

1 THE CRIER: Case Number 14.

2

3 THE COURT: Mr. Rosen, are you ready
4 to proceed on your Motion?

5 MR. ROSEN: Preliminarily, to
6 preserve the record, this is another case where
7 there is an alleged use of a gun that is neither
8 fired or recovered and in all these cases of my
9 decertification motion, Commonwealth has not proved
10 that a deadly weapon was recovered in this instance.

11 THE COURT: The Court lacks
12 jurisdiction. We discussed this in an earlier case
13 and I am going to deny your motion.

14 MR. ROSEN; I want to preserve that
15 in all of the cases.

16 THE COURT: You have to make the
17 statement in order to preserve it. I will deny it.
18 We had a full discussion on this matter in the last
19 case.

20 MR. ROSEN: Thank you.

21 THE COURT: Go ahead.

22 MR. ROSEN: Your Honor, first on
23 behalf of , there has been a
24 stipulation between counsel that the social worker's
25 report, Georgette Mills (Phonetic), which the

1 Commonwealth has seen, I would like to mark D-1 as
2 agreed. The report can be submitted rather than
3 have her testify.

4 THE COURT: Is she here?

5 MR. ROSEN: She was here. She just
6 left.

7 THE COURT: Go ahead.

8 MR. ROSEN: Your Honor, does the
9 Court have a copy of Dr. Russell's report?

10 THE COURT: No, I don't. I am not
11 sure whether my law clerk didn't give it to me or I
12 didn't get it.

13 (I have a copy, D-2.)

14 MR. ROSEN: The only witness I would
15 be presenting live would be Dr. Russell.

16 THE CRIER: State your name and spel.
17 your last name for the record.

18 WILLIAM F. R-U-S-S-E-L-L, sworn.

19 MR. ROSEN: I would like the record
20 to reflect that my client's mother, Ms.

21 is present in the Courtroom.

22 May I proceed, Your Honor.

23 THE COURT: Go ahead.

24 MR. ROSEN: There is a stipulation t
25 Dr. Russell's qualifications between Commonwealth.

1 MS. McDERMOTT: Yes, there is.

2 DIRECT EXAMINATION

3 BY MR. ROSEN:

4 Q. Dr. Russell, in response to my office's
5 request, did you evaluate ?

6 A. I saw Mr. on two occasions in
7 November.

8 Q. When was that?

9 A. November 14th and November 29th, 1996.

10 November 14th was at the House of Corrections and I
11 interviewed him for several hours downstairs at the
12 sub-basement here.

13 Q. What kind of tests did you give him?

14 A. An achievement test and several measures of
15 personality and an inkblot test using several figure
16 drawings that he made and a Bender Gestalt test for
17 neurologic impairment.

18 Q. Did you form an opinion as to whether he is
19 amenable to treatment and rehabilitation in the
20 Juvenile system?

21 A. Yes, I think that Mr. needs would
22 be best suited by having him treated within the
23 Juvenile system.

24 Q. What is the basis for your opinion?

25 A. Several bases. The first basis is looking at

1 moving from residential placement to residential
2 placement and with all those different places you
3 tend to have some delays in academic functioning.

4 The personality testing we did with
5 Mr. pretty much bore out the opinion we
6 formed during the clinical interview that you had a
7 young man who had significant difficulty with
8 attachment, who presented with little ability to
9 enjoy life, who just moved day-to-day.

10 That's basically the summary of my
11 evaluation.

12 Q. Would you advise that an individual who has
13 experienced problems that you have just described to
14 us needs to have mental health therapy?

15 A. That's probably the most striking aspect of
16 his history. There is no formal mental health
17 intervention for this young man. The records I read
18 indicate that the Department is quite aware of the
19 issues that were involved, starting with the
20 separation from his mother in 1986.

21 There was no attempt to involve any
22 type of intensive therapeutic treatment, that was
23 just not provided. Obviously to some extent, it
24 would take an expert in the mental health field to
25 understand, if you take a seven year old and

1 juvenile who has been in seven different homes and
2 facilities from 1986 through now to think it wasn't
3 going to effect him.

4 However, he didn't show any overt
5 tendencies. He tended to be more of the child who
6 kept everything within.

7 There were some depressive attitudes
8 noted. He tended to have more of I don't care
9 attitude, tired of taking all this, nothing good to
10 look forward to in life.

11 We don't have the history of juvenile
12 behavior, more erratic behavior, increase in
13 physical, more aggressive behavior. He has done
14 nothing really other than he ran away from a couple
15 of the homes he had been placed in, moved into an
16 aunt's house looking for a family. He ran away from
17 a home, St. Francis. He didn't run away. He went
18 out and got in trouble and ran to his aunt's home
19 because he was looking for family. All of a sudden,
20 you see him back home. Mom comes back in as much as
21 Mom might have wanted to come back into his life,
22 there is a large chunk of problems that she was not
23 capable of attaching to him, a large chunk of seven,
24 eight, years worth of attachment issues which were
25 never addressed in any way, shape or form, capable

