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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1408**

State of Minnesota,
Respondent,

vs.

Ashley Shayia Lee,
Appellant.

**Filed July 24, 2017
Affirmed
Bjorkman, Judge**

Ramsey County District Court
File No. 62-CR-14-3502

Lori Swanson, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Lydia Maria Villalva Lijó,
Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Bjorkman, Judge; and Hooten,
Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges her conviction of aiding and abetting identity theft, arguing that the district court erred in finding her competent to stand trial despite the Minn. R.

Crim. P. 20.01 evaluator's contrary opinion. Because the district court gave proper weight to the evidence produced and because the record adequately supports the district court's conclusion, we affirm.

FACTS

In May 2014, respondent State of Minnesota charged appellant Ashley Shayia Lee with aiding and abetting identity theft. Lee applied for and was appointed a public defender. The defense moved to suppress evidence and the district court granted the motion in a pretrial order. The state appealed and Lee was represented by counsel. In April 2015, this court reversed. After the Minnesota Supreme Court denied further review, Lee returned to district court with a new public defender. In October 2015, Lee hired new private counsel, who requested a rule 20.01 evaluation.

The district court granted the request, and an evaluator interviewed Lee in November. Because Lee did not cooperate, the evaluator was unable to assess her competency. A second evaluator, Scott A. Fischer, Ph.D., L.P., met with Lee in January 2016. In what he described as a "close determination," Dr. Fischer opined that Lee was not competent to stand trial. But he further opined that she would become competent with a minimal amount of education regarding the legal system.

The district court conducted a competency hearing, during which Dr. Fischer testified and each party presented arguments as to Lee's competency. The district court found Lee competent to proceed. Lee agreed to a stipulated-facts trial pursuant to Minn. R. Crim. P. 26.01, subd. 3. The district court found her guilty as charged and stayed imposition of sentence. Lee appeals.

DECISION

“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). Minn. R. Crim. P. 20.01, subd. 2, provides that a defendant is incompetent and may not participate in criminal proceedings if she is unable to: “(a) rationally consult with counsel; or (b) understand the proceedings or participate in the defense due to mental illness or deficiency.” The district court must determine whether “the greater weight of the evidence” supports a finding of competency. Minn. R. Crim. P. 20.01, subd. 5(f). On appeal, “[w]e independently review the record to determine if the district court gave proper weight to the evidence produced and if its finding of competency is adequately supported by the record.” *State v. Ganpat*, 732 N.W.2d 232, 238 (Minn. 2007) (quotations omitted).

I. The district court gave proper weight to the evidence produced.

In its order concluding Lee is competent to proceed, the district court made the following findings of fact:

1. [Lee] was previously represented by two attorneys from the Ramsey County Public Defender’s Office. Neither attorney requested a Rule 20.01 competency evaluation.
2. [Lee] was represented by a third attorney during the pre-trial appeal to the Minnesota Court of Appeals, and her petition for Minnesota Supreme Court review. The appellate attorney representing [Lee] did not request a competency hearing.
3. [Lee] graduated from North High School, in Minneapolis, MN. [Lee] had an Individual Learning Plan (IEP) during high school.
4. [Lee] has attended or is currently attending Regis Cosmetology School.
5. [Lee] has suffered a hearing deficiency as a result of a medical procedure as a child.

6. [Lee] has no traumatic head/brain injuries, or any injury involving loss of consciousness, seizure, or other neurological event.
7. [Lee] does not suffer from drug or alcohol abuse or addiction.
8. [Lee] has been diagnosed with ADHD and Unspecified Anxiety Disorder. These disorders do not bear on competency to stand trial. [Lee] is prescribed Adderall for ADHD.
9. [Lee] has been diagnosed with Mild Intellectual Disability and has a Full scale I.Q. score of 68.
10. [Lee] understands the charge in the complaint and is motivated to dispute the charge. [Lee] also understands the potential consequences of a finding of guilty, which may include incarceration and probation. She further understands that a plea of guilty would require her to admit to the charge made against her.
11. [Lee] understands the role of her attorney and the trial process.
12. [Lee] has not demonstrated unusual or delusional beliefs about her legal situation. She has not made comments about the role of her attorney, the charges against her or the legal system that are grossly unrealistic.
13. [Lee] has some misunderstanding of the role of the judge, suggesting that the judge—and not the prosecutor—would be trying to prove the charges against her. This misunderstanding and confusion of the judge’s role can be remedied by explanation and reminders of the judge’s role.
14. [Lee] has demonstrated reasonably good adaptive functioning skills. She lives independently although she receives Personal Care Attendant (PCA) services for approximately four hours per day and needs help managing money and other daily tasks.

Lee argues that the findings show the district court did not give proper weight to Dr. Fischer’s opinions. We disagree. In fact, the majority of the district court’s findings reflect information and opinions contained in Dr. Fischer’s report. The court noted several aspects of the report in concluding that, despite her mild intellectual disability, Lee

understood the charge against her and was “motivated to dispute” it, understood the consequences of a guilty verdict, and understood the requirements of a guilty plea. Some of the district court’s findings reflect its own observations over the almost two-year course of the criminal proceeding. The district court determined that Lee understood “the role of her attorney and the trial process,” noted her few misunderstandings, and agreed with Dr. Fischer that Lee’s competency could be assured if counsel or the district court provided basic information about trial procedures. In short, the district court’s determination reflects thorough consideration of the two competency-evaluation reports and Dr. Fischer’s testimony in light of the court’s own experience with Lee over the preceding two years.

Lee cites no authority for her assertion that a district court errs when it reaches a conclusion that differs from that of an expert witness. Fact-finders, including district courts, are not required to accept an expert’s testimony or recommendations. In a criminal case involving a mental-illness defense, our 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). Moreover, Dr. Fischer specifically stated that the evidence pertaining to Lee’s competence was “mixed,” and his opinion represented “a close determination.” On this record, we conclude that the district court gave proper weight to the evidence produced in connection with Lee’s competency.

II. The greater weight of the evidence supports the district court’s competency conclusion.

Lee next argues that the record supports the conclusion that she is incompetent. But our independent review of the competency-evaluation reports, a psychological-evaluation report, Lee’s participation in these proceedings, and her overall level of functioning shows that the record adequately supports the district court’s conclusion that Lee is competent to stand trial.

The first competency evaluator did not reach any conclusions due to Lee’s noncooperation. The evaluator noted that Lee’s “presentation and style during [the] interview suggested a much lower level of functioning than information about her ability to function in the community would suggest (i.e. [Lee] lives alone, cooks, cleans, etc.).” And Lee’s mother acknowledged that some of the information Lee professed not to know was information she should know. The evaluator concluded that Lee’s “scores [were] lower than what would be expected by chance—raising concern that [Lee] was at times able to identify the correct answer and purposefully selected an incorrect answer.”

Dr. Fischer acknowledged that Lee’s mental-health diagnoses do not bear on her competency and that her “level of functioning is more typical of defendants with intellectual disabilities who are competent.” Dr. Fischer specifically reported that Lee “was able to name the charge against her”; “was familiar with the allegations in the criminal complaint and was motivated to dispute some of the information”; expressed awareness that jail was a potential consequence of a guilty plea; understood the concept of probation; “correctly identified her attorney’s role”; “was able to demonstrate an understanding that

pleading guilty means admitting to the charges against her”; and “understood the meaning of pleading not guilty.” But Lee erroneously believed that she would prove she had not committed the crime by speaking to the judge. Given Lee’s overall level of functioning, including her enrollment in cosmetology school, Dr. Fischer opined that “there is a substantial probability that she could attain competence if she received education from her attorney or the court regarding the legal system.”

In addition to the two competency-evaluation reports, the record includes a September 2014 report from psychologists at Nystrom and Associates. This report does not address Lee’s competence to participate in criminal proceedings. But it does demonstrate Lee’s circumstances during the earlier stages of this case (when none of her attorneys doubted her competence). The report notes Lee’s history of consistent employment and independent living. While Lee tested at a “low range” on measures of intelligence and comprehension, she demonstrated borderline adaptive functioning and the ability to “operate appropriately in her everyday life” with some assistance. Lee does not assert a change in her level of functioning between the time of this report and the time at which private defense counsel requested a competency evaluation.

Other relevant evidence includes information the district court personally gleaned from observing Lee’s numerous court appearances. Lee was arraigned on May 16, 2014. She obtained an attorney that day with whom she appeared in court three times prior to the suppression ruling. Neither defense counsel nor the court raised any concerns about Lee’s competence during those appearances. In July 2015, Lee appeared before the district court with a new attorney. Again, no concerns about Lee’s competence were noted. The

subsequent scheduled trial date was continued twice before Lee hired private counsel. Only then did anyone close to Lee express concern for her competency.

Finally, evidence of Lee's relatively high overall level of functioning further supports the district court's competency determination. It is undisputed that Lee completed high school and was attending cosmetology school at the time of the hearing. She does not suffer from addiction or any other mental-health condition that would bear on competency. The district court found that Lee "demonstrated reasonably good adaptive functioning skills. She live[d] independently although she receive[d] Personal Care Attendant (PCA) services for approximately four hours per day and need[ed] help managing money and other daily tasks." This level of functioning, coupled with the district court's directive that counsel provide Lee with "explanation and reminders" about the trial process as the need arises, supports the district court's conclusion that Lee is capable of understanding the proceedings and participating in her defense.

In sum, the record adequately supports the district court's conclusion that Lee is competent to stand trial.

Affirmed.