitment or recommitment to the state institution.

IT IS FURTHER ORDERED that the Eastern Louisiana Mental Health System, Forensic Division report to this Court when [if] the defendant, **JAMAAL T. EDWARDS**, is no longer a danger to self or others and should be considered for placement on conditional release with monitoring by DHH/Community Forensic Services and supervision by Department of Public Safety and Corrections, Probation Division.

IT IS FINALLY ORDERED that the director of Eastern Louisiana Mental Health System, Forensic Division shall provide the court with six(6) month status reports during the period of his hospitalization.

Gretna, Louisiana this 20th day of July, 2016.

/s/ Scott Schlegel

DISTRICT JUDGE

24TH JUDICIAL DISTRICT COURT

s/ SCOTT SCHLEGEL

PLEASE SERVE:

Eastern Louisiana Mental Health System
Forensic Division
P. O. Box 888
Jackson LA 70748

Sheriff, Jefferson Parish

District Attorney
Kellie Rish, ADA

Defense Counsel
Martin E. Regan

**24th JUDICIAL DISTRICT COURT FOR
THE PARISH OF JEFFERSON
STATE OF LOUISIANA**

**NO. 13-4134
13-6018**

DIVISION "D"

**STATE OF LOUISIANA
VERSUS
JAMAAL T. EDWARDS**

FILED: 7/27/16 _____
/s/ [Illegible] _____
DEPUTY CLERK

REASONS FOR JUDGMENT

On July 20, 2016, the Court heard evidence regarding the defendant's state of mind at the time of the offenses pursuant to La.C.Cr.P. art. 558.1. The defendant, Jamaal T. Edwards, pleaded not guilty by reason of insanity and the District Attorney consented. For the reasons orally assigned and as discussed below, the Court finds that the defendant is not guilty by reason of insanity. The Court further made a dangerousness assessment pursuant to La.C.Cr.P. art. 654, and found that the defendant is a danger to others.

A. Not Guilty By Reason of Insanity

On August 10, 2013, the defendant shot and killed Tracy Nguyen. While it is certain that the defendant committed the second-degree murder of Ms. Nguyen, it is clear that he was insane at the time of the offense in that he was unable to distinguish right from wrong at

the time of the murder. This finding is based upon the consent of the District Attorney, a consideration of the evidence presented at trial, and the opinions of three experts that the defendant was insane at the time of the offense. Two experts on the sanity commission, an expert in forensic psychiatry and an expert in forensic psychology, were appointed by the Court; and one expert in forensic psychiatry was retained by the District Attorney.

The Court finds that in May of 2013, the defendant, who was exhibiting psychotic behavior, was admitted to the East Jefferson General Hospital at the urging of his family. While there, he exhibited psychotic and bizarre behaviors, which included an altercation with other patients at the hospital. The defendant was released after a ten-day visit.

Sometime in August, leading up to the murder, the defendant began to exhibit the same bizarre, paranoid behavior and was keeping the victim up at night. He believed that people were watching him and were out to harm him. As a result, he cancelled his Facebook page and even changed his phone number(s). Additionally, when his sister came over to his residence the day before the murder, the defendant kept staring at his 11-year-old nephew because he thought his nephew was the devil. As a result of this bizarre behavior, his mother, Ms. Tracy Williams, became alarmed and drove over to the defendant's residence on August 10, 2013, the morning of the murder. After she arrived, she spoke with her son, the defendant, and then to the victim, causing the defendant to exhibit more paranoid

behavior. Shortly thereafter, the defendant retrieved a firearm from the victim's vehicle and returned. This behavior concerned Ms. Williams so much that she told the victim to run and then fled the scene herself without even seeing a firearm. She could tell something was about to happen from the look in the defendant's eyes. As Ms. Williams was driving away, she heard a single gunshot. According to numerous eyewitnesses, the defendant had shot and killed the victim, stood over her body shouting "like Tarzan" and then rolled around a side yard, where the gun was eventually located.

Detective Rhonda Goff testified about the bizarre behavior that the defendant exhibited to the police immediately after the murder. According to the responding deputies, the defendant was puzzled and incoherent when they arrived and then knocked himself out after slamming his head against the plexiglass of the unit he was placed in after being arrested. The State's expert, Dr. Jeffrey Rouse, and the court appointed expert with the sanity commission, Dr. Richard Richoux, testified about additional bizarre behaviors at East Jefferson General Hospital, where the defendant was taken after knocking himself out. These bizarre behaviors aided the doctors with their ultimate opinions that he was not sane at the time of the offense.

Additionally, while the defendant was incarcerated in the Jefferson Parish Correctional Center after being arrested and at the Louisiana State Hospital in East Feliciana Parish after he was found incompetent to proceed, there were numerous altercations noted that were instigated by the defendant. Further, the

defendant admitted to Dr. Richoux that he had experienced similar psychotic or paranoid behavior/feelings while in prison after the murder that he had experienced during the time periods before his admission to East Jefferson General Hospital and the murder.

Again, based upon all the testimony and evidence introduced and stipulated to by both the State and the Defense, including a review of the two sanity reports authored by Drs. Richoux and Salcedo and Dr. Rouse, the Court finds the defendant not guilty by reason of insanity of second degree murder and simple criminal damage to property pursuant to La.C.Cr.P. art. 558.1.

B. Dangerousness

When a defendant is found not guilty by reason of insanity in a felony case other than a capital case, the Court shall promptly hold a contradictory hearing at which the defendant has the burden of proving that he can be discharged, or can be released on probation, without danger to others or to himself. La.C.Cr.P. art. 654; *State ex rel. Lazard v. State*, 2000-3365 (La. 9/28/01), 797 So. 2d 35, 36 n. 2; *State v. Perez*, 548 So. 2d 6, 11 (La. App. 5th Cir.) *writ granted*, 550 So. 2d 620 (La. 1989) and *aff'd*, 563 So. 2d 841 (La. 1990).

The Court finds that the defendant is a danger to others. The defendant shot and killed his girlfriend, an individual with whom he apparently had a good relationship, while actively psychotic and has experienced similar paranoias since the time of the murder. The defendant has a lengthy history of altercations with

App. 58

patients, other inmates, and staff members. He also fashioned a knife out of a toothbrush while he was incarcerated. Further, the defendant clearly has an affinity for weapons. An SKS rifle with banana clip and ammunition, and two pistols were recovered after the murder. Lastly, and most importantly, Dr. Rouse, the only expert to testify on this point, stated that in his expert opinion, the defendant is a danger to others.

Accordingly, the defendant was ordered committed to the Eastern Louisiana Mental Health System, Forensic Division. A separate order of commitment was entered on July 20, 2016 in accordance with these reasons.

Gretna, Louisiana, this 27 day of July, 2016.

/s/ Scott Schlegel
JUDGE SCOTT SCHLEGEL

s/ SCOTT SCHLEGEL

APPENDIX E
TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA

STATE OF LOUISIANA

VS.

JAMAAL T. EDWARDS NO: 13-4134

DIVISION: "D"

**TRANSCRIPT OF PROCEEDINGS, TAKEN IN
THE ABOVE-ENTITLED CAUSE, BEFORE THE
HONORABLE SCOTT U. SCHLEGEL, JUDGE,
PRESIDING ON THE 15th DAY OF JUNE, 2022.**

APPEARANCES:

REPRESENTING THE STATE:

MEREDITH HEARN, RACHEL AFRICK

REPRESENTING THE DEFENDANT:

MARQUITA NAQUIN

TRANSCRIBED AND REPORTED BY:

SHANNON ANN CHASE, CDR

OFFICIAL COURT REPORTER

IN AND FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

EXHIBIT INDEX

STATE'S EXHIBIT	PAGE
SE-1...ONLINE TEXT MESSAGES	6

[3] **JUNE 15, 2022**

THE COURT:

Okay. Go to criminal real quick.

MS. HEARN:

Number 10 on the docket Jamaal Edwards.
May we approach Your Honor?

THE COURT:

Yes.

MS. NAQUIN:

Marquita Naquin representing Jamaal Edwards, Your Honor, who is in the box.

MS. AFRICK:

Rachel Africk on behalf on the State of Louisiana.

THE COURT:

Come on up.

AGENT BECNEL:

Stephen Becnel, probation.

COURT REPORTER'S NOTE (BENCH CONFERENCE HELD)

MS. HEARN:

If we could do number 10 quickly, first, number 10 on the docket Jamaal Edwards.

MS. NAQUIN:

Marquita Naquin representing Jamaal Edwards, Your Honor.

MS. AFRICK:

Rachel Africk on behalf of the State of Louisiana.

MS. NAQUIN:

Your Honor we're set today for a revocation hearing. My first concern is [4] whether or not my client, who had previously been housed at the Eastern Louisiana Forensic Mental Hospital. And has been released. Whether or not he was competent and prepared to proceed I have had conversations with him today in the presence of another attorney, Powell Miller, and we are of the opinion that Mr. Edwards is fully competent to proceed.

THE COURT:

Okay.

MS. NAQUIN:

As such I would not be filing a motion to have him evaluated.

THE COURT:

Okay.

MS. NAQUIN:

As far as the hearing I have spoken also with my client and he is of the opinion that he wants to stipulate.

THE COURT:

Okay.

MS. NAQUIN:

To the violation, specifically, that he made contact with a nurse from the hospital after, Your Honor, advised him not to have any contact with anyone.

THE COURT:

All right, Mr. Edwards, please rise. Raise your right hand.

MS. NAQUIN:

And that contact was by social media.

[5] THE COURT:

All right. Please rise and raise your right hand.

- JAMAAL EDWARDS -

After having been first duly sworn, did testify as follows:

MR. EDWARDS:

Yep.

DEPUTY CLERK:

State your name and date of birth, please.

MR. EDWARDS:

February 6, 1989.

THE COURT:

All right.

MS. NAQUIN:

Your Honor, before we proceed.

THE COURT:

Yes.

MS. NAQUIN:

I believe there is going to be something offered by the State. May I please show it to the defendant first?

THE COURT:

Sure.

MS. AFRICK:

I want to offer, file, and introduce into evidence.

MS. NAQUIN:

So, Your Honor, we still want to go forward with our stipulation.

THE COURT:

[6] Okay.

MS. AFRICK:

And in conjunction with that stipulation, Your Honor, the State of Louisiana would offer, file, and introduce for these purposes what I'll mark as State's Exhibit 1 which in GLOBO is the Facebook messages sent to an employee of the forensic hospital which Mr. Edwards was ordered not to contact.

THE COURT:

All right. Any objection?

MS. NAQUIN:

No objection.

THE COURT:

All right. S-1 admitted. All right lease rise again, Mr. Edwards. All right Mr. Edwards it is my understanding and appreciation which is stipulated and in fact you have violated a condition of supervision wherein the Court stated that you were not to contact anyone at the Eastern Feliciana Mental Hospital after release. You understand that?

MR. EDWARDS:

Yes sir.

THE COURT:

And you did that anyway. Right?

MR. EDWARDS:

Yes sir.

THE COURT:

Why?

[7] MR. EDWARDS:

Honest truth. It slipped my mind and it happened. I definitely hold myself accountable for what happened. I put it like this here, I was looking for love in the wrong places basically.

THE COURT:

All right. Make sure that you don't touch or talk at all. You understand?

MR. EDWARDS:

Yes sir.

THE COURT:

It's part of the stipulation the Court hereby sentences you to 15 days in the parish prison pursuant to Louisiana Code of Criminal Procedure Article 900. It's the first technical violation. The Court is further going to order as a special condition that home incarceration be added for up to six months from today's date.

That means you're going to be confined to your home unless you're working. You can work, obviously, but we're not going anywhere unless you're working. So the curfew is, obviously, no need for it because you'll be under home incarceration unless you're working. Understood?

MR. EDWARDS:

Yes sir.

THE COURT:

All right. Don't contact them again. You understand?

[8] **MR. EDWARDS:**

Yes sir.

THE COURT:

All right.

AGENT BECNEL:

That's with Gretna HIP?

THE COURT:

Gretna HIP. Correct.

AGENT BECNEL:

Does he know where to go once he is released?

THE COURT:

No. Somebody is going to have to come get him.

AGENT BECNEL:

Okay.

THE COURT:

I don't trust that that happens. Just put on there that he's not to be released until Gretna Home Incarceration comes to get him. Thank you.

MS. NAQUIN:

Thank you, Judge.

MS. AFRICK:

May I approach or may we approach?

COURT REPORTER'S NOTE (BENCH CONFERENCE HELD)

MS. NAQUIN:

Your Honor could we put two other things on the record regarding Jamaal Edwards?

THE COURT:

You may.

[9] **MS. NAQUIN:**

I did explain to Mr. Edwards that it's my desire to ask for a continuance of this case because the rule to revoke probation was filed less than 24 hours ago. I still don't have a physical copy of it but I have seen it. There was a jail call that I was listen to half of it. No indication that there's any competency concerns in that call.

THE COURT:

Okay.

MS. NAQUIN:

Mr. Edwards did tell me he understand that but he told me he would prefer to go forward and for me not to ask for a continuance.

THE COURT:

Okay.

MS. NAQUIN:

Also, there is an alleged warrant for Mr. Edwards's arrest. I have not seen it. I would ask the State to provide a copy.

MS. AFRICK:

I have not seen a copy of the warrant. I do have a copy of a NCIC printout verifying the warrant has been entered into NCIC. I have not seen the warrant from East Feliciana.

THE COURT:

Well, again, as we discussed at the bench we need the facility and the [10] probation officer to ensure that the facility is aware of it. If it's a proper warrant it will be executed. If it is not it won't be executed.

MS. AFRICK:

Perfect.

MS. NAQUIN:

I explained that to Mr. Edwards.

THE COURT:

All right.

MS. NAQUIN:

Thank you, Judge.

THE COURT:

Thank you. So jail just so you know whatever you write in there he's not to be released until Gretna Police Department HIP picks him up. If a warrant is in there clearly they can execute that warrant and take him to East Feliciana but make sure that my order that he not be released on my case until Gretna Police Department pick him up is solid whether it's in J.P.C.C. or if he post bond at Feliciana. It's the same thing. Gretna Police Department HIP will still pick you up. Understood? Got it? All right.

(End of Transcript)

[11] REPORTER'S PAGE

I, **SHANNON ANN CHASE**, Certified Digital Reporter, in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434 (8) of the Louisiana Code of Civil Procedure, do hereby state of the Record:

That due to the interaction in the spontaneous disclosure of this proceeding, dashes (—) have been used to indicate pauses, changes in thought, and/or talkovers; that the same is the proper method for a Court

App. 70

Reporter's transcription of proceeding, and that the dashes (–) do not indicate that words or phrases have been left out of the transcript;

That any words and/or names which could not be verified through reference material have been denoted with the phrase "(spelled phonetically or sic)."

/s/ Shannon Chase
SHANNON ANN CHASE, CDR
CERTIFIED DIGITAL REPORTER
OFFICIAL COURT REPORTER

[12] REPORTER'S CERTIFICATE

This certification is valid only for a transcript accompanied by my original signature and original required seal on this page.

I, **SHANNON ANN CHASE**, Certified Digital Reporter, Official Court Reporter, in and for the State of Louisiana, employed as an official reporter by the Twenty-Fourth Judicial District Court, Parish of Jefferson, for the State of Louisiana, do hereby certify that the above was, transcribed by me or under my direction and supervision, and is a true and correct transcript to the best of my ability and understanding, that the transcript has been prepared in compliance with the transcript guidelines required by the statute or by rules of the Board or by the Supreme Court of Louisiana, and that I am not related to counsel or the parties

App. 71

herein, no am I otherwise interested in the outcome of this matter.

Signed this 20th day of June, 2022.

/s/ Shannon Chase
SHANNON ANN CHASE
Certified Digital Reporter
Official Court Reporter

APPENDIX F
TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA

STATE OF LOUISIANA DIVISION "D"

Versus

JAMAAL EDWARDS CASE NO. 13-4134

Proceedings taken in the above numbered and entitled cause heard in open court on May 31, 2022 before the Honorable Scott U. Schlegel, Judge presiding.

* * * * *

APPEARANCES:

ATTORNEY FOR THE STATE:

Meredith Hearn, *Assistant District Attorney*
Darren Allemand, *Assistant District Attorney*
Shannon Swaim, *Assistant District Attorney*

ATTORNEY FOR THE DEFENDANT:

Marquita Naquin, *Public Defender*

Jamaal Edwards, Dr. Sanders, Dr. Dodd and Marianne Fletchinger appeared via Zoom

REPORTED BY:

Buffie Vindel Flair, CCR, CDR
OFFICIAL COURT REPORTER

EXHIBIT INDEX

EXHIBIT: DESCRIPTION: OFR'D: REC'D:
STATE'S EXHIBITS:

S-1 Transcript	10	11
S-2 Evaluation of the Defendant 5-18-2021	10	11
S-3 Guidelines for COT Readiness Report	10	11
S-4 ELMHS Risk Assessment Report	10	11

DEFENDANT'S EXHIBITS:

(NONE ADMITTED)

[3] PROCEEDINGS

THE COURT:

Why don't you-all approach.

(WHEREUPON, a bench conference was held.)

MS. NAQUIN:

Where is Jamaal?

THE COURT:

He's right there.

Anybody appealing?

MS. NAQUIN:

So far, no.

THE COURT:

I'm just asking.

MS. SWAIM:

We are not.

THE COURT:

Obviously, I have to release him. I'll put him on five years of active probation. I'm going to – random drug screens every single week. He's going to have to be on an ACT or a FACT team, whatever those people are, and then, a quarterly mental health evaluation formally done by whomever is supervising him, plus GPS for at least the first year.

MR. ALLEMAND:

Sure.

THE COURT:

If you-all need doctors to testify you are welcome to call them but I've heard everything already.

MR. ALLEMAND:

I think we can submit on the transcripts. I [4] would just – in that light of what the Judge said, I think we just offer, file and introduce everything that was done at the December 16th hearing.

THE COURT:

And they are here if anybody needs to call them or wants to call them. I mean we heard it all.

MR. ALLEMAND:

That's fine. I'm fine with that.

(Conclusion of bench conference.)

THE COURT:

Let's get the doctors real quick on here.

Mr. Edwards is there on Zoom.

MS. HEARN:

Your Honor, this is 39 and 40 on the docket,
Jamaal Edwards.

MS. NAQUIN:

Marquita Naquin representing Jamaal Edwards.

MR. ALLEMAND:

Darren Allemand, Shannon Swaim and Meredith Hearn for the State, Judge.

THE COURT:

Mr. Edwards is there on Zoom? He's coming now.

MS. FLETCHINGER:

Your Honor, if we may briefly have a conference in a breakout room with the DA and myself and you before we begin that would be greatly appreciated.

THE COURT:

And the defense attorney, I would assume.

[5] MS. FLETCHINGER:

Yeah, and Ms. Naquin. I texted Marquita but I'm sure she's in court.

THE COURT:

No. We already talked about it. I'll just tell you-all what's going on, and I'm going to put you-all in a breakout room with Ms. Naquin and her client in two seconds, but I'll just tell you what's going on. We're all on the record now.

My appreciation is is that I received a report or an E-mail or something from LDH recommending that Mr. Edwards be placed on probation.

It is this Court's intention to place him on five years of active probation, order him to complete random drug screens weekly, that he be placed with an ACT team to supervise him, that he be evaluated quarterly for a true mental health evaluation and that he be placed on a GPS monitor for at least the first year with a curfew beginning at 10:00 p.m. and ending at 6:00 a.m.

So that's the Court's intentions. Obviously, I will listen to you all if you all have any additional recommendations, but I'm just putting that on the record so when you-all go to the breakout room you-all can have an intelligent conversation.

Dr. Sanders –

DR. SANDERS:

Yes, Your Honor. In addition to what you stated, which is great, I was just curious if there was any way to include that Mr. Edwards meet [6] with a mental health professional after he's discharged. I know he doesn't have a diagnoseable mental illness but just dealing with the adjustment from going from max security to living in a community, I just think it would be beneficial to monitor that to have an extra set of eyes and for Mr. Edwards to have an additional outlet to talk about how he's adjusting to the stressors and the freedoms; I mean he can't eat or dress how he wants to and do things when he wants to, and now he's going to be able to do that, and then, I know he's a grown intelligent man but there's still some level of adjustment that comes with that.

THE COURT:

That was my hope with the ACT team. I thought that's what the ACT team would do –

MS. NAQUIN:

Yes. They will.

THE COURT:

– is they would actually do the mental health evaluation and follow him daily.

MS. NAQUIN:

That's correct.

DR. SANDERS:

Okay. Good. I just wasn't sure when you said "quarterly" if he was going to be meeting with somebody like weekly, bi-weekly, monthly or how that would work.

THE COURT:

No. I want an actual mental health evaluation done quarterly, formally, and he has [7] the ACT team monitoring him on a daily basis.

DR. SANDERS:

Fantastic.

THE COURT:

Well put you in a breakout room with Ms. Naquin, and State, if you-all want to go over there and visit, too, you are welcome to, and then, Ms. Naquin, kick them out when you need to have a private conversation.

MS. NAQUIN:

Thank you.

THE COURT:

One moment, you-all. I'm putting you-all in a breakout room.

(WHEREUPON, other matters were taken up.)

THE COURT:

Let's go with Jamaal Edwards.

MS. NAQUIN:

Marquita Naquin for –

MS. HEARN:

Back on the docket with 39 and 40, Jamaal Edwards.

MR. ALLEMAND:

Darren Allemand, Meredith Hearn and Shannon Swaim for the State, Judge.

MS. NAQUIN:

Marquita Naquin representing Jamaal Edwards who's appearing by Zoom.

MS. SWAIM:

Judge, May we approach.

THE COURT:

You may.

[8] MS. FLETCHINGER:

For the record Marianne Fletchinger on behalf of LDH.

(WHEREUPON, a bench conference was held.)

THE COURT:

And we lost the other doctor?

MS. FLETCHINGER:

Yes. Dr. Sanders is no longer here. She's in agreement with the recommendations that you've already put on the record.

THE COURT:

Okay. Thank you.

We don't do anything off –

MS. SWAIM:

Judge, is this Dr. Dodd that's online?

MS. NAQUIN:

Sanders.

THE COURT:

No she left.

MS. SWAIM:

She informed us – she wanted to speak privately – informed us that – the defendant can hear? She doesn't want the defendant to hear.

THE COURT:

I'm muted here so he can't hear.

Dr. Fletchinger, can you hear me? No. We're good.

MS. SWAIM:

Judge, she informed us that a lot of the female staff are very concerned, especially one, because he's done things like masturbated to her.

THE COURT:

[9] Yes. We're all concerned.

MS. SWAIM:

And he's threatened the life of, like, her fiancé.

THE COURT:

So why has he not been arrested?

MR. ALLEMAND:

Good question.

THE COURT:

That's the answer.

MR. ALLEMAND:

Very good question.

THE COURT:

So it's not me. It's –

MS. SWAIM:

No. No. No. I'm just letting you know what she was asking you and she said if you need to talk to her.

THE COURT:

They need to arrest him.

MR. ALLEMAND:

Agreed.

THE COURT:

So there's nothing I can do. All that stuff he's done he should be arrested.

MS. SWAIM:

She wanted know if there was any way that there could be – she knows that there can't be, obviously, a formal stay away order but there could just be an admonition to him, basically, like for him to stay away from the staff or not to contact anyone once he's released.

[10] THE COURT:

Sure. But he needs to be arrested, and I don't know why all of them are putting every one here at risk without arresting him.

MR. ALLEMAND:

Agreed. Thanks, Judge.

(Conclusion of bench conference.)

THE COURT:

All right. Well go back on the record.

MS. NAQUIN:

Marquita Naquin for Jamaal Edwards, Your Honor. I had an opportunity to speak with Mr. Edwards.

MS. SWAIM:

Judge, just for the purposes of this hearing I'd like to offer, file and introduce a transcript which

I have right here from the December 16th, 2021 hearing, and I'd also like to offer, file and introduce attached to that which that will be State's Exhibit 1.

State's Exhibit 2 which is a forensic review that was previously introduced.

State's Exhibit 3, the Guidelines for the COT Readiness, which was previously introduced at the prior hearing, and then State's Exhibit 4, the Risk Assessment.

I'd ask that those four exhibits be offered, filed and introduced and our copy is right here.

THE COURT:

Any objection?

MS. NAQUIN:

No objection, Your Honor.

[11] THE COURT:

All right. Those exhibits are admitted. Thank you.

MS. FLETCHINGER:

Your Honor, very briefly, LDH would offer the letter submitted by Dr. Franklin Bordenave and Dr. Deanna Dodd via E-mail today as LDH Exhibit 1 to the hearing which includes their recommendations.

THE COURT:

Any objection?

MS. SWAIM:

Not from the State, no.

THE COURT:

If you could, Ms. Fletchinger, just read into the record the recommendation of the doctors.

MS. FLETCHINGER:

Absolutely. Just one minute.

On a letter dated May 31st of 2022 Dr. Deanna Dodd and Dr. Franklin Bordenave indicated and its our recommendation that Jamaal. Edwards be released on probation to be followed by probation and parole with mandatory drug testing to happen frequently.

Your Honor, that's the contents of the recommendation from those doctors.

THE COURT:

Thank you.

Ms. Naquin, do you have his address that he's going to be staying at?

MS. NAQUIN:

Let me double-check, Your Honor, to make sure [12] it's still the same.

Jamaal, is it still going to be Division Street?

THE COURT:

Mr. Edwards –

MS. NAQUIN:

If he can state his address for the record.

THE COURT:

State your address for the record.

THE DEFENDANT:

I don't know it offhand. I got it wrote down.

THE COURT:

Well, until you give me an address – you might want to go find it, sir.

MS. NAQUIN:

We'll wait.

THE COURT:

I'm not doing anything until I know where you are going.

THE DEFENDANT:

I got to go get it?

THE COURT:

You got to go get it.

(WHEREUPON, other matters were taken up.)

FEMALE SPEAKER ON ZOOM:

Can I speak?

THE COURT:

Yes, ma'am.

FEMALE SPEAKER ON ZOOM:

Okay. I just spoke with – Jamaal had provided me with his mother's telephone number and [13] I'm waiting for him to come back with an address, but I just spoke with her on the phone and she did provide me with her address.

THE COURT:

Okay. That's fine if that's where he's going.

FEMALE SPEAKER ON ZOOM:

Well, she did say that he was coming to her house and she provided me with the address. So the address – I don't know what Jamaal – it's taking Jamaal a while – I don't know what address he's going to provide. His mother did just confirm that he's going to come to her house.

THE COURT:

Okay. Thank you. As soon as he comes back we'll put it all on the record. Thank you, ma'am.

(WHEREUPON, other matters were taken up.)

THE COURT:

We got Mr. Edwards back. Let's go ahead and call the case.

MS. HEARN:

Back on the docket with Nos. 39 and 40 on the docket. *State versus Jamaal Edwards*. Meredith Hearn, Shannon Swaim and Darren Allemand for the State.

MS. NAQUIN:

Marquita Naquin for Jamaal Edwards.

Mr. Edwards, were you able to locate the address for the Court?

THE COURT:

Mr. Edwards, which address will you be living at?

[14] THE DEFENDANT:

2740 Donner Street in New Orleans 70114.

THE COURT:

What is that?

THE DEFENDANT:

Donner Street, 2740, Donner Street.

THE COURT:

Spell it.

THE DEFENDANT:

D-O-N-N-E-R.

THE COURT:

Donner Street. Got it. What's the ZIP code, sir?

THE DEFENDANT:

70114.

MS. NAQUIN:

Thank you.

THE COURT:

Mr. Edwards, in connection with Case No. 13-4134, the Court hereby in accordance with, as you know, the Court received an opinion from the Fifth Circuit Court of Appeals on May 25th, 2022 affirming this Court's decision that you are to be released from the Eastern Louisiana Mental Health System.

The Fifth Circuit said, however, that I can add conditions as I stated at that time and I'll state again. This Court finds you a danger to our community, and if it were up to this Court, the Court would not be ordering you released but the U.S. Supreme Court has spoken on this issue and this Court is not results driven; it is driven by [15] the law.

And as a result this Court orders you released, places you on five years of active probation with the following conditions: You shall be supervised by an ACT team, and I'm assuming New Orleans has an ACT team. So you are to be supervised by an ACT team in addition to probation and parole.

You are ordered to have a GPS bracelet placed on you for a minimum of one year with a curfew starting at 10:00 p.m. and ending at 6:00 a.m. every day. You are to take random drug screens at a minimum of one per week. You are ordered to immediately be assessed for mental health issues and to take any and all courses recommended by the mental health facility.

Once you leave Eastern Feliciana you are not to call or contact any of those individuals after leaving that facility. The Court further orders that he receive an evaluation by a licensed psychiatrist quarterly.

Did I miss anything that I've said?

MR. ALLEMAND:

I don't believe so, Judge.

THE COURT:

Mr. Edwards is to be released to probation and parole only. So here's what's going to happen, we're going to have to get P&P to come put a bracelet on you because I don't trust anything until I have a bracelet on you. So P&P is going to have to come put a bracelet on you before you can go off with your family of them taking you and whether that's somebody from that field office [16] coming to you or not, I'm going to personally make the call though so that you don't just sit there for the next two weeks while that happens. So I'm going to call P&P and I'm going to call their supervisors now

App. 90

after court and let them know that you need a GPS bracelet before you are released.

Understood?

THE DEFENDANT:

Yes, sir.

THE COURT:

Thank you.

MS. NAQUIN:

Thank you, Your Honor.

(END OF PROCEEDINGS.)

[17] **REPORTER'S PAGE**

I, **BUFFIE VINDEL FLAIR**, Certified Court Reporter in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(B) of the Louisiana Code of Civil Procedure, before whom this proceeding was taken, do hereby state on the Record;

That due to the interaction in the spontaneous discourse of this proceeding, dashes (–) have been used to indicate pauses, changes in thought, and/or takeovers; that same is the proper method for a Court Reporter's transcription of proceeding, and that the dashes (–) do not indicate that words or phrases have been left out of this transcript;

That any words and/or names which could not be verified through reference material have been denoted with the phrase "(spelled phonetically)."

/s/ Buffie Vindel Flair
BUFFIE VINDEL FLAIR CCR, CDR
Certified Court Reporter
Certified Digital Reporter

[18] **REPORTER'S CERTIFICATE**

I, **BUFFIE VINDEL FLAIR**, CCR, CDR, Certified Court Reporter, Official Court Reporter, in and for the State of Louisiana, employed as an official court reporter for the Twenty-Fourth Judicial District Court for the State of Louisiana, as the officer before whom the above proceedings were taken, do hereby certify that the above and foregoing was reported by me in the digital and stenographic reporting method, was prepared and transcribed by me or under my direction and supervision, and is a true and correct transcript to the best of my ability and understanding, that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board or by the Supreme Court of Louisiana, and that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

App. 92

Signed this 22nd day of June, 2022.

/s/ Buffie Vindel Flair
Buffie Vindel Flair CCR, CDR
Official Court Reporter

APPENDIX G
TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA

STATE OF LOUISIANA DIVISION "D"

Versus

JAMAAL EDWARDS CASE NO. 13-4134

Proceedings taken in the above numbered and entitled cause heard via Zoom Conference Technology on December 16, 2021 before the Honorable Scott U. Schlegel, Judge presiding.

* * * * *

APPEARANCES:

ATTORNEY FOR THE STATE:

Rachel Africk, Assistant District Attorney

ATTORNEY FOR THE DEFENDANT:

Marquita Naquin, Public Defender

REPORTERS NOTE: The Defendant appeared via Zoom.

REPORTED BY:

Buffie Vindel Flair, CCR, RPR, CDR
OFFICIAL COURT REPORTER

WITNESS INDEX

<u>WITNESSES:</u>	<u>PAGE NO.:</u>
DEONNA DODD (via Zoom)	4
Direct Examination (on qualifications only)	
by Ms. Africk	5
Direct Examination by Ms. Africk	6
Cross Examination by Ms. Naquin	17
Examination by The Court	21
SHANNON SANDERS (via Zoom)	25
Direct Examination (on qualifications only)	
by Ms. Africk	25
Cross Examination by Ms. Naquin	31
Redirect Examination by Ms. Africk	33

EXHIBIT INDEX

EXHIBIT: DESCRIPTION: OFR'D: RECD:

STATE'S EXHIBITS:

S-1 Forensic Review	9	9
S-2 Guidelines for COT Readiness	16	16
S-3 Risk Assessment	26	26

DEFENDANT'S EXHIBITS:

(NONE ADMITTED)

[4] PROCEEDINGS

MS. AFRICK:

Your Honor, this is State of Louisiana versus Jamaal Edwards. It's Case No. 13-4134.

Rachel Africk on behalf of the State of Louisiana.

MS. NAQUIN:

Marquita Naquin on behalf of Jamaal Edwards, Your Honor. He appears by Zoom from East Louisiana Mental Health Systems.

THE COURT:

Before we proceed, Ladies and Gentlemen in the audience, this will probably take about 15 to 20 minutes. So if you'd like, you are free to go downstairs and get a cup of coffee. If your name is called, though – how about this: We'll be in recess on every other matter until 11:30. If you fail to come back by 11:30, you will be attached. You may sit in court and wait if you'd like.

Go ahead.

MS. AFRICK:

Judge, the first doctor we're going to call in this matter is Dr. Dodd. I believe she's appearing via Zoom.

THE COURT:

Dr. Dodd, if you can raise your right hand, ma'am.

DR. DEONNA DODD,

After having been first duly sworn, was examined and testified on her oath as follows:

THE CLERK:

State your name for the record, please.

[5] THE COURT:

Please state your name and address for the record, please.

THE WITNESS:

My name is Deonna Dodd. My address is 206 Cahaba Lake Circle, Helena, Alabama 35080.

DIRECT EXAMINATION (on qualifications only)

BY MS. AFRICK:

Q. Dr. Dodd, can you state for the record how you are employed?

A. Yes. I'm employed through Tulane University at East Louisiana Mental Health System as an attending psychiatrist.

Q. And can you tell the Court your educational background?

A. Yes. I received my Bachelor's degree in nursing at the University of Alabama in Tuscaloosa. I then attended medical school at the University of South Alabama. I was then transitioned into a residency program in general psychiatry at LSU Baton Rouge for

four years. I graduated in 2018 from that program. At that time, I joined a forensic psychiatry fellowship program with Tulane University and completed that in 2019. At that point, I became faculty at Tulane University from 2019 until the end of 2020, and I'm currently a contractor through Tulane University.

Q. Dr. Dodd, have you ever testified in court as an expert in the field of forensic psychiatry?

A. Yes, I have.

MS. AFRICK:

Your Honor, at this time, the State would move to have Dr. Dodd qualified as an expert in forensic psychiatry and tender on the predicate.

MS. NAQUIN:

[6] We'll join in that.

THE COURT:

Based upon the stipulation, the Court hereby accepts, and her obvious qualifications, the Court recognizes Dr. Dodd as an expert in forensic psychiatry.

DIRECT EXAMINATION

BY MS. AFRICK:

Q. Dr. Dodd, are you familiar with Jamaal Edwards?

A. I am familiar with Mr. Edwards' case. I am his treating psychiatrist since 2019.

Q. And you treat him while he is currently committed to the Eastern Louisiana Mental Health Systems Hospital?

A. Correct.

Q. Okay. Can you tell us about your treatment of Mr. Edwards?

A. Mr. Edwards was found not guilty by reason of insanity, and since that time, he has been at East Louisiana Mental Health System. His treatment has been fairly straightforward in that he has not required antipsychotic medications, mood stabilizers or medications that we frequently use for psychiatric illness as Mr. Edwards has shown no evidence of any continued psychiatric illness during his hospitalization.

Q. What do you mean by that?

A. What I mean is: He does not meet criteria as set forth by the DSM for a psychiatric illness. He does not experience hallucinations. He has a linear thought process. He does not suffer from delusional beliefs, and therefore, he doesn't meet criteria for a psychiatric illness at this time.

I have diagnosed him with antisocial [7] personality disorder, but there is no treatment for that. It is simply a way of describing the way Mr. Edwards interacts with the world around him, and basically, the way that he reacts to situations or how he obtains his goals; and therefore, it is not a treatable mental illness.

Q. While at the hospital, has Mr. Edwards behaved? Does he follow the rules and regulations associated with the hospital?

A. Mr. Edwards does have difficulty following the rules. He has demonstrated violent behavior on many occasions. He frequently has had episodes of violence with both patients and staff. We have had staff members that were significantly injured by Mr. Edwards; someone had a jaw broken and hearing loss as a result.

He has also been frequently inappropriate with females. He does tend to fixate on females. There have been times when he touched a staff member inappropriately, grabbed a nurse's rear end. He also has been noted to frequently masturbate when there are certain females on the unit.

Q. These acts of violence while Mr. Edwards has been in the hospital, have they been almost continuous?

A. Yes. They have been consistent. Mr. Edwards does not appear to have frequent impulsive violence but more calculated episodes of violence. He appears to be in control of his anger and aggressiveness and uses it at will in a calculated manner.

Q. Have you or has the hospital attempted to transfer Mr. Edwards to a less restrictive environment?

A. Yes. There have been transfers to less restrictive units, one unit known as CRU, another ITU. Mr. Edwards then [8] engages in violent acts in order to return to ASSA, which is the highest security unit. He does this because he appreciates having an individual

room, which is not available at those other buildings, and that in our conversations, that's why he uses violence in order to return to ASSA is because he prefers the accommodations there.

Q. So when attempts have been made to move Mr. Edwards to a less restrictive standing, he acts out violently?

A. Correct. In both property damage and physical violence.

Q. If Mr. Edwards – what is your recommendation to the Court at this time given that you diagnosed Mr. Edwards with antisocial personality disorder?

A. Our recommendations to the Court is that we would ask that the Court take into account is that, though we do believe Mr. Edwards to be dangerous, he has proven himself to be a dangerous individual, we do not believe that he suffers from mental illness.

And as a result, we do not recommend further commitment at the hospital because we feel that, though he suffers from a significant personality disorder, there is no treatment in which we can provide and he does not have a significant organic psychiatric illness such as schizophrenia or bi-polar disorder; and therefore, we do not feel that he is an appropriate candidate for continued hospitalization.

Q. And you say this even knowing that when you've tried to transfer Mr. Edwards to a less restrictive setting, he acts out violently?

A. I do. I believe that these acts are thought out, [9] calculated. I believe that they have a goal in mind to return to the setting that he prefers; however, I do not believe they are a product of mental illness. I believe they are a product of his personality disorder. And I believe that if it was the environment that he desired, that he would not immediately resort to violence if no longer in a hospital setting.

That being said, I do believe he has the continued potential for violence given that he has antisocial personality disorder and has proven himself to be a violent individual.

Q. If the defendant is released pursuant to your recommendation, you believe that he is a danger to others?

A. I believe him to be a danger to others but not related to mental illness, yes.

Q. I want to draw your attention to – I'm going to mark it as State's Exhibit 1 and it is a document entitled, "The Forensic Review Panel."

Are you familiar with this document?

A. Yes, I am.

MS. AFRICK:

Your Honor, at this time, I'm showing State's 1 to defense counsel, and at this time, I'd move to offer, file and introduce State's Exhibit 1.

MS. NAQUIN:

No objection, Your Honor.

THE COURT:

State's Exhibit 1 is admitted.

BY MS. AFRICK:

Q. Throughout State's Exhibit 1, The Forensic Review Panel, I believe there is multiple incidents listed of the defendant's displays of violence, aggression or homicidal [10] behavior?

A. Yes. That's correct.

Q. I know you've gone into it briefly. Can you tell the Court more about that?

A. Yes, I can discuss more about that. Do you want me to read directly from the document?

Q. I don't have any issue with you doing that.

A. Okay. There have been many occasions where Mr. Edwards has had calculated attacks on CGTs. A CGT is a staff member or a guard. One attack led to a significant injury of a CGT and hearing loss. He is also fixated on female staff members on the unit, particularly one nurse in which he grabbed her rear.

In March and May of 2021, he attacked patients on three occasions requiring staff intervention and resulting in a work restriction. He has a long history of using violence to obtain what he wants and the outcome that he wants.

Most recently, probably in the past month, there have been two violent incidents. One in which a patient was aggressive towards him and he retaliated. Another in which he and another patient got into a physical altercation and it's unclear to me at this time who was the aggressor.

Consistently, Mr. Edwards has used violence towards staff, towards other patients. I believe that this is the way that he navigates the world based on violence that began in his childhood, violence that occurred when he was in elementary school. I believe that this is just an engrained way that Mr. Edwards functions in the world and his violence has been continual and repeated at East [11] Louisiana Mental Health System as it has been in his personal life before.

He tends to fixate on females. That is a significant issue for him. He has been open about that. He is repeatedly inappropriate with our social workers that enter the unit, masturbating so frequently that they are asking to meet their patients on that unit in a separate room to reduce these incidences. He does not conform to the rules of society. He will use manipulation, criminal behavior, violence, to obtain whatever his goal is at that time.

Q. Doctor, why is your diagnosis antisocial personality disorder as opposed to a mental illness that you felt that you could treat?

A. I can go into a little bit about antisocial personality disorder and how the DSM classifies it. The DSM is

the diagnostic criteria manual that we use for psychiatric illness.

Generally, it's a pervasive pattern and disregard for the rights of others. Typically, it begins in adolescence. The DSM specifies age 15, which does appear to fit Mr. Edwards' background. He had a great many fights in school and this caused a lot of problems: Failure to conform to social norms concerning lawful behaviors, performing acts that are grounds for arrests. He does have some previous arrests in his past, and obviously, the current offense for which we are discussing, deceitfulness, repeated lying, conning of others for pleasure or personal profit.

Mr. Edwards is a very intelligent man. He is [12] able to manipulate other patients on the unit to do acts of violence or break unit rules. He is charismatic as is often seen in an antisocial personality disorder. Irritability and aggressiveness often with physical fights or assaults. Consistent irresponsibility, failure to, you know, sustain any responsibility for his actions and some lack of remorse.

Mr. Edwards has discussed with me before that he does have some remorse about what happened to his fiancée, who died, is, you know, why we're here today.

As far as his acts of violence, he has told me that he has no remorse for those other acts of violence in which he was the perpetrator, or, you know, may have enacted on someone weaker or unable to defend themselves as he can and he has not shown significant remorse for those acts.

App. 105

The way the DSM has always classified personality disorder versus a major mental illness, like Schizophrenia or Schizoaffective disorder, bi-polar disorder, for many, many years there were two axes. There actually were five axes, but the first axis was reserved for serious mental illness like Schizophrenia, bi-polar disorder, that kind of thing.

Axis II was where personality disorder went. It described the way the person's interpersonal relationships worked, the way they viewed the world and interacted with the world. Typically, it would have to – you know, it would have to be a pervasive interaction for them to have an Axis II diagnosis.

[13] More recently, the DSM simplified. They got rid of those axes because they are quite complicated. So they no longer use those axes but the same idea follows that this is seen as his personality, the way his brain works, the way that he interacts with the world. There is no known treatment or medication that can change that, and therefore, it is not recognized as a serious mental illness by the psychiatric community.

Q. While at the hospital, has Mr. Edwards ever received any medication or treatment?

A. I believe I currently have him on Benadryl for sleep. He has never been on an antipsychotic while at the hospital. I believe that his presentation during the events that occurred were related to substance use. He has discussed that with us. He was using substances during that time. Specifically, I suspect there was some sort of synthetic substance involved at that time, but

when Mr. Edwards does not have access to those substances, he has consistently shown no symptoms of serious mental illness.

He is an intelligent individual. He is charismatic. He is a likable patient. He has not shown any signs or symptoms of a treatable mental illness, and therefore, there was no indication for medications.

In response to his violence, most of his violence appears calculated unless he is defending himself. We don't have any medication to assist with calculated violence and to assist with personality. We do have some medications for patients with strictly impulsive violence that can decrease some of that impulsivity, but in my [14] observation of Mr. Edwards, impulsive violence is not frequent. I believe his violent acts to be calculated, planned and thought out, and there is no medication or treatment for that.

Q. Have you attempted treatment with – some of these medications that you are talking about that would treat an impulsive violence, have you tried those medications on Mr. Edwards just to see if it would curve the level of violence?

A. We have not. He has not wanted medication treatment and we did not feel that he met criteria for forced medications, and primarily, because we don't feel that he has a mental illness. And we did not think that the benefit of those medications would outweigh the risks of the side effects because they would not be effective on that type of violence.

Q. He's refused medication?

A. Well, he has not – we have not felt that it was appropriate. I have asked him before in the past would he be interested in trying some medication if it would help keep him out of trouble and he was not interested. He also has been very open with me. He does not feel that he has a mental illness. Mr. Edwards and I have discussed this many times, and therefore, he didn't feel that he needed medication. He doesn't feel that he has anything that's wrong, and so because of that, he didn't want medication, which, I mean, I do understand if you don't feel like you have a mental illness that you would want medication to treat it. We didn't feel that he met criteria for forced meds because we don't believe him to be mentally ill and we don't believe that the benefit of those medications would outweigh the risks.

[15] Q. You spoke briefly about the defendant's alcohol and drug abuse.

A. Yes. I believe he didn't have a significant alcohol use problem. It appears that his alcohol use was more social. He did acknowledge using opioids like Vicodin, Xanax, a benzodiazepine, as well as, marijuana very frequently. It appears maybe marijuana almost daily. He says he did not engage in attempted use – he did not attempt to use synthetics, but it does appear given the extreme nature of his behavior, it is likely that synthetic – some kind of synthetic medication was involved, pharmaceutical of some kind, because his drug screens were negative when he went to the hospital after those episodes, which most likely indicates a

synthetic medication that we can't always identify in a drug screen.

Q. Have you discussed with Mr. Edwards his drug abuse?

A. We have discussed it. He doesn't feel that he was addicted. He's discussed with us that he used marijuana because he liked its effects, but he could go without marijuana and that he didn't feel that he had a problem with drugs. And if someone doesn't feel that they have a problem, they won't engage in substance abuse treatment, and therefore, we didn't pursue that avenue because Mr. Edwards didn't feel that substances were a problem for him, and therefore, you can see why if you don't have that buy-in from a patient that pursuing the treatment would not be effective.

Q. So Mr. Edwards doesn't feel that he has a drug issue? He doesn't feel that he has a mental illness, but there's been no cessation of violent acts while hospitalized?

A. That is correct.

Q. I'm holding a document that's titled "Guidelines for [16] COT Readiness." Are you familiar with this document?

A. I am familiar. I don't have it in front of me but I am familiar generally with that document.

MS. AFRICK:

Your Honor, at this time, the State would move to offer, file, introduce State's Exhibit 2.

MS. NAQUIN:

No objection, Your Honor.

THE COURT:

What is it?

MS. AFRICK:

Guidelines for COT Readiness.

THE COURT:

Thank you. S-2 is admitted.

BY MS. AFRICK:

Q. Dr. Dodd, can you explain what in general that document is? What is COT Readiness?

A. It's a document that we do on every patient that is coming up for a review panel. It looks at their behavior, their previous offenses and takes that into account and gives them a score that we also use in the review panel to assess whether or not they are ready to move on to a less restrictive environment.

Q. Do you recall or can you tell the Court what your recommendation is on Mr. Edwards?

A. Specifically, from the COT or just in general?

Q. Just in general.

A. Our recommendation is that Mr. Edwards is not mentally ill, and therefore, we do not feel that he meets criteria for continued commitment at East Louisiana

Mental Health System; therefore, it is our recommendation that he be released from that system.

[17] Q. Despite the fact –

A. We would –

Q. Go ahead.

A. I'm sorry. We would defer to the Judge's decision about where he would be released, but we don't feel that he meets criteria for commitment.

Q. Despite the fact that he continues to be violent, that he's violent when moved to a less restrictive setting, that he denies any drug issues, and based on that, will likely continue to use if released?

A. Yes. That is our recommendation as we don't feel that these violent acts are related to mental illness, and therefore, continued treatment for mental illness will provide him no benefit.

MS. AFRICK:

Thank you, Dr. Dodd. I tender the witness at this time.

THE COURT:

Cross examination.

MS. NAQUIN:

Thank you, Judge.

CROSS EXAMINATION

BY MS. NAQUIN:

Q. Hi, Dr. Dodd. My name is Marquita Naquin. I represent Mr. Edwards.

A. Good morning.

Q. Thank you.

Dr. Dodd, your testimony is that you have been Mr. Edwards' treating psychiatrist for the duration of his stay at Eastern Louisiana Mental Health Systems?

A. No. I became his physician in 2019. Prior to my [18] treatment of him, he was under the treatment of Dr. Jan Johnson, another forensic psychiatrist at East Louisiana Mental Health System.

Q. And you had access to and reviewed any reports and findings from Dr. Johnson's treatment of him; correct?

A. I do, yes, and I have spoken to Dr. Johnson in regards to Mr. Edwards many times.

Q. Thank you.

And during both Dr. Johnson's treatment and your treatment, Mr. Edwards has not been on any medications; correct?

A. That is –

Q. I think you said he has not needed any medications?

A. There has not been an indication of mental illness, and therefore, no medications that would be aimed at treating mental illness were employed.

Q. Like mood stabilizers and things like that?

A. That is correct. No mood stabilizers, no antipsychotics. I have had him on Benadryl for sleep, but that was just simply for mild insomnia.

Q. And while you have not administered medication because you have not seen any evidence of mental illness, you did determine that he suffers from antisocial personality disorder; correct?

A. That is correct.

Q. And that is just what it says, a personality issue, it is not a mental illness?

A. Yes. It is a personality disorder for which there is no known treatment, and therefore, we do not classify it at the same level that we would Schizophrenia, bipolar disorder, things like that.

Q. And Ms. Africk spent a lot of time discussing with you [19] all of the incidents of Mr. Edwards' violent actions or aggressions.

It is your testimony that despite the fact that he had in the past acted violently, had issues with staff and other patients, it is your testimony that it has nothing to do with a mental illness; am I correct?

A. That is my testimony, yes. I do not believe his violent actions are related to mental illness.

Q. But directly related to what you have deemed his personality disorder; correct?

A. Yes. It is directly related to the way his brain functions, the structure of his personality, and the way that he interacts with the world. It is not related to command auditory hallucinations, delusions of persecution or things such as this. It is related to the way that he interacts with the world around him.

Q. Dr. Dodd, would you agree with me that the purpose of the Eastern Louisiana Mental Health System Hospital facility where Mr. Edwards is, the purpose is to house and/or confine people who have been determined to be mentally ill?

A. Yes. That's correct.

Q. And, oftentimes, there are no beds available. You have to wait for a bed; correct?

A. That is correct.

Q. Is it fair to say that Mr. Edwards is taking up a bed when he shouldn't be?

A. That is fair, yes, ma'am.

Q. There are people who are waiting to get in who actually have a mental illness that need to be treated?

A. Correct.

Q. Let me rephrase that.

[20] Who have mental illnesses that you seek to treat. In Mr. Edwards' case, there is nothing that you can treat regarding a mental illness?

A. That is correct. There is no treatment for antisocial personality disorder.

Q. Are you aware of Mr. Edwards – does he have family members?

A. Yes, he does. He has a mother and a sister and I believe he has a son as well.

Q. And they are local? He has had contact with them while he's been there?

A. Yes. It is my understanding that he has.

Q. If I were to make the statement that – one moment. Let me put it like this, Dr. Dodd.

Your testimony is that Mr. Edwards may be dangerous, but he is not mentally ill?

A. That is correct.

Q. And any danger that he may pose to himself or to anyone else would not be the result of a mental illness?

A. That is correct.

Q. And, again, your recommendation, ma'am, is that he no longer be housed at the mental health facility; correct?

A. That's correct.

Q. He no longer be confined there?

A. Correct.

MS. NAQUIN:

I have no other questions. Thank you.

THE COURT:

Redirect.

MS. AFRICK:

No redirect. Thank you, Dr. Dodd.

THE COURT:

[21] The Court has some questions.

EXAMINATION BY THE COURT

THE COURT:

Dr. Dodd, DSM –

THE WITNESS:

Yes.

THE COURT:

DSM is just a brief – antisocial personality disorder is found within the DSM, yes?

THE WITNESS:

Correct.

THE COURT:

So antisocial personality, you are stating – you used the words “treatable mental illness,” “severe

mental illness" and "mental illness" interchangeably. Can those terms be used interchangeably?

THE WITNESS:

So the way that the DSM originally was designed is they had the Axis system. So Axis I would be your – what I would call your serious mental illness: Schizophrenia, bi-polar disorder, Schizoaffective disorder, delusional disorder, things like that.

Axis II was there to label personality disorders, if they existed, and so the DSM historically has always made a distinction between organic mental illness and personality.

So the easiest way that I can explain that is: In Schizophrenia, levels of dopamine are elevated and this causes them to have symptoms of hallucinations, delusions, visual hallucinations, [22] paranoia, things like that.

When you look at Axis II and personality disorders, that describes the way that this person functions with the world around them.

THE COURT:

I understand.

THE WITNESS:

And so when I said "serious mental illness," I guess what I'm referring to is more what the DSM used to call Axis I. That's not to say that they can't be impacted by personality disorders, but it's the way – it's just a description of the way their brains are wired; the way that they interact with the

outside side world, and so it can cause them problems. It can be pervasive.' It can cause them problems in their personal life, but the DSM has always made a distinction between those, and they got rid of the axes because it was very complicated, and so they simplified it.

Does that make more sense the way I'm explaining it? I may not be doing a great job there.

THE COURT:

I get it, but my point is: You define it as – you used those terms interchangeably. So my question for you: I understand that what you are recommending – what you are suggesting to this Court is the antisocial personality disorder cannot be treated with medication?

THE WITNESS:

That is correct.

THE COURT:

[23] Got it. So treatable mental illness off the table.

You are, though, suggesting that antisocial personality disorder is not a mental illness, period. The end.

THE WITNESS:

Can I tell you why?

THE COURT:

Absolutely. I just want you to say your opinion of – I get what you're saying – it's not treatable by

medicine. Would it be helpful for him because he has a disorder to meet with you on a weekly basis for treatment?

THE WITNESS:

No.

THE COURT:

A counselor?

THE WITNESS:

No. They have tried empathy therapy in the past to teach empathy to people with antisocial personality disorder and it failed. There has been no evidence that treatment changes the course of antisocial personality disorder. Typically, it tends to wane with age.

THE COURT:

I got it. But you don't think its mental illness, and treatable mental illness you say is the same term to you?

THE WITNESS:

I don't think it is mental illness based on the ruling of *Foucha v. Louisiana* in 1992. The Court identified that antisocial personality [24] disorder was not a mental illness. I believe that they did that because I think that opens a Pandora's box that anyone with antisocial personality disorder would not be legally responsible for their actions.

THE COURT:

Yet he was found NGRI?

THE WITNESS:

He was, yes.

THE COURT:

Got it.

THE WITNESS:

He was. I believe he was suffering from sepsis-induced psychosis.

THE COURT:

Got it. No, I get it. Thank you.

Anybody want to follow-up with Dr. Dodd after the Court's questioning?

MS. AFRICK:

No. Thank you, Judge.

MS. NAQUIN:

No, Judge. Thank you.

THE COURT:

Thank you, Dr. Dodd. Brief recess.

If you-all can approach. Counsel, come on back.

(Whereupon, the Court took a brief recess.)

THE COURT:

You may continue, Counsel.

MS. AFRICK:

Judge, very briefly, I'd like to call [25] Dr. Sanders.

THE COURT:

Dr. Sanders, if you can turn your screen on.

THE WITNESS:

(Complies.)

Please raise your right hand, ma'am.

SHANNON SANDERS,

After having been first duly sworn, was examined and testified on her oath as follows:

THE CLERK:

State your name for the record, please.

THE WITNESS:

Shannon Sanders.

DIRECT EXAMINATION (on qualifications only)

BY MS. AFRICK:

Q. Dr. Sanders, where are you employed?

A. At Eastern Louisiana Mental Health System in Jackson.

Q. How are you employed there?

A. I'm a Psychologist II.

Q. Can you tell the Court your educational background?

A. Yes, ma'am.

I received my Bachelor's degree in psychology at Louisiana State University in Baton Rouge. I obtained my Master's degree in experimental psychology at University of Louisiana at Lafayette, and I obtained my Ph.D. in clinical psychology from Jackson State University in Jackson, Mississippi, and I've been employed at ELMHS since January of 2020.

MS. AFRICK:

Your Honor, at this time, the State would move that Dr. Sanders be qualified as an expert in [26] forensic psychology.

MS. NAQUIN:

We'll join in that stipulation.

THE COURT:

The Court recognizes Dr. Sanders as an expert in forensic psychology.

DIRECT EXAMINATION

BY MS. AFRICK:

Q. Dr. Sanders, are you familiar with Jamaal Edwards?

A. In familiar with his case, yes, ma'am.

Q. How are you familiar with him?

A. I was assigned to complete Mr. Edwards' risk assessment as part of the review panel that we completed in May of 2021.

MS. AFRICK:

Your Honor, at this time, the State would move to offer, file and introduce State's Exhibit 3, the risk assessment.

MS. NAQUIN:

No objection, Your Honor.

THE COURT:

S-3 is admitted.

BY MS. AFRICK:

Q. Dr. Sanders, can you tell the Court about that risk assessment?

A. Yes, ma'am.

I met with Mr. Edwards in May of 2021 and we did a lengthy interview, and with that, I was able to complete some of our standard violence risk assessments that we complete for patients that are looking at moving to a less restrictive environment. So that could be somewhere else on the campus, like [27] the east side of the campus where he has been before, like CPU or ITU. It could be to a forensic group home, on campus, off campus, or out into the community. So any of those are potential recommendations that we could make based on relevant risk factors for Mr. Edwards.

Q. And what was your recommendation in regards to Mr. Edwards?

A. Well, Mr. Edwards does have multiple risk factors that are present that will increase his likelihood of engaging in violent behavior. So while those are concerning, again, to mirror what Dr. Dodd mentioned, we have the confliction with him not having a diagnosable mental illness that's considered treatable. So we have tried him in other less restrictive environments, such as CRU or ITU, which is a less restrictive environment on campus. He has intentionally sabotaged those to where he had to be returned to ASSA. He said he prefers the comfortability of ASSA and, ideally, would have preferred to stay at ASSA until released into the community with his family.

So that really was his goal or like, you know, his ideal plan. But with his risk factors, he has the historical violence risk factor, a risk factor for other antisocial behavior that he's engaged in, historically.

His substance use is a significant risk factor as well. As Dr. Dodd mentioned, he does have a history of using marijuana regularly, as well as opioids. He has occasionally used synthetic marijuana, or, you know, synthetic marijuana, if he wasn't sure. He said it could be laced. He wasn't sure if it was synthetic, and so he did acknowledge [28] that he was under the influence at the time when he shot his fiancée, and he did acknowledge that drugs did contribute to that.

On the other hand, he says that he doesn't feel he's addicted to any drug and doesn't see any real issue if

he were to use it again. And so that's a big concern for me with his going into the community, is if he doesn't see it as an issue, even though it was directly related to his killing his fiancée, then that's a concern if he doesn't have that insight.

And, also, with his antisocial personality disorder, there's a level of narcissism that comes along with that and he doesn't feel he really needs anything, he's got it all together, and so my' concern is: If he's out in the community and he does start having some stress or issues in coping with day-to-day life reintegrating back into the community, is he going to seek out any help from anyone because is he just going to think like, "I've got it. I don't want to show any issues because then they might put me back in the hospital," so that's a concern for me, too, is his insight as well as his willingness to come forward and disclose any issues he may be having that could lead him down the path of using again, and then, we may find ourselves back in a situation, hopefully, not as extreme but potentially similar.

Q. Even without the use of alcohol or drugs, while he's been at the hospital, Mr. Edwards has continued to be violent?

A. Yes, ma'am.

[29] Q. Dr. Sanders, if Jamaal Edwards is released into the community, do you believe that he will be dangerous?

A. Based on the testing that was completed, he was found to be at a moderate risk and that it could elevate

to a higher risk if he were to be released directly into the community without any additional safeguards in place.

Q. When you say “safeguards,” what do you mean?

A. Could be him, you know, having drug tests, routine drug screens, and the ones that could test for synthetic marijuana use, contact with like a probation parole-type officer or meeting with a mental health professional to ensure that he is handling the stress of just day-to-day life and reintegrating back into the community, if he has any relationship stress, things like that, employment, money, that he has some additional person kind of checking in on him to make sure he is not faltering at all.

Q. Now, while he's at the hospital, he doesn't have those stresses, he doesn't have the stress of trying to reintegrate, he doesn't have access to drugs, and yet, he's continued to be violent?

A. He has continued to be violent. I think there's a lot of frustration that comes along – I don't think him being here is a stress-free environment. It's very stressful sharing a space with lots of mentally ill people. It can – you know, they are very impulsive and very violent as well, especially here. It's very loud. I think there's a lot of stress not being around your family, not being able to do the day-to-day things that you were so used to being able to do, but I think the instrumental violence that he has illustrated here at the hospital has a different goal. It's more like self-preserving and to get

App. 126

some additional need or goal met, which will be different than in the community.

[30] Q. You talk about your risk assessment that is moderate. Can you tell us more about that?

A. Yes, ma'am.

With the specific scales that we look at, they have a historical scale, like history of problems in certain areas and a clinical scale, which is recent problems, and then risk management, which is future problems.

And so some of these things are not going to change, because historically, he's had problems with violence. You know, issues with relationships, issues with substance use. Currently, he has issues with insight into his personality disorder and what that means as far as how he interacts and things he needs to do in response to that, and also, with insight into his substance use and how that connects with violence.

He's also had issues with treatment of supervision response, and then, all those things, when you look at putting all those issues into an environment, they have a low, a-moderate, and a high. So for him, its considered moderate, and so, with that specifically, they require some special management strategies, you know, including like increased frequency of monitoring is something that we would often request for those in the moderate category.

MS. AFRICK:

Thank you, Dr. Sanders.

I tender the witness at this time.

THE COURT:

Cross examination.

[31] MS. NAQUIN:

Quickly, Judge.

CROSS EXAMINATION

BY MS. NAQUIN:

Q. Dr. Sanders, good morning.

A. Good morning – afternoon.

Q. Marquita Naquin. I represent Mr. Edwards.

Dr. Sanders, something you said just now struck me and I just want to ask you: You said that there are stressors there at ELMHS where Mr. Edwards is located. Can you explain what you mean by that?

A. Have you been to an inpatient psych facility?

Q. Not as a patient. No, ma'am.

A. Me neither. I haven't either as a patient, but just being in the environment and seeing the way the patients – because Mr. Edwards does not have a mental illness, he's a very intellectual or a very intelligent man, there's a level of stress that comes with not being

able to do what you want. Not being able to eat when you want, not being able to watch what you want, having to essentially have – forced to live with multiple patients that are very mentally ill, are very aggressive, don't have good hygiene, engage in lots of behaviors that are not socially acceptable and so just being here when you don't feel you should be here, which a lot of patients – nobody really wants to be confined to the hospital, but there's a certain level of stress and him wanting his freedom, him working towards his freedom, not being able to spend time with his family and his son and things like that, so I think there's a level of stress that comes along with that.

It's not anything that's rising to the level of diagnosable, but it's definitely stressors that I [32] think anyone experiences when they are in the hospital.

Q. Because Mr. Edwards is not a mentally ill patient, but he is confined and having to interact on a daily basis with mentally ill – with truly mentally ill people; correct?

A. Correct. Yes, ma'am.

Q. And that in and of itself is what you are saying can cause some of his stresses, which may have caused some of his incidents – I'm not saying all of it – but some of his incidents of violence and aggression; correct?

A. I can't say that because we didn't specifically talk about the reasoning behind his aggressive acts.

Q. Okay.

A. Specifically, the – his sexual inappropriate behavior I would say is not in response to the stress of the environment.

Q. Understood.

You also said that because of his diagnosis of anti-social personality disorder he can be narcissistic; correct?

A. Yes, ma'am.

Q. That, too, cannot be treated; correct?

A. Correct.

Q. The bottom line, Dr. Sanders, is there anything else that you all can do for Mr. Edwards at Eastern Louisiana Mental Health Hospitals?

A. Honestly, no, ma'am.

Q. There's no treatment available?

A. Not that will change his antisocial personality disorder, no, ma'am.

Q. And is it fair for me to say, and is it true, and is it your understanding, while he may be violent, he is not [33] mentally ill?

A. That is correct.

MS. NAQUIN:

Thank you, ma'am.

THE COURT:

Anything further, State?

REDIRECT EXAMINATION

BY MS. AFRICK:

Q. Does Mr. Edwards pose a risk of recidivism and future violent behavior?

A. Yes, ma'am.

MS. AFRICK:

I have no further questions.

THE COURT:

Thank you, Doctor.

THE WITNESS:

Yes, sir. Thank you.

MS. AFRICK:

Judge, may I approach with the State's exhibits?

THE COURT:

You may.

Anything further?

MS. AFRICK:

Not by the State, Your Honor.

We know that Dr. Mire was waiting to be called to testify. We believe that the testimony at this time is sufficient.

MS. NAQUIN:

Your Honor, I will ask for an opportunity to speak with my client.

THE COURT:

[34] Sure. You can join the breakout room.

MS. NAQUIN:

Thank you very much.

(Whereupon, other matters were taken up.)

MR. WIMBERLY:

State of Louisiana versus Jamaal Edwards.

THE COURT:

One moment. I have to get him back in. Going back on Jamaal Edwards.

Ms. Naquin, any evidence or witnesses?

MS. NAQUIN:

Your Honor, Marquita Naquin for Jamaal Edwards. We don't have any witnesses at this time, Your Honor. We stand with the testimony of the treating doctors.

THE COURT:

As discussed during our pretrial, the Court is asking for briefs in this matter. So how long do you-all need?

MS. AFRICK:

Judge, I'd like to obtain a copy of the transcript prior to briefing.

THE COURT:

Okay.

MS. NAQUIN:

Your Honor, while I understand you want a brief in this matter, I am respectfully requesting that you rule today.

Your Honor, my client is in continued confinement where he is and I believe the Supreme Court case of Foucha, Your Honor, controlled here is very similar to Mr. Edwards' situation in that [35] the defendant in that case was similarly confined. He was not mentally ill and the U.S. Supreme Court said he cannot remain incarcerated or confined in that situation, and he was ordered released or at least released to a less restrictive environment.

I know Your Honor wants us to give more information to the Court and explain our – you know, our, I guess, take on this matter; however, that again, will be weeks from now, Judge, and Mr. Edwards remains where he is, although, the law says he should not be.

THE COURT:

Okay.

MS. AFRICK:

Judge, at some point Mr. Edwards bears some responsibility here. The hospital has attempted to transfer him multiple times to a less restrictive environment and he acts out violently. We're asking for an opportunity to brief this given what's at stake. You heard the testimony of the doctors that this is an individual who will be violent if released to the community.

THE COURT:

Again, as discussed in the back, the Court would like briefing prior to making its decision. The Court is not looking for any long lengthy turnaround. Let's see. Today is the 16th of December. The Court can be prepared to rule on the 28th of December. Again, not looking for any lengthy brief. I get it, but Ms. Naquin has requested this Court to do it quickly given the confinement of her client, and the Court will [36] accommodate.

So we're going to set this for a ruling on December the 28th.

Do you need a transcript?

Why don't you-all approach?

(Whereupon, a bench conference was held.)

THE COURT:

You need the transcript? Why?

MS. AFRICK:

Yes. – briefs in it.

THE COURT:

I guess my point is: You are going to testify that he's a danger, that they testified to that, and that the legal argument is it's distinguishable from Foucha; right?

MS. AFRICK:

Right.

THE COURT:

So why do you need a transcript? I'm just trying to protect her.

MS. AFRICK:

I get it. Because I know the appellate lawyers at my office are going to ask for a transcript.

THE COURT:

I know.

MS. NAQUIN:

But they won't know about it until December 28th; right?

MS. AFRICK:

There's just kind of a time crunch on the transcript and there is a pretty major holiday [37] coming up.

THE COURT:

No. I get that –

MS. AFRICK:

Okay.

THE COURT:

– which is why I'm trying to, but again, if the U.S. Supreme Court has already – if you can't distinguish to me – I mean, there's nothing I can do. And somebody's liberties are – I get it. I understand exactly where we are.

MS. NAQUIN:

It's just not about feelings, Judge.

THE COURT:

If I were worried about feelings, I wouldn't turn it around so quickly –

MS. NAQUIN:

Yes. It's the law – the law.

THE COURT:

– because I would just hold him as long as I could, but I tend to like to follow the law, and I will follow the law. But I do see there's a possible distinction that there was no determination on dangerousness on Foucha from what I just read briefly, so – that doesn't mean –

MS. AFRICK:

That is one of the reasons I would like a transcript, because I believe our transcript would be distinguishable from the testimony elicited in Foucha –

THE COURT:

How long do you need?

[38] THE COURT REPORTER:

It's the only thing I have, so I can knock it out pretty quickly.

THE COURT:

I mean, I'll give you-all till – I mean, I can't even do that on the 28th. Can we do it on the 3rd, 4th or 5th?

MS. AFRICK:

Judge, we could be available any of those days and we would appreciate the extra time given that Christmas is next week.

THE COURT:

I'll do the 5th.

(Conclusion of bench conference.)

THE COURT:

Given the time crunch, the Court is going to set it for January the 5th. Briefs are due no later than January the 3rd. It doesn't have to be

competing briefs. Just if you want to brief it. I'm asking you both to brief it. January the 3rd.

MS. NAQUIN:

Your Honor, note our objection and thank you. January 3rd.

THE COURT:

Your objection is noted.

See you on January 3rd, Mr. Edwards.

(END OF PROCEEDINGS.)

[39] REPORTER'S PAGE

I, BUFFIE VINDEL FLAIR, Certified Court Reporter in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(B) of the Louisiana Code of Civil Procedure, before whom this proceeding was taken, do hereby state on the Record;

That due to the interaction in the spontaneous discourse of this proceeding, dashes (—) have been used to indicate pauses, changes in thought, and/or takeovers; that same is the proper method for a Court Reporter's transcription of proceeding, and that the dashes (—) do not indicate that words or phrases have been left out of this transcript;

That any words and/or names which could not be verified through reference material have been denoted with the phrase "(spelled phonetically)."

/s/ Buffie Vindel Flair

BUFFIE VINDEL FLAIR, CCR,
RPR, CDR
Certified Court Reporter
Registered Professional Reporter
Certified Digital Reporter

[40] **REPORTER'S CERTIFICATE**

I, BUFFIE VINDEL FLAIR, CCR, RPR, Certified Court Reporter, Official Court Reporter, in and for the State of Louisiana, employed as an official court reporter for the Twenty-Fourth Judicial District Court for the State of Louisiana, as the officer before whom the above proceedings were taken, do hereby certify that the above and foregoing was reported by me, via Zoom teleconference technology, in the digital and stenographic reporting method, was prepared and transcribed by me or under my direction and supervision, and is a true and correct transcript to the best of my ability and understanding, that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board or by the Supreme Court of Louisiana, and that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

App. 139

Signed this 28th day of December, 2021.

/s/ Buffie Vindel Flair
Buffie Vindel Flair, CCR, RPR, CDR
OFFICIAL COURT REPORTER
