



Case Study: Scott Panetti

Scott Panetti was hospitalized 14 times in 6 institutions between 1981 and 1992 for symptoms of schizophrenia, manic depression, auditory hallucinations, and paranoid delusions marked by religiosity.ⁱ Before his capital murder trial, he decided that his attorneys were part of a conspiracy against him and insisted on representing himself in court, garishly dressed as a cowboy and often rambling incoherently. Panetti was sentenced to death in 1995. He is one of countless inmates on death row in Texas who suffers from severe mental illness. His case has raised numerous questions about Texas' standard for determining "competency to be executed."

"The devil has been trying to rub me out..."ⁱⁱ

Scott Panetti's bizarre behavior began when he was a teenager. He first was hospitalized (involuntarily) in 1981. In 1986, he experienced a psychotic episode during which he tried to wash the devil from the walls of his home. He buried his family's furniture in the backyard, believing that the devil was in it, and nailed the curtains in his house shut so that "the neighbors would not film him." He was hospitalized 9 times in 1986, during which his stays lasted from 4 to 44 days.ⁱⁱⁱ

Panetti was hospitalized on several other occasions in the early 1990s. In 1990, he was involuntarily committed to the Kerrville State Hospital after threatening his wife, baby, and father-in-law, as well as himself. Records also reveal that Panetti believed there was a plot against him by the citizens of Fredericksburg. On August 18, 1992, he was treated on an outpatient basis at the Kerrville VA Hospital; records from this time reveal that he had a series of different personalities or aspects of himself to which he had given names.^{iv}

Less than a month later, on September 8, 1992, Panetti shaved his head, dressed in military fatigues, and drove to the home of Amanda and Joe Alvarado, his estranged wife's parents. He broke into the house and shot his parents-in-law at close range with a rifle. He took his wife Sonja and their infant daughter to a bunkhouse where he had been living, but eventually released them unharmed. Later that day he changed into a suit and surrendered to the police. Panetti subsequently said that "Sarge" (an auditory hallucination) had controlled him at the time of the crime, that divine intervention had meant that the victims did not suffer, and that demons had been laughing at him as he left the house.

A "Born Again April Fool"

In July 1994, a hearing to determine Panetti's competency to stand trial – whether he had sufficient mental capacity to understand the proceedings against him and to assist in his defense – was declared a mistrial after the jury was unable to reach a verdict. A second hearing took place in September. His lawyer testified that in the previous two years, he had had no useful communication with Panetti because of his delusional thinking. A psychiatrist for the defense concluded that Panetti was not competent to stand trial. A psychiatrist who testified for the prosecution agreed with the previous diagnoses of schizophrenia, and with

Key Issues in This Case:

- Hospitalized 14 times in 11 years due to the symptoms of his paranoid schizophrenia
- Allowed to represent himself at trial, dressed in a purple cowboy outfit
- Believes the state seeks to execute him in order to prevent him from preaching the gospel in prison
- U.S. Supreme Court blocked his execution and ordered reconsideration of his competency to be executed

the fact that Panetti's delusional thinking could interfere with his ability to communicate with his legal counsel. Nonetheless, he concluded that Panetti was competent to stand trial. The jury agreed.^v

While in the Bell County jail waiting for his capital trial to begin, Panetti suffered from a paranoid delusion that his attorneys were conspiring against him with the sheriff and other law enforcement officers. Calling himself a "born again April Fool," he quit taking his prescribed medications, stating that he did not need them because he was a Gnostic Nazarene who had been spiritually healed.^{vi}

A Mockery of Justice

As a result of his April Fools' Day delusions, Panetti decided to waive his right to counsel. Despite the objections of his lawyers, his family, and even the prosecution, the judge allowed Panetti to represent himself and the case went to trial in September 1995. Panetti dressed as a cowboy during the proceedings and gave rambling presentations in his defense.^{vii} He attempted to subpoena JFK, Jesus Christ, Anne Bancroft, and hundreds of other "witnesses." Observers described the trial as a "farce," a "joke," a "circus," and a "mockery." In post-conviction affidavits they concluded that based on their prior knowledge of Panetti and their observations of him during the proceedings, he was incompetent to stand trial. A doctor who had treated Panetti for schizophrenia in 1986 concluded that he was "acting out a role of an attorney as a facet of the mental illness, not a rational decision to represent himself." An attorney called by Panetti as a witness later stated: "The courtroom had the atmosphere of a circus. The judge just seemed to let Scott run free with his irrational questions and courtroom antics."^{viii} Despite this clear display of his mental illness, the jury rejected Panetti's plea of not guilty by reason of insanity and found him guilty of capital murder.

Panetti continued to represent himself at the sentencing phase of the trial, with rambling and incoherent statements. The jury sentenced him to death on September 22, 1995. According to several observers and his standby attorneys, Panetti's behavior had scared and antagonized the jurors, who feared that he might be released from prison some day.^{ix}

Competent to Be Executed?

Except for a brief period shortly after his arrival on death row, Panetti has not taken any medication since April 1, 1995, and his mental condition has continued to deteriorate. Numerous mental health professionals have testified to the fact that without medication, Panetti is severely psychotic and paranoid, and they have diagnosed him with a fixed delusion - a thought disorder so severe and pervasive that his capacity for cognitive functioning has been impaired significantly. The centerpiece of Panetti's delusion is his belief that the state is part of a satanic conspiracy to prevent him from preaching the gospel in prison.

Upon receiving an execution date in 2004, Panetti's lawyers filed a motion claiming that he was incompetent to be executed. The trial judge denied the motion without a hearing and the Texas Court of Criminal Appeals dismissed the appeal for lack of jurisdiction. A district court later stayed the execution to allow the state trial court in Gillespie County time to consider evidence of Panetti's mental state. The state court appointed two mental health experts, who declared Panetti to be competent to be executed even though they had spoken only briefly with him and deemed him too uncooperative to conduct a comprehensive evaluation. The judge accepted their testimony - which flew in the face of two decades of

Panetti's documented mental health history - and closed the case without holding a comprehensive competency hearing.

Panetti's attorneys filed a motion in federal court, arguing that their client lacked a rational understanding of the connection between his crime and the punishment, and that his execution should not be allowed under *Ford v. Wainwright*, a 1986 Supreme Court ruling that prohibits states from executing those who do not understand the reality of or reason for their punishment. After hearing the testimony of four expert witnesses, a federal judge found that Panetti indeed suffers from a mental illness with delusions, but ruled that because he was aware he was to be executed and that the reason given by the state for this punishment was the commission of two murders, he had not met the standard for incompetency. The Fifth Circuit U.S. Circuit Court of Appeals upheld the ruling, agreeing that it did not matter what Panetti *actually* believed as long as he could acknowledge the murders as the *stated* purpose of his execution.

The U.S. Supreme Court heard arguments in Panetti's case in the spring of 2007 (*Panetti v. Quarterman*). On June 28, 2007, in a 5-4 decision, the justices ruled in his favor and blocked his execution.^x The court questioned the value of executing someone who does not comprehend why he is being put to death and found that the Fifth Circuit had used "an improperly restrictive test" in deciding that Panetti was competent to be executed.^{xi} The Supreme Court decision sent the case back to the federal district judge, who held a hearing in February 2008 as to whether Panetti's delusions are indeed so severe that he cannot make the connection between his crime and punishment and should be spared from execution. Panetti remains on death row, where he believes he is fulfilling his mission to preach the gospel to other inmates.

A documentary from the Texas Defender Service (TDS), "Executing the Insane: The Case of Scott Panetti," chronicles his case and the impact that Panetti's mental illness – and his death sentence – has had on his family. You can view the film on the TDS website: www.texasdefender.org/panettidocumentary.asp.

ⁱ Texas Defender Service: www.texasdefender.org/panettifactsheet.asp

ⁱⁱ "A Growing Plea for Mercy for the Mentally Ill on Death Row." New York Times, November 23, 2006. www.nytimes.com/2006/11/23/us/23execute.html

ⁱⁱⁱ USA: "Where is the compassion?" – *The imminent execution of Scott Panetti, mentally ill offender*. Amnesty International, 2004. <http://web.amnesty.org/library/index/engamr510112004>.

^{iv} Texas Defender Service: www.texasdefender.org/panettifactsheet.asp

^v Amnesty International, 2004.

^{vi} *Brief for Petitioner, On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit*, in the Supreme Court of the United States, *Panetti v. Quarterman*, 2007.

^{vii} See www.texasdefender.org/panettifactsheet.asp for excerpts from the trial.

^{viii} Amnesty International, 2004.

^{ix} At that time, Texas did not have the option of life without the possibility of parole. One of Panetti's lawyers later spoke to two jurors, who said that "if Scott had been represented by attorneys that he would not have received the death penalty... They knew he had a long term mental history, but, because he scared them they voted for death." Affidavit from Preston S. Douglas, June 19, 1997.

^x The full opinion, written by Justice Kennedy, is available at www.supremecourtus.gov/opinions/06pdf/06-6407.pdf.

^{xi} The Fifth Circuit, which hears cases from Texas, Louisiana, and Mississippi, has never found an inmate incompetent to be executed.