

Commonwealth of Pennsylvania v. Miriam White
Ruling of Judge Legrome Davis
November 2, 2000

The lawyers have not agreed in this case. The hybrid solution--which would give Miriam treatment in the juvenile system as a youth and supervision in the adult system after adulthood--will not happen. This solution would have satisfied both dimensions of justice: rehabilitation for Miriam and protection for the community. As we have discussed earlier, the statutory structure in the Pennsylvania does not give this court the ability to achieve this result on its own.

I cannot tell you why the lawyers were unable to agree. I can only tell you that last week an offer that would have kept Miriam in treatment until the age of 21 and out of jail as long as she worked at improving herself and did not commit any new crimes was rejected. I believe they rejected treatment with probation because they characterized it as a setup for failure.

Those of you who were in court last Friday heard this offer expressed and witnessed its rejection. If this offer had been accepted last Friday, Miriam would be in the Brown School today. For reasons I cannot explain to you, the treatment which is so obviously in Miriam's best interests was turned down.

Last week's offer is no longer on the table and there will be no agreement to the new, much less treatment-oriented, offer from the Commonwealth.

And I will decide this case, without being able to provide the full measure of justice which was available to counsel. My options are only two: to send her to the Brown School, where supervision will end at the age of 21 whether Miriam's issues, and the danger she presents to others, have been resolved or send her to the adult system where, if convicted, she will not receive the high caliber of treatment offered at the Brown School.

A fair application of the law to the facts of this case requires the denial of the defendant's decertification petition. First, the defense has the burden of proving that decertification is in the public interest. If the defense fails to meet the burden, the petition fails.

In deciding whether the defense has met this burden, the court must consider many factors, including the impact of the crime on the victim and the victim's family, the impact of the crime on the community, and whether the defendant is amenable to treatment.

Initially, the impact upon the victim is great. Rose Marie Knight is no longer with us. A complete stranger took her life on her wedding anniversary. She does not even know why she died. Her husband, Jerome Knight, carries on with quiet dignity although his world will never be the same. Incredibly, he is willing to forgive. He wants Miriam to get treatment provided the law can guarantee

that "she will never do it again." He has uncommon compassion and understanding. Yet, in his pain, he tells us something important: we must know that Miriam will never commit a senseless and violent act like this again.

The impact of this crime on the community is complex. A vibrant life was senselessly taken in a random attack by a total stranger. All people in the community must be free to walk the streets without fearing assaults of this nature, no matter what the cause of the behavior. Homicidal rage, even in an 11-year-old, affects us all.

On the other hand, Miriam White has been seriously mentally and emotionally damaged by her life experiences. As a community, we have a responsibility to improve those among us who are not what they should be. It would be right to give Miriam White the opportunity to improve herself.

As I said earlier, last week's plea offer provided the opportunity for treatment. As long as Miriam worked at treatment and did not commit any new crimes, she would have stayed out of jail. It was rejected apparently because it did not contain enough guarantees for the defense. Well, probation is never a guarantee. It is an opportunity to prove yourself and improve yourself. If you do well, you remain in the community. If your behavior falls short of expectations, the law evaluates that behavior and tries to reach a just result. This is the way the law has always worked. Ask anyone who has ever been on probation. Yet, for some reason, the standard application of the law was not acceptable in this case.

This court expended great effort in trying to secure treatment for Miriam. I did this, in part, out of recognition of the importance of the community that Miriam receive treatment. I made special efforts because my sense of social responsibility dictates that we try to help Miriam. Unfortunately no one can force a party to accept an offer, although it comprehensively addresses their treatment needs while providing adequate protection to the community. It is the lawyers who rejected the offer who must explain their reasons and why this rejection was in Miriam's best interests. But, when such an offer is rejected, my desire to help Miriam cannot be replaced with exoneration of her behavior in disregard of the clear dictates of the law.

I have done all that my view of the law allows me to do to help Miriam gain treatment. The law does not allow me to excuse this behavior just because she is ill. Her illness does not rise to the level of a legal defense.

The question of amenability decides this case. Amenability means: will Miriam be cured by the age of 21? Are reasonably certain she will never again harm anyone? We do not send someone back to juvenile court on a murder because we **hope** they will get better. We send them back because we **know** they will get better. That is why Lakesha Graham, another 13-year-old African American female charged with homicide, was returned to juvenile court in this very courtroom just last week.

In this case, both sides presented experts on amenability. All of the experts tell me Miriam's serious issues will continue into adulthood.

Dr. Benedek, the former president of the American Psychiatric Association, and a special consultant to the Secret Service (which is charged with protecting the President) testified in this matter. She expressed the strong and credible opinion that Miriam will present issues of potential dangerousness for a long time. I was told by Dr. Benedek, one of the foremost experts in the country on violence committed by children, that Miriam could harm again. She said to me: "I think it's highly likely that there will be another tragedy . . . I am concerned about this and I think that is a very likely possibility."

Dr. Benedek also told us she has "grave concerns about her amenability to rehabilitation in the juvenile system." She doubts that Miriam can be fully repaired by the age of 21. At whatever point Miriam is returned to the community, the doctor advised, it is imperative that she receive strong structure and strict supervision.

On the witness stand, the doctor identified the large number of risk factors Miriam presents. She then discussed her examination of Miriam. The doctor told me "within ten minutes of the [beginning of the] evaluation she talked about her fantasies of killing and hurting people, fantasies that she continues to have while incarcerated, and those people ranged from COs to her family, the family that she's living with, her adoptive mother, her siblings, aunts, uncles and cousins and they're right on the surface and she told us about them."

I find Dr. Benedek to be knowledgeable and credible. She is one of the premier experts in the country and has examined and consulted on more than 100 youths charged with murder. She has provided advice which helps protect our President. Her manner was non-aggressive and compassionate toward Miriam. I believe the doctor when she tells me "Miriam is a special case" who presents unique issues of dangerousness and rehabilitation. I have handled more than a thousand decertification cases in the last five years. I have not seen a case presenting all of the issues present in Miriam.

Dr. Heilbrun, the defense's principal expert, convinces me that Miriam's supervision cannot end at the age of 21. Dr. Heilbrun has been in front of me on many occasions. He is a credible and truthful professional. He writes "Miriam's amenability to interventions in risk-relevant areas appears to be mixed, judging from her history. Historically, Miriam's progress while in a structured residential treatment facility has been good. However, Miriam's behavior has deteriorated when placed back into the community."

He calls her a "moderate to high risk for future offending." He says that we should be concerned about her "destructive and self-injurious behavior when released from residential placement." He says that her performance in the community in the past has been "relatively poor" and concludes by

stating that Miriam will need long-term and "intensive aftercare services when she is released."

In a nutshell, the doctor tells me that unless Miriam is supported upon return to the community, we can expect her to lose the gains made in treatment. If she loses those gains, she will be a danger to herself and she will be a danger to others. Remember that Miriam had been released from a residential psychiatric placement for less than three weeks when she stabbed Mrs. Knight. Remember that she was not receiving any community-based services when this crime occurred.

In no way does this defense testimony establish amenability. Rather it tells of her high risks and the dangers she presents if she is not supported and maintained in the community in a particular way. The doctor calls her amenability to treatment "mixed." That means, it is an open question in the doctor's mind. There is no certainty that they can cure her. The defense's own expert cannot satisfy the burden of proof here.

Let me say one other thing about these examinations. All of the doctors found that Miriam functioned at a higher cognitive level than her test scores showed. Dr. Heilbrun wrote: "Miriam's receptive communicative abilities surpass expressive skills, due to speech difficulties." This means she understands more than she says. Dr. Heilbrun also said she is "correctly oriented as to time, place and person." All of the doctors who have examined her in the last year have found that Miriam knows where she is and why she is there. Dr. Benedek testified that "Miriam functions at a low level academically, but a higher level intellectually."

In the conversations I have had with Miriam throughout this case, I find that while she has clear and significant limitations, she functions higher than has been written in the media. She has cognitive skills. She is capable of judgment. She is capable of planning. She knows right from wrong. She has an awareness of much that is around her. Much of her behavior is geared toward gaining attention. As she told Dr. Heilbrun, "I just act up if I don't get my way, if I don't get a lot of attention."

Here is the biggest difficulty with this case: in Miriam's short history, she presents much evidence of dangerousness, much of which occurs when she does not get her way. It was my hope that the Brown School would have the opportunity to try to address it, with the strong safety net of structured supervision in the community. This was a risk worth taking.

But I cannot send Miriam back to juvenile court absent some guarantee that she will receive supervision and assistance after the age of 21. If Miriam went to the Brown School, I expect that Miriam would improve by the age of 21, but I do not know that her issues would be permanently resolved. If they are not resolved, Miriam's past tells us she will present great risk to the public if she is released unsupervised into the community. We all know a person's past behavior is the best indicator of their future behavior. Given Miriam's past, I cannot let her return to the community without proper intensive supervision.

In August 1999, Miriam stuck a knife six inches into the heart of a total stranger. Her anger arose because someone said something to her about letting the cat out of the house. Minutes after the incident, she told the arresting officer "I wanted to kill the lady. That's why I stabbed her in the heart." Hours after the stabbing, homicide detectives asked her questions. She demonstrated a clear knowledge of right and wrong. She told the detectives that it is wrong to kill someone with a knife or a gun. She told the detectives that her purpose in stabbing Ms. Knight was to get to "go back to Wood Services, I didn't want to be with my family."

Months later, Miriam told the psychiatrist that she committed this offense because of her belief that "if I hurt someone, I don't have to go home." She told the doctor she got a knife and put it under her coat. In Miriam's words, "I didn't want nobody to see me with the knife . . . [I] thought they would call 911." All the while, Miriam told the psychiatrist, she was " . . . still thinking [she was] going to hurt someone."

Miriam also told the psychiatrist that she wanted to "hurt a grownup, not a teenager or a kid or a baby." She recounted that she saw kids, but walked past them before she came upon Mrs. Knight. When she saw Mrs. Knight by the church, she pulled the knife from under her clothing and stabbed her. Miriam said to the psychiatrist, "I . . . stabbed that lady. I didn't think she had any kids. Right then, I didn't care. I was just mad." Why was it important to stab a woman without children: as Miriam told the psychiatrist, "kids need their mothers."

Planning, analysis and judgment are evident in this process. Miriam clearly thought about what she was going to do: she intended to stab an adult, not a child. She intended to stab an adult without children. She knew the wrongfulness of her acts. She told the detective it is wrong to stab people. She said it is wrong to kill. When she got the knife, she hid it in her clothing so no one would call 911. In her convoluted way, Miriam weighed the violence and decided to do injury to a particular type of person--an adult without children. She walked passed children until she saw Mrs. Knight.

All of this was done so that Miriam could obtain her goal of moving to another residence. This entire case is about what Miriam will do in order to get her way.

Dr. Benedek is right: this behavior is unprecedented for an 11-year-old girl. There is too much conscious calculation, twisted though it is. The distorted reasoning is all too evident. I am frightened by these thought processes. I cannot blink at the clear reality of the casual and purposeful violence of Miriam's mind.

The next act of violence which frightens me occurred in October 1999. While in the Philadelphia jails, Miriam tried to stick a pencil in a tutor's head. A prison guard grabbed her hand, as it was in motion, preventing serious injury to Ms. Williamson, whom Miriam told me she cared for. Miriam told me she tried to stab the tutor because she wanted Miriam to work on her lessons, and said she would leave if Miriam didn't.

The ease with which Miriam will cause injury to friends and strangers in order to gain her way frightens me.

While in jail, Miriam has been charged with five assaultive incidents, some of which happened after Miriam assured me privately that she would behave. I will not chronicle her multiple threats to hurt and kill others.

I must, however, say one additional thing about Miriam's experiences in jail. I need to speak of my concern about Miriam's writings of September 2000, which were subject of a court hearing. These writings **convince** me that I must deny this decertification, that I would act irresponsibly if I did otherwise.

They make me wonder about the true costs of releasing Miriam without sufficient control and supervision. They convince me that I am not prepared to pay the price of being wrong.

In September, Miriam wrote: "I want to steal guns from the gun store."

"I want to be a serial killer."

"I want to kill my sister and brother."

"I don't feel sorry for Ms. Knight."

"I am glad she died."

"I hope she is in hell."

"I want to kill my family."

I know Miriam is tortured by many demons. I really want to be of help to her. But I cannot let Miriam loose in the community, today, tomorrow, or when she is 21 without sufficient knowledge that she will either be cured or be maintained in such a way that she will present minimal risk to the public. I am not prepared to pay the price of being wrong. I have to take Miriam's threats seriously in light of her past violent acts. Without the safeguards of the failed agreement, I have no assurance that when Miriam next experiences rage, her anger will pass without injury to another.

It is truly regrettable that the lawyers could not reach an agreement. Miriam needs the Brown School until she is 21 and careful supervision for a long time thereafter. Last week's sentence would have provided adequate protection to the community. It would have helped Miriam. That was the only way to give Miriam all that she needs. The defense should have taken that offer.

This case turns on every experts' concern--whether defense or Commonwealth--about whether Miriam will be able to maintain treatment gains when she returns to the community. It turns on our clear knowledge that she will always need supervision to be productive. It turns on my deep worries about her desire to harm others-- her mother and her family, for example. It turns on the violence and injury Miriam has caused in the past. It turns on her statement that "I am glad that Ms. Knight died."

There is no joy in death and anyone who thinks so does not understand the value of life.

Miriam White is not a symbol of disparate treatment by race or class. She is sad, damaged and disturbed child who needed our help before she hurts someone else. She is a person who could be receiving help in the Brown School right now if last week's offer of treatment with no jail had been accepted.

I do not say these words to embarrass Miriam or you, Mrs. Stevens. I speak with detail because it is important that the public have a full understanding of why this petition must be denied. It is important that the public know that the defense rejected the exceptional offer of probation and treatment on a murder charge.

I cannot exonerate Miriam just because I feel sorry for her. I cannot return Miriam to juvenile court just because her life story makes my heart weep. My oath as a judge requires that I decide this case on the basis of the proofs in court.

The decertification petition is denied.