

IN THE CIRCUIT COURT OF MCHENRY COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Plaintiff,)
)
 v.) No. 10 CF 520
)
 ADAM ROTHEIMER)
)
 Defendant.)

**MOTION TO SUPPRESS DEFENDANT’S STATEMENTS
TO HIS CLINICAL SOCIAL WORKER**

Defendant ADAM ROTHEIMER, by his attorneys, JEFFREY URDANGEN, and the BLUHM LEGAL CLINIC, NORTHWESTERN UNIVERSITY SCHOOL OF LAW, moves this Court to suppress a statement he allegedly made to Jeff Bolker, his clinical social worker.¹ In support Defendant states as follows:

1. Defendant Adam Rotheimer is charged in a one count indictment with Threatening a Public Official pursuant to 720 ILCS 5/12-9(a)(1)(ii). The only evidence supporting this charge, based on testimony to the Lake County Grand Jury, is a statement, uttered as part of mental health treatment, which Rotheimer purportedly made to his clinical social worker, Mr. Jeff Bolker. (Grand Jury transcript appended as Exhibit A). Those statements, as alleged in this exhibit, purport to constitute a threat to a public official.

¹ Former counsel for Defendant, Kevin M. Rosner, previously filed with the Lake County clerk a pleading titled *Motion to Dismiss Indictment and to Suppress Statements Pursuant to 740 ILCS 110/3*. Present counsel will ask leave of this Court to withdraw that motion.

2. Given the context of the alleged statement, it is clear that the communication between Bolker and Adam Rotheimer was both confidential and privileged. Pursuant to the Mental Health and Developmental Disabilities Confidentiality Act, as concerns communications between a therapist and a patient “All records and communications shall be confidential and shall not be disclosed except as provided in this Act.” 740 ILCS 110/3.

3. As a social worker, communications to or with Mr. Bolker are covered by this statute.

“Therapist” means a psychiatrist, physician, psychologist, *social worker*, or nurse providing mental health or developmental disabilities services or any other person not prohibited by law from providing such services or from holding himself out as a therapist if the recipient reasonably believes that such person is permitted to do so. Therapist includes any successor of the therapist. (emphasis added) 740 ILCS 110/2

4. A review of the few codified exceptions in this Act forbidding disclosure of therapist/patient communications reveals only one such exemption which might conceivably apply in circumstances similar to the instant case:

[W]hen, and to the extent, a therapist, in his or her sole discretion, determines that disclosure is necessary ... to protect the recipient or other person against a clear, imminent risk of serious physical or mental injury or disease or death being inflicted upon the recipient or by the recipient on himself or another. 740 ILCS 110/11(ii)

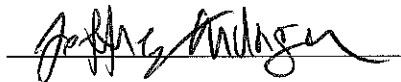
5. Attached as Exhibit B is the official report of Lake County Sheriff’s Detective Kevin Eckenstahler. This officer interviewed Mr. Bolker on March 12, 2010. From this summary, one sees that Adam’s “several conversations” with Bolker, which included statement which are the subject of this motion, were part of a “psychological evaluation.” It was during this interview that Eckenstahler asked Bolker whether, in his “professional

opinion” Bolker viewed Adam as a threat to Judge Hughes. Bolker’s reply was “No, I don’t believe that he would act on his statements.”

6. The Court has good reason to expect that both Detective Eckenstahler and Mr. Bolker would testify at a hearing consistent with this written record. This would, of course, conclusively establish that Bolker did not find what Rotheimer said to be “ a clear, imminent risk of serious physical or mental injury” to Judge Hughes, the subject of this charge.
7. “The statutory privilege exists to encourage complete candor between patient and therapist ...” *Novak v. Rathnam*, 106 Ill.2d 478, 483(1979). “Given these objectives, it is perilous at best to try to exclude any private communications between a client and his therapist from the protection of the Confidentiality Act.” *People v. Gemeny*, 313 Ill. App. 3d 902, 908 (2d Dist. 2000). (Reversing conviction for admitting evidence in violation of the Mental Health and Developmental Disabilities Confidentiality Act).

WHEREFORE, Defendant Adam Rotheimer moves this Court to suppress any and all statement he allegedly uttered to clinical social worker Jeff Bolker.

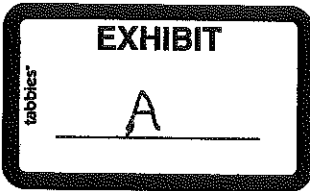
Respectfully submitted,



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APPENDIX



EK

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF L A K E)
4

5 IN THE MATTER OF THE DECEMBER TERM 2009
6 GRAND JURY, OF THE CIRCUIT COURT OF THE
7 NINETEENTH JUDICIAL CIRCUIT COURT OF THE
8 COUNTY OF LAKE IN THE STATE OF ILLINOIS
9

10 TRANSCRIPT of PROCEEDINGS of the
11 PEOPLE OF THE STATE OF ILLINOIS versus
12 ADAM ROTHEIMER 10 CF 816
13 on March 31, 2010, 10th Floor, County Board Room,
14 18 N. County Street, Waukegan, Illinois, 60085.
15

16 PRESENT:
17 MR. STEPHEN SCHELLER Assistant State's Attorney
18 MR. RONALD KAPLAN Foreperson
19 MR. BRIAN BOLDESON Clerk
20

21 REPORTED BY: Lynn Buchmeyer, C.S.R., R.P.R.
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MR. SCHELLER: People of the State of
Illinois versus Adam Rotheimer, 10, CF 816

09:45:08A
09:45:58A

The Grand Jury has the right to subpoena
and question any person against who the State's Attorney
is seeking a Bill of Indictment, or any other person; and
to obtain and examine any documents or transcripts
relevant to the matter being prosecuted by the State's
Attorney.

Would you swear the witness, please.
(Whereupon the witness was duly sworn to tell the truth by
the Grand Jury Foreperson.)

PAUL WARNER
CALLED AS A WITNESS BEFORE THE GRAND JURY, HAVING BEEN
FIRST DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

EXAMINATION BY:

09:46:24A

MR. SCHELLER:

09:46:24A

Q. Can you state your name and spell your name
for us?

09:46:25A

09:46:40A

A. Detective Paul Warner, W-A-R-N-E-R.

09:46:41A

Q. Can you tell the ladies and gentlemen where
you work, please?

09:46:44A

09:46:46A

A. As an investigator with the Lake County
sheriff's office.

09:46:48A

09:46:50A

Q. Investigators, did the sheriff's office

09:46:51A

1 become involved in the investigation of the defendant,
2 Adam Rothheimer?
3 A. Yes, we did.
4 Q. And in regards to that, detective, the
5 sheriff's office spoke with a Jeff Bolker; is that
6 correct?
7 A. That's correct.
8 Q. Mr. Bolker stated that he was a social worker
9 for the defendant, is that correct?
10 A. Yes, he did.
11 Q. And during a conversation with his client,
12 Mr. Rotheimer told Mr. Bolker that he "was going to get an
13 AK47 and kill Judge Hughes," is that correct?
14 A. That's correct.
15 Q. Did Mr. Rotheimer have any cases pending in
16 front of Judge Hughes?
17 A. Yes, he did.
18 Q. In fact he was sentenced to jail, is that
19 correct?
20 A. That's correct.
21 Q. And he was supposed to appear in court to
22 remand himself, in other words, appear, so he could start
23 his jail sentence?
24 A. That's correct.

09:46:56A

09:46:59A

09:47:02A

09:47:02A

09:47:05A

09:47:11A

09:47:12A

09:47:12A

09:47:18A

09:47:20A

09:47:20A

09:47:23A

09:47:33A

09:47:38A

09:47:39A

09:47:49A

09:47:51A

09:47:52A

09:47:55A

09:47:55A

09:47:55A

09:47:58A

09:48:02A

09:48:03A

4

1 Q. According to Mr. Bolker, he stated that Mr. 09:48:03A
2 Rotheimer is very fixated on Judge Hughes and wants to 09:48:20A
3 harm Judge Hughes, is that correct? 09:48:26A

4 A. That's correct. 09:48:27A

5 Q. According to Mr. Bolker "that's all Mr. 09:48:27A
6 Rotheimer thinks about", is that correct? 09:48:31A

7 A. That's correct. 09:48:35A

8 Q. Brian Hughes is an associate judge in the 09:48:35A
9 19th Judicial Circuit here in Lake County, Illinois? 09:48:41A

10 A. Yes, he is. 09:48:46A

11 Q. When Judge Hughes was told of this threat 09:48:50A
12 made by Mr. Rotheimer Judge Hughes was upset and was in 09:48:56A
13 apprehension of receiving harm from Mr. Rotheimer, is that 09:49:02A
14 correct? 09:49:06A

15 A. Yes, he was. 09:49:07A

16 MR. SCHELLER: No further questions. 09:49:15A

17 Do the Grand Jurors have any questions? 09:49:15A

18 (No response) 09:49:15A

19 (Deliberations held) 09:50:21A

20 MR. SCHELLER: Has the Grand Jury reached a decision? 09:50:21A

21 THE FOREPERSON: We have a true bill. 09:50:22A
22
23
24

1 STATE OF ILLINOIS.)

2) SS:

3 COUNTY OF L A K E)

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5 I, Lynn Buchmeyer, C.S.R., R.P.R., do hereby

6 certify that I am a certified shorthand reporter doing

7 business in the State of Illinois; that I reported in

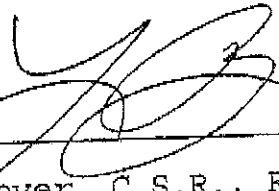
8 shorthand the testimony given before the Grand Jury on

9 March 31, 2010, and that the foregoing is a true and

10 correct transcript of my shorthand notes so taken as

11 aforesaid.

12

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14 Lynn Buchmeyer, C.S.R., R.P.R

15 Department of Professional

16 Regulation,

17 License No. 084-002180

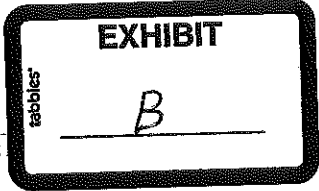
18

19 Registered Professional Reporter

20 National Court Reporters Assoc.

21 No. 005666

09:50:24A



**LAKE COUNTY SHERIFF'S DEPARTMENT
SUPPLEMENTARY REPORT**

10-2948

PAGE 1 OF 1

<input type="checkbox"/> FORM USED AS CONTINUATION FOR CURRENT REPORT	<input checked="" type="checkbox"/> FORM USED TO REPORT FOLLOW UP INVESTIGATION OR SUPPLEMENTAL INFORMATION	DAY 4. Friday	DATE OF THIS REPORT 5. 03/12/2010	TIME 6. 3:00 PM	NAME OF COMPLAINANT - REPORTING 7. Bolker, Jeff
8. KIND OF REPORT CONTINUED <input type="checkbox"/> OFFENSE <input type="checkbox"/> ARREST <input checked="" type="checkbox"/> FOLLOWUP OR SUPPLEMENTARY			9. CORRECT OFFENSE OR INCIDENT CLASSIFICATION Threat <input type="checkbox"/> CHANGED		
10. STATUS (CHECK ONE) CLD UNFD NOT CLD CLD EXE <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>		11. IS FURTHER POLICE ACTION REQUIRED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		12. IF CASE IS CLEARED, HOW CLEARED (USE THIS BOX FOR SNGLEDR FIRST CLEAR-UP OF MULTIPLE CLEAR <input type="checkbox"/> ARREST PROSECUTE <input type="checkbox"/> REPORT REFERRED TO PROSECUTOR <input checked="" type="checkbox"/> COMPLAINANT REFUSED TO PROSECUTE <input type="checkbox"/> STATION ADJUSTMENT <input type="checkbox"/> OTHER EXCEPTIONAL	

On 03-12-10 I spoke with Jeff Bolker reference a threat report in which Adam Rotheimer (05-02-82) made a threat against Judge Hughes. Bolker stated that Rotheimer voluntarily admitted himself into Centegra Hospital in Woodstock on 03-03-10 for a psychological evaluation. Bolker, a social worker for Centegra had several conversations with Rotheimer and Bolker learned that Rotheimer has an "obsession with Judge Hughes." Bolker stated that during one of these conversations Rotheimer stated that Judge Hughes has hired people to kill him because Judge Hughes accused him of stealing money and upset that Rotheimer had a romantic relationship with Judge Hughes daughter. Rotheimer also told Bolker that he is "going to get an AK-47 and kill Judge Hughes and all the people that are helping him." Bolker stated that Rotheimer was often seen walking around the hospital by himself and making unknown comments about Judge Hughes.

Bolker indicated that Rotheimer was diagnosed with schizophrenia and was prescribed new medication. I asked Bolker in his professional opinion if he felt that that Rotheimer was a threat to Judge Hughes and Bolker stated "no, I don't believe that he would act on his statements."

Bolker advised that Rotheimer was discharged from Centegra at about 1:00pm on 03-12-10.

I will review this incident with the Lake County States Attorney's Office for potential charges.

13. CONT. ON CONT. FORM <input type="checkbox"/>		14. ARREST MADE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		15. REPORTING OFFICER WILL FOLLOW UP <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		16. WARRANT OBTAINED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> DENIED	
Reporting Officer: Det Kevin Eckenstahler	Init. <i>KE</i>	I.D. # 1757	Approving Officer:	I.D. #	DATE:	TIME:	<i>5gk</i>