



the sort of psychological disorder that may render one unable to aid in his own defense.” Trial Court Opinion at 2. The basis for this is unclear. Without knowing this basis, the trial court’s determination appears to be an unsupported lay medical opinion.

Additionally, the trial court defended the ruling based upon its observations of Dean during trial. I believe it is inappropriate in the instant circumstance to justify a ruling denying a mental health continuance request on facts that were unknown at the time of the ruling.

However, the trial court’s observations of Dean during the trial are relevant to the determination as to whether Dean suffered prejudice from the improper denial of his mental health continuance request. Here, the trial court noted, “[e]ven throughout four very long and arduous days of trial, ... [Dean] showed no signs of incompetency such that a continuance was necessary to allow for additional testing beyond Dr. Martone’s evaluation.” Trial Court Opinion at 2.

I believe Dr. Martone’s inability to provide a conclusive medical opinion was sufficient cause to allow for a continuance for additional neurological testing. While the trial court’s trial observations do not operate to justify the denial of that request, after the fact, I do believe the observations provided sufficient evidence to show Dean suffered no resulting prejudice. Therefore, I would conclude the error was harmless.

In light of the foregoing, although I differ with Judge Bender’s reasoning, I agree that Dean is not entitled to relief.