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Litigious Paranoids and the Legal System: The Role of the Forensic Psychiatrist

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ABSTRACT: Forensic psychiatrists should be aware of the many ways that paranoid individuals may present within the legal system. Litigious paranoids often utilize the legal system as a vehicle to act out their fantasies and delusional preoccupations. Imaginary grievances, accusations based on delusional ideation, and irrational vindictiveness toward imagined persecutors may find full expression in any number of legal contexts. They can defeat the rational and legitimate objectives of the legal system, enmesh innocent and unsuspecting victims in nightmarish legal entanglements, and subvert the process of justice. The forensic psychiatrist can assist the court by alerting it to the presence of paranoid illness in parties or witnesses and by clarifying what the effects of such psychopathology are and what the most favorable response should be. Three legal contexts wherein paranoid individuals may present within the legal system are discussed: the "hypercompetent" defendant, the paranoid party in a divorce proceeding, and the paranoid complaining witness. Case illustrations are presented for each legal context. Two issues are discussed: the dividing line between paranoid ideation (and its impact on the legal process) and so-called "normal" thinking (and its objective to use the legal process to obtain certain ends); and the degree to which psychiatric opinions in this area should influence the way an individual's case is handled by the legal system. The author concludes that, despite the costs involved, it is preferable that even paranoids have their "day in court."

KEYWORDS: jurisprudence, psychiatry, litigation, mental illness

In his classic chapter "*Paranoid Conditions and Paranoia*" [1], Cameron describes the *litigious* paranoid "who repeatedly hales opponents into court to demonstrate to all the world that he has been wronged." Such an individual, who repeatedly feels that injustices have been perpetrated upon him and who resorts to the law to defend himself, has also been described in the psychiatric literature by Mayer-Gross, Arieti, and others [2-4]. His singleminded determination and fanatical involvement in utilizing the legal system as a vehicle to act out bizarre fantasies and delusional preoccupations is characteristic of a person described by Swanson et al.:

such a person has considerable legal knowledge, a fanatic belief in his rights and such intense involvement in his cause that a grandiose and manic flavor becomes evident. Defeat is unacceptable, and rather than surrender, the paranoid person will appeal as often as the judicial system permits . . . this person never gains satisfaction from [such] vengeful efforts, since he is actually responding to a sense of guilt that is internal [5].

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Certainly the paranoid person can and does wreak havoc in any number of ways, but the legal system appears to lend itself particularly to misuse by such individuals. Perhaps this is so in part because the legal system is geared to the so-called *rational man*, whose rights and prerogatives are protected by principles that seek to guarantee an acceptable degree of fundamental fairness in the resolution of legal disputes and conflicts. Disputants are expected to act rationally and to play by the rules. The paranoid, however, is unable to operate rationally and bends the rules of the legal "game" to meet his own internal pathological needs rather than to achieve those rational objectives that the legal system is set up to reach. Such a warping process not only defeats the rational and legitimate objectives of the legal system, but often enmeshes innocent and unsuspecting victims in a protracted nightmare of litigation from which there is no escape. Such victims of the litigious paranoid often feel as if they themselves are being crushed by those wheels of justice which are said to grind exceedingly slow and exceedingly fine.

The forensic psychiatrist is sometimes called upon to consult in cases involving the litigious paranoid in a particular legal context. The following examples illustrate some of the legal contexts in which the forensic psychiatrist may have to deal with the litigious paranoid. I have attempted to emphasize what the proper response of the forensic psychiatrist should be in each of these cases. It must be kept in mind, however, that such proper responses may not always lead to a "successful" outcome.

The Hypercompetent Defendant

The forensic psychiatrist is often called upon to perform an examination to determine whether or not a defendant in a criminal case is competent to proceed to trial [6]. Occasionally, one encounters an individual who fits the clinical description of the *hypercompetent* defendant. In such individuals

the fear of the law is reduced, and the hypercompetent person looks forward to his joust with the law without anxiety . . . we may say that he does not know the reason he is being tried. The societal reason, i.e. protection of property or protection of life, may completely escape him. Overtly, the patient sees his being on trial as the paranoid projection "They are against me." He may know the content and the nature of the proceedings, but may be unable to grasp the essence of why he is being tried [7].

Case Illustration

A 50-year-old man was charged with attempted murder and assault. He refused to pay any real estate taxes on his home for a number of years and was finally evicted by the state. When police arrived at his home to evict him, he barricaded himself inside. When a Special Weapons and Tactics (SWAT) team arrived with guns drawn, and a helicopter hovering overhead, prepared to storm the house, the defendant hurled a Molotov cocktail at the invaders and was subsequently arrested. He was a retired chemist who had lived alone in the house for many years, isolated and withdrawn. Although he had never received any psychiatric treatment in the past, it was learned that he had been evaluated by a psychiatrist on one prior occasion. At that time, he had been arrested for attempting to bomb a Federal office building. He had planted the bomb to call attention to his plight because he believed that someone had implanted a surveillance device in his teeth. At that time, he also wrote letters to the President of the United States and to his senator to complain about the device.

During psychiatric examination he stated that he had a problem with his taxes, but was very vague and ambiguous when asked to explain in detail what the nature of his tax problem was and what the consequences were likely to be. He declined to discuss whether or not he

actually threw or threatened to throw a homemade bomb at the police, and he declined to discuss the earlier bombing incident at all. He stated that he believed that he had acted entirely within his rights and that “the truth will come out at the trial.” He said “I’m not afraid of the consequences because I know I will be vindicated.” Throughout the examination, he appeared to be very rigid, evasive, and guarded. He was very *legalistic* as he assured the examining psychiatrist that he would prevail at the forthcoming trial. He explained that he is being persecuted by agents of the state (for reasons he declined to go into), but that he would have the last laugh over his enemies. He was convinced that, once in court, he would expose his enemies and prove that his actions were justified.

The psychiatrist concluded that he was suffering from chronic paranoid schizophrenia. The defendant held the delusional belief that he was being persecuted by powerful enemies who would stop at nothing, that his life was in danger, and that he was justified in taking drastic steps to protect himself. His mission at this point, as he saw it, was to expose his enemies at the trial and bring his plight to the attention of the world. He had very little concept of the true nature of the issues at stake in his case. For him, the trial was a mere vehicle for the expression and display of his paranoid concerns. The psychiatrist concluded that he was presently paranoid and out of touch with the reality of his situation. The defendant insisted on taking over his defense from the attorney representing him. He wanted to assert a defense of “self-defense” or “justification,” although informed by his lawyer that such defense was not available to someone who is being lawfully evicted by the police. He refused to provide relevant information to his attorney and insisted on pursuing a defense without any basis in law, almost ensuring a conviction. He refused to consider an insanity defense. Because of his psychotic distortion of reality, he was unable to cooperate with his attorney in a meaningful or intelligent fashion in the preparation of his defense. Moreover, he assumed that his own legal expertise was superior to his attorney’s. The psychiatrist concluded that he was incompetent to proceed to trial.

At a hearing on the issue of the defendant’s competence, the psychiatrist testified as to his findings and conclusions. He emphasized that the defendant’s paranoid psychosis prevented him from proceeding rationally. He explained to the court that the defendant was a classic example of the *hypercompetent* individual, whose paranoid distortions directed his irrational involvement in the legal proceedings. Nevertheless, the judge found that the defendant was competent to proceed to trial because he possessed a “modicum of competence,” that is, he understood the charges against him and was going to present a defense (albeit one that was certain to be disallowed at the actual trial). The judge rejected the argument that the defendant had a *factual* but not a *rational* understanding of the proceedings against him.

The Paranoid Party in a Divorce Proceeding

In his book *My Life in Court*, the eminent trial lawyer Louis Nizer writes about divorce as follows:

Litigations between husbands and wives exceed in bitterness and hatred those of any other relationships. I have represented defrauded businessmen who fight their deceivers for fortune and power. I have seen them pour out their venom against their opponents until they suffered heart attacks or were ulcerated. I have witnessed struggles for the protection of copyrighted property, where the pride of authorship, being dearer than life itself, consumed the creative artist. I have seen public figures libeled or accused of wrongs which could wreck their life’s work, strike back at their detractors. . . . I have witnessed children sue their fathers to deprive them of their businesses, or brothers engaged in fratricidal contests without quarter. . . . I have participated in will contests in which relatives were at each others’ throats for the inheritance. All these litigations evoke intense feelings of animosity, revenge and retribution. Some of them may be fought ruthlessly. But none of them, even in their most aggravated form, can equal the sheer, unadulterated venom of a matrimonial contest. The participants are often ready to gouge out the eyes or the soul of the once loved, without any pity whatsoever [8].

Forensic psychiatrists know from their clinical experience that often divorce and custody cases particularly relate to the paranoid individual. Such an individual sometimes exhibits unfounded suspicions of infidelity about his or her spouse or feels that some third party is influencing the spouse. Often litigious actions by the paranoid are relentlessly directed toward the offending spouse in an unending vendetta or war of attrition. At times, the vendetta is against persons in authority, perhaps a judge or an attorney who has encountered the paranoid in a legal context and handed down or influenced a decision unfavorable to the paranoid's cause. Such a situation may arouse strong feelings on the part of the paranoid "victim," occupying his attention and energies to an exaggerated extent. He then will resort to endless litigious attacks on his new persecutor as well as his spouse.

Case Illustration

A 45-year-old attorney sued his wife for divorce and sole custody of their twin teenage daughters. He "brainwashed" the girls to lie in court and accuse their mother of having "oral sex" with several neighborhood men, which they claimed to have witnessed through an open bedroom door. He also coerced the children to lodge various farfetched charges of child abuse against their mother. An astute judge saw through these machinations and, with the assistance of a child psychiatrist who detected the telltale signs of brainwashing in the children, established that the husband was vindictively using the children as pawns in an attempt to discredit his wife and "win" at whatever cost [9]. The mother was awarded permanent custody of the children. Soon thereafter, the judge was sent an anonymous gift from Cartier's of several thousand dollars in value. Further investigation revealed that the gift had been purchased in the wife's name, paid for in cash by a mysterious third party who could not be identified, and sent to the judge supposedly in gratitude for awarding her custody of the children. Circumstantial evidence pointed to the husband as the actual purchaser of the gift, trying to implicate both his wife and the judge in attempted bribery and other improper behavior. The husband then spread the story of the "bribe" in the newspapers, tried to have the judge removed from the case for improper conduct, and to have the custody decision overturned (although the judge had actually returned the anonymous gift to Cartier's as soon as he had received it). A psychiatrist consulted by the court opined that the husband appeared to be a *paranoid personality*, displaying signs of suspiciousness, rigidity, and hostility. He was pathologically controlling and quite manipulative in all of his relationships. Despite psychiatric intervention both at the custody trial and thereafter, the matter is still far from being resolved. Numerous motions and applications to appellate courts for relief by the husband have kept the case alive and placed the original custody decision in jeopardy pending the outcome of the appeals process. Criminal investigation by the district attorney's office into the matter of the gift from Cartier's is still pending as well, casting a shadow over the original proceedings. The endless delays, diversions, and distractions manufactured by the husband during the course of the proceedings have prevented a just and final resolution of the custody and financial issues in the case, which continues to drag on after three years.

The Paranoid Complaining Witness

In an earlier article, I outlined the rationale for requiring a psychiatric examination of the complaining witness in a criminal trial, to assess the credibility of that witness [10]. A psychiatric examination of the complaining witness may be necessary to allow for informed deliberation by the factfinder in cases where a strong showing of mental illness exists. In many instances, a court will not allow a direct clinical examination of the witness, in order to protect his right to privacy, but will allow a psychiatrist to review any preexisting psychiatric

records of the witness and to testify as to the probable effect of his psychiatric illness on his credibility. If there is strong evidence that the accusations made by the complaining witness are the product of a mental disorder rather than reality based, psychiatric testimony to such effect can provide the factfinder with a scientific perspective according to which it can then evaluate the complainant's testimony more intelligently. Accusations arising out of paranoid distortions of reality are not infrequent in our criminal justice system.

Case Illustration

A 59-year-old immigrant and her son persistently accused their neighbors of conspiring against them. They charged that their neighbors, among other things, threatened and intimidated them, made noises to harass them, planted electronic gadgets in their walls to keep them under surveillance, and actually assaulted them. These complaints came to the attention of the police, the courts, the two senators from their state, and other officials. The police investigation concluded that the facts did not substantiate the allegations at all and that the complainants needed psychiatric help. Finally, despite the above, charges were pressed against a neighbor and his wife, accusing them of assault and attempting to set a fire outside the complainants' apartment. The defendants engaged a psychiatrist to review preexisting psychiatric records, diaries, and letters of the mother. He concluded that there was no doubt that the mother was a paranoid individual who was preoccupied with the conspiracy which she believed was surrounding her. She was then translating her paranoid feelings into action at the legal level, seeking retribution against her "enemies" for the wrongs inflicted on her by them. In his report to the court, the psychiatrist wrote

The paranoid individual who feels repeated injuries have been perpetrated against him, who persistently resorts to the legal system for vindication, who displays a fanatic overinvolvement with and belief in his cause, who portrays himself as the helpless victim of a united conspiracy against him, who imputes vicious and devious motives to others and who is highly emotional and intensely committed to these problems he describes is the prototype of the *litigious* paranoid. Such an individual is an injustice collector, making persistent accusations based on little or no evidence (or evidence to the contrary), all of which points to an emotional basis rather than a rational one for the complaint. . . . In summary it appears that the charges against the defendants are part of a chronic pattern of paranoid illness in the complainant and her son in which they both share delusions of persecution and other irrational symptoms (which focus on the defendants and others as the imaginary enemies who have conspired to harm them). It is well known that paranoid individuals may go to any lengths to defeat their enemies. It is conceivable if not probable that the injuries that form the basis of the assault charges here were self-inflicted and that the fire was started by the complainants as well to add credibility to their complaints and to ensure that their enemies will be punished for their imaginary crimes. There is no objective evidence whatsoever against the defendants in this case.

The psychiatrist went on to support his conclusions by detailing all of the evidence for the complainants' preexisting paranoid illness, the evidence pointing to the paranoid nature of their present accusations, the distorted and unrealistic nature of those accusations, the far-fetched if not fantastic nature of the alleged crimes against them, the absence of any conceivable motivations on the part of the defendants, and the complete lack of any objective evidence against the defendants after a police investigation had been carried out.

Despite this information being placed at the disposal of the court, the judge declined to admit the psychiatric evidence, stating that such "long-distance" psychiatric evaluations were of no value. The judge also declined to permit a direct clinical evaluation of the complainants on the grounds that such examination would constitute an impermissible invasion of privacy. As a result, the defendants were convicted of assault. It later became known that they (the defendants) were both illegal aliens and, after a prolonged period of detention, they were both deported. One year later, the mother and son complainants brought similar

charges against another of their neighbors and also instituted a civil action against the superintendent of the building for harassing them. These latter cases are still pending.

Discussion

Because of his familiarity with paranoid symptomatology and the nature of paranoid thought processes, it would appear that the psychiatrist is uniquely qualified to assist the courts in identifying and dealing with paranoid individuals who attempt to act out their illness within the legal system. It would appear that psychiatrists can alert judges and attorneys to the presence of persecutory, vindictive, or grandiose manifestations which might indicate that an individual acting within the legal system has a paranoid illness. Some have even suggested that a law school curriculum might offer some basic course material in psychiatry to assist young attorneys in their later dealings with such individuals. It has further been suggested that certain factors in the law itself may actually be inherently antiparanoic:

The adversary system is actually antiparanoic insofar as it encourages the presentation and thorough discussion of an issue. This discourages vague accusations, since they must be backed by evidence and not merely suspicions. In this respect the paranoid . . . is obstructed, for although he may be convinced by his suspicions in private, this is not enough in court. In fact, handled properly the court can be a significant reality factor to the paranoid client or lawyer. Thus, while many factors in the enforcement and administration of the law seem to encourage those with paranoid feelings, the philosophy and practice of law also have some checks on this type of behavior [5].

Yet, despite these sanguine views, paranoids continue to inundate the legal system with all manner of litigation that congests already overcrowded court calendars, ensnares and penalizes the unwary, and undermines the foundations of a system of justice that operates by a different set of rules than does the paranoid. As the case illustrations demonstrate, psychiatric expertise is often insufficient to deal with the onslaught of litigious paranoids acting out within the legal system.

Psychiatrists are assigned a quite limited role, and courts seem reluctant to defer to psychiatric opinion in this area, preferring to allow dispute resolution to proceed through regular legal channels. There are undeniably sound reasons for this stance: while psychiatrists can identify and diagnose paranoid illness and attempt to clarify the impact of an individual's psychopathology on his use of the legal system, it is not so clear that they can reliably determine (except perhaps in the most extreme cases) if his grievances are imaginary or actual or if his accusations are grounded in fact or in delusional ideation. The dividing line between paranoid ideation (and its role in the legal process) and so-called "normal" thinking (and its objective to use the legal process to obtain certain ends) is not always a bright line. The danger exists that use of a psychiatric label (such as "paranoid") might deprive such an individual of legitimate rights and prerogatives. We know that, indeed, paranoids may have real enemies. Like their "normal" counterparts, they may also be the victims of crime and injustice and therefore should also be entitled to seek appropriate redress in our courts. Therefore, the mere existence of a paranoid illness *without more*² should not bar an individual from bringing a claim, leveling an accusation, or proceeding with his legal case. Perhaps, at the court's discretion, evidence of an individual's paranoid condition should be admissible evidence, but only to weigh in evaluating his credibility (if such evidence is not unduly prejudicial). Balancing the equities on both sides, perhaps it is better that under our system, paranoid or not, every individual has a right to his "day in court."

²For example, a bizarre, irrational, or physically impossible claim that is obviously the product of a delusion would satisfy the requirement of "something more."

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