

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

Judge Michael K. Browne
Case Type: Criminal

v.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
REGARDING DEFENDANT'S
COMPETENCY TO PROCEED**

Peter Jahan Lehmeyer,
Defendant.

Case File Numbers:
27-CR-23-21403, 27-CR-24-385

APPEARANCES

The above-entitled matter came before the Honorable Michael K. Browne, Judge of District Court, on April 11, 2024, for an evidentiary hearing upon the Defense's objection to the incompetency opinion rendered by Elizabeth J. Barbo, Ph.D., L.P., in her report dated February 1, 2024. The Court is chambered at the Hennepin County Government Center, 300 South Sixth Street, Minneapolis, Minnesota.

Steven M. Tallen, Esq., appeared for the State. Julia M. Inz, Assistant Hennepin County Public Defender, appeared on behalf of the Defendant. Mr. Lehmeyer (the Defendant) appeared out of custody.

EVIDENCE IN THE PROCEEDING

The Court received two exhibits into evidence: Dr. Elizabeth J. Barbo's Report dated February 1, 2024 (Ex. 1)¹; and Dr. Elizabeth J. Barbo's Curriculum Vitae (Ex. 2). Mr. Lehmeyer and Dr. Elizabeth J. Barbo testified. After hearing arguments of counsel, the Court took the matter of Defendant's competency under advisement.

PROCEDURAL HISTORY

The Defendant, Mr. Lehmeyer, is charged with one count of driving after cancellation – inimical to public safety (Gross Misdemeanor) arising from an incident alleged to have occurred on October 6, 2023 (27-CR-23-21403). Mr. Lehmeyer is also charged with one count of driving after cancellation – inimical to public safety (Gross Misdemeanor) arising from an incident alleged to have occurred on December 29, 2023 (27-CR-24-385).

On October 9, 2023, Mr. Lehmeyer made his first appearance in Court, where the Court determined that he qualified for the services of a public defender. Also on October 9, 2023, the Honorable Edward Wahl, Judge of District Court, ordered Defendant to undergo an Evaluation for Competency to Proceed (Rule 20.01). Judge Wahl found probable cause and ordered a Rule 20.01 evaluation to determine if Mr. Lehmeyer was competent to proceed.

¹ Attorney Inz objected to the admission of Exhibit 1 on behalf of Mr. Lehmeyer. However, the Court overruled this objection and Exhibit 1 was received into evidence.

Elizabeth J. Barbo, Ph.D., L.P., was assigned to complete the evaluation of the Defendant. She filed her report on February 1, 2024. Dr. Barbo opined that Mr. Lehmeyer was incompetent, as she concluded that his “refusal to participate in the examination is likely due to his untreated mental illness.” Ex. 1, p. 8. Dr. Barbo provided the diagnoses of unspecified schizophrenia spectrum and other psychotic disorder rule out: substance induced psychotic disorder vs. delusional disorder; stimulant use disorder (methamphetamine), severe; alcohol use disorder, severe; cannabis use disorder, severity unknown; opioid use disorder, severity unknown; and borderline personality disorder. *Id.* Additionally, she concluded that “[Mr. Lehmeyer] may be an appropriate candidate for civil commitment if he is determined to be incompetent to proceed.” *Id.* at 9.

The hearing on competency was held on April 11, 2024, at which time the Defense argued that the Court should find Mr. Lehmeyer competent to proceed with the criminal trial. Based upon the arguments presented and all the files and records herein, the Court orders as follows:

FINDINGS OF FACT

The Court’s findings are based on the information and opinions provided by Elizabeth J. Barbo, Ph.D., L.P. in her Rule 20 Evaluation Report dated February 1, 2024 (Ex. 1), and on the testimony of Mr. Lehmeyer and Dr. Elizabeth J. Barbo.

It is the position of the Defense that Mr. Lehmeyer has the requisite capacity to proceed in his criminal matters. Mr. Lehmeyer's testimony did indicate some understanding of court proceedings. For instance, he testified to his understanding of the following: penalties; having a jury trial or a bench trial; that the prosecutor could present evidence (which he noted generally occurs during the Omnibus hearing); and plea negotiations. However, throughout his testimony, Mr. Lehmeyer required several prompts from the Court to answer the questions posed by his attorney without changing topic. It appeared difficult for him to follow these instructions and he often required redirection. Mr. Lehmeyer frequently rambled (after answering the question) about information unrelated to the question itself. For instance, in one response he began referencing a publication of the Supreme Court. After Mr. Lehmeyer's testimony concluded, he also raised his hand to speak again during other parts of the proceeding.

The Court next received testimony from Dr. Barbo. Dr. Barbo credibly opines that Mr. Lehmeyer refused to participate in his evaluation due to mental illness and that Mr. Lehmeyer was incompetent to proceed. She credibly testified that her opinion had not changed. Dr. Barbo indicates that she has evaluated Mr. Lehmeyer as part of the Rule 20.01 process at least eight times, the first of which occurred in June 2018. Ex. 1, pp. 5–6, 8. Dr. Barbo conducted the most recent evaluation of Mr. Lehmeyer on February 1, 2024, which is the subject of these proceedings. *Id.* at 1.

Dr. Barbo credibly testified that Mr. Lehmeyer presented as very intense and neutral in affect during their initial discussion, but that he then became more agitated and irritable. Significantly, Mr. Lehmeyer “would not discuss his use of alcohol or substances, any mental health treatment, or any additional personal information,” which Dr. Barbo notes is consistent with previous interviews. *Id.* 3. Despite Mr. Lehmeyer’s refusal to discuss his substance use or mental health treatment, Dr. Barbo’s report details a lengthy history of both substance use and mental health concerns beginning in April 1996, including several attempts at treatment programs, hospital presentations, and a stayed civil commitment. *Id.* at 3–5. Additionally, Dr. Barbo credibly testified that Mr. Lehmeyer left at least five voicemails with Psychological Services that were more than five minutes in length. *See also id.* at 7. In these voicemails, Mr. Lehmeyer spoke quickly about irrelevant information, before “signing off.” *Id.* Dr. Barbo also discussed these voicemails in her report, noting that there were seven voicemails in total all received between the hours of midnight and 3:00 a.m. on October 31, 2023. *Id.* “In these voicemails, [Mr. Lehmeyer] talked about court rules and statutes that are unrelated to his case and do not appear to exist and then provided his contact information.” *Id.*

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Dr. Barbo offered the following diagnoses of Mr. Lehmeyer: unspecified schizophrenia spectrum and other psychotic disorder rule out: substance induced psychotic disorder vs. delusional disorder; stimulant use disorder (methamphetamine), severe; alcohol use disorder, severe; cannabis use disorder, severity unknown; opioid use disorder, severity unknown; and borderline personality disorder. *Id.* at 8. She concluded that “[b]ased on the available data it [is] my opinion that Mr. Lehmeyer’s refusal to participate in the examination is likely due to his untreated mental illness.” *Id.* Dr. Barbo believes that Mr. Lehmeyer is experiencing symptoms of mental illness. *Id.* Specifically, Dr. Barbo reports that it is her belief that Mr. Lehmeyer’s refusal to participate in the evaluation is “related to his irrational thought processes and his delusional belief systems.” *Id.* She further reports that it could not be confirmed whether Mr. Lehmeyer was using substances, but notes that “[Mr. Lehmeyer] has had similar symptoms even when he had been free from substance use for an extended period of time.” *Id.* Ultimately, Dr. Barbo states that “[w]ithout formal intervention to assist with medication management and sobriety it is unlikely [Mr. Lehmeyer] will be restored in the future.” *Id.* She opines that Mr. Lehmeyer “may be an appropriate candidate for civil commitment if he is determined to be incompetent to proceed.” *Id.* at 9.

In summary, the Court finds the opinion and report of Dr. Barbo to be most persuasive regarding Mr. Lehmeier's competency to proceed. The Court's observations of Mr. Lehmeier, including his testimony, mirrored Dr. Barbo's observations of Mr. Lehmeier in the time leading up to and during her evaluation, namely discussing irrelevant information. The Court is concerned that although Mr. Lehmeier was able to exhibit some understanding of court proceedings in his testimony, this understanding may be superficial as he then turned to irrelevant information, such as that listed in his voicemails. Mr. Lehmeier also continued to appear symptomatic, including displaying pressured speech. Given these behaviors, the Court finds that Mr. Lehmeier lacks the ability to rationally consult with counsel, understand the proceedings, and participate in his defense. Therefore, the Court finds that the Defendant has not met his burden of proof.

CONCLUSIONS OF LAW

“A defendant has a due process right not to be tried or convicted of a criminal charge if he or she is legally incompetent.” *Bonga v. State*, 797 N.W.2d 712, 718 (Minn. 2011). Rule 20.01 of the Minnesota Rules of Criminal Procedure requires the district court to find a defendant not competent unless the greater weight of the evidence shows that the defendant is competent to proceed. MINN. R. CRIM. P. Rule 20.01, subd. 5 (c). A defendant is not competent if, due to mental illness or cognitive impairment he is unable to “(a) rationally consult with counsel or (b) understand the proceedings or participate in the defense.” *Id.*, subd. 2.

The determination of whether a defendant is able to rationally consult with the defense attorney or understand and participate in the proceedings turns on the facts of each particular case. Moreover, factfinders, including district courts, are not required to accept an expert's testimony or recommendations. In a criminal case involving a mental-illness defense, the Minnesota Supreme Court noted that "the factfinder is not bound by expert psychiatric testimony and may reject it entirely, even when the only experts who testify support the defendant's assertion of a mental-illness defense." *State v. Roberts*, 876 N.W.2d 863, 868 (Minn. 2016).

Foremost, throughout the criminal proceedings the trial court must be mindful of its protective duty to ensure that a defendant is competent to proceed. *See State v. Bauer*, 245 N.W.2d 848, 852 (Minn. 1976) (ruling that the district court should have conducted further inquiry into the important matter of defendant's competency). The defendant bears the burden of proof in a contested competency proceeding under MINN. R. CRIM. P. 20.01 when the defendant asserts their own competence. *See State v. Thompson*, 988 N.W.2d 149, 158 (Minn. 2023).

The evidence presented shows that Dr. Barbo has diagnosed Mr. Lehmeyer with unspecified schizophrenia spectrum and other psychotic disorders, along with several other mental illnesses. Based on the totality of the information before the Court, the Court finds that the greater weight of the evidence demonstrates that because of the mental illnesses diagnosed by Dr. Barbo, Mr. Lehmeyer presently does not have the ability to rationally consult with counsel, understand the proceedings, and participate in his defense. The Court found both Dr. Barbo's written reports, in combination with her testimony, to be highly credible and persuasive. As a result, under *Anderson*, the Defense has not met its burden of proving, by a greater weight of the evidence, that Mr. Lehmeyer is competent.

ORDER

Therefore, the Court finds that the Defendant, Mr. Lehmeier, is **INCOMPETENT** to proceed with trial.

IT IS SO ORDERED.

BY THE COURT

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