

The case

Jonathan Donahue (age 24 at the time) entered a Burger King restaurant at midnight on February 17, 2008, brandishing a loaded, semi-automatic pistol. He demanded money from the store manager, William Porter, who was standing behind the till. Porter was 25 years old at the time and had no previous relation to Donahue. When Porter did not initially respond to the demand for money, Donahue forced him to his knees and then struck him forcefully and repeatedly in the back of the head with the pistol. Donahue later said he struck Porter because "that fat son-of-a-bitch wouldn't stop crying." Donahue ran off without taking any money.

Donahue was eventually arrested and confessed to battering Porter at the Burger King. Porter's blood was also found on the pistol that was obtained from Donahue's car.

Porter sustained moderate, permanent brain damage from the forceful blows to his head. He was in the hospital, in a coma for 20 days, but has since come out of the coma and returned to his home. However, Porter continues to have difficulty remembering many words and controlling his fine motor movement (such as holding pencils or typing).

The Trial

Donahue was charged with aggravated battery (an unlawful touching of the person of another with a deadly weapon) and armed robbery (illegal taking of property in the presence of a person by violence or intimidation). In February 2010, a jury found Donahue guilty beyond a reasonable doubt of aggravated battery, but he was acquitted of armed robbery as the evidence pointed to his not leaving the Burger King with any money.

Sentencing

Now we would like you to assume the role of the judge presiding over the sentencing hearing. Assume that all testimony and related facts below were briefed and proved beyond a reasonable doubt at the guilt phase of the trial.

Diagnosis of Psychopathy

During his sentencing hearing, the Defense introduced mitigating evidence that Donahue is a diagnosed psychopath suggesting that he is therefore less responsible for his behavior because he has a harder time controlling his impulses and appreciating the wrongfulness of his actions. Psychopathy itself is not currently included in the Diagnostic and Statistical Manual (DSM), a tool for making psychiatric diagnoses. However, there is talk of it being in the next version of the DSM, since psychopathy is recognized as a unique subset of antisocial personality disorder, a disorder which is in the DSM. Dr. Jeremiah Bloor, a psychiatrist and renowned expert at diagnosing psychopathy, testified that psychopathy is a clinical diagnosis defined by impulsivity; irresponsibility; shallow emotions; lack of empathy, guilt, or remorse; pathological lying; manipulation; superficial charm; and the persistent violation of social norms and expectations.

The Defense then called Dr. Roger Heer to testify to psychopathy's known causes. Dr. Heer, a neurobiologist and renowned expert on the causes of psychopathy, testified that the disorder results from impaired emotional learning as a child. The learning deficits are caused in part by genetic factors that contribute to improper brain development and, ultimately, faulty moral and social development. At the genetic level, Dr. Heer testified that recent peer-reviewed publications reported that a gene had been found that codes for an enzyme (MAOA), which is involved in breaking down neurotransmitters. In another study, Dr. Heer explained, it was reported that some humans have the gene for high MAOA activity while others have the gene for low MAOA activity, and individuals with low MAOA activity were more likely to engage in antisocial behavior.

Dr. Heer continued by noting that he was requested by the Defense to genetically test Donahue for Donahue's MAOA status. Dr. Heer testified that he did genetically test Donahue and reported that Donahue's genes confer low MAOA activity. Low MAOA activity, Dr. Heer continued, has a detrimental effect on normal brain development. Dr. Heer pointed to the connection between MAOA and the amygdala. The amygdala is a structure in the brain involved in emotional processing and learning. Psychopaths recruit less oxygen to the amygdala during tasks that involve emotional learning, relative to healthy controls. Extensive research has shown that normal humans as well as most mammals have something called a violence-inhibition mechanism. This violence-inhibition mechanism, controlled largely by the amygdala, automatically creates anxiety in normal humans when they recognize that other humans are in pain or distress. Psychopaths, Dr. Heer explained, lack a normal violence-inhibition mechanism because of their dysfunctional brain. So, psychopaths simply do not have the biological resources to experience anxiety in the face of others' suffering.

Dr. Heer concluded, the combination of genetic and neurobiological factors ultimately interact in psychopaths to lead to dysfunctional moral socialization. Moral socialization is the process whereby humans (from childhood, through adolescence, and into adulthood) learn what is right and wrong. Normal children, when they inflict harm on someone else, will recognize the distress that they've caused someone because of their functional violenceinhibition mechanism, and so they can be taught that such behavior is inappropriate. But psychopaths, because of their genetically-induced dysfunctional violence-inhibition mechanism, do not learn to associate distress in others with anxiety in themselves and are thus resistant to moral socialization. They do not understand what is right and wrong as the rest of us do. This may be why they are so resistant to treatment

Conclusion

The Defense requested that Donahue's clinical diagnosis of psychopathy, the scientific information about the causes of psychopathy, and the genetic information about his low MAOA activity be considered a mitigating circumstance, since the crime and his actions afterward all point to Donahue having a harder time controlling his impulses due to his disorder.