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## Maxim of Having a 'Fool for a Client' Not Entirely True for Defendants Who Represent Themselves, Say Researchers

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## NEWS RELEASE

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### **MAXIM OF HAVING A 'FOOL FOR A CLIENT' NOT ENTIRELY TRUE FOR DEFENDANTS WHO REPRESENT THEMSELVES, SAY RESEARCHERS**

DAYTON, Ohio — Instead of having a "fool for a client," a defendant who represents himself in court may actually have advantages and be successful, say two forensic psychiatrists who will present their findings at an upcoming international meeting.

"In about 30 percent of the cases we looked at, the defendant had some success in representing himself," said Douglas Mossman, M.D., an adjunct faculty member at the University of Dayton School of Law where he teaches classes on law and the mentally disabled. "Some were acquitted, some had the charges dismissed, some had hung juries and some were found guilty, but of a lesser charge than the most serious in the case."

"A Fool for a Client: Print Portrayals of 49 Pro Se Criminal Defendants" will be presented by psychiatrists Douglas Mossman and Neal W. Dunseith Jr. Friday, Oct. 20, at the annual meeting of the American Academy of Psychiatry and the Law Oct. 19-22 in Vancouver, Canada. Pro se is the legal term for self-representation.

Some advantages are personal while others are procedural, Mossman said. "When you represent yourself, you can directly confront and cross-examine your accusers," he said. "One doctor who represented himself was able to introduce information about various procedures and techniques without opening himself up to cross-examination, and, in a few cases, defendants appeared to benefit from the rapport they established with jurors."

Another advantage? "If you're a lawyer, the courts expect you to follow the rules. The judges may have been more lenient or allowed greater latitude in questioning for those defendants who were not attorneys," Mossman said.

The pair of researchers searched four one-month periods of press reports from 1998 and turned up 54 criminal prosecutions they then investigated further. In those cases, a total of 49 defendants represented themselves at trial, said Mossman, who is also a professor and director

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of forensic psychiatry at Wright State University School of Medicine in Dayton. Dunseith is an assistant professor at WSU School of Medicine.

They discovered three main categories of defendants. Of the 75 percent who fell into the main categories, 10 percent were shown to be motivated by moral issues, 40 percent were "eccentric" and half were goal-oriented.

"The ones motivated by moral issues could be exemplified by Jack Kevorkian and Vernon Bellecourt, who burned an effigy of the Cleveland Indians' mascot, Chief Wahoo, to protest what he believed was a racist symbol," Mossman said. "The goal-oriented defendants chose self-representation so they could exercise control over how their cases were handled, whether that meant avoiding an attorney's recommendation to plead insanity or to ensure they got the death penalty," he said, noting that not all defendants pursued acquittal.

The eccentrics displayed "many behavioral or emotional peculiarities," he said.

The defendants ranged in age from 18 to 75 years, and only two of them were women. Four of the defendants were attorneys, and six others had occupational titles that indicated professional training, such as osteopath and chiropractor. The 49 defendants were accused of a wide variety of offenses, ranging from misdemeanors to charges that could result in the death penalty. The most common charge was homicide, followed by theft or robbery.

Of the 54 cases, defendants were found guilty as charged in 39 cases. On the successful side, outcomes included acquittals on all counts (four cases), charges dismissed (three cases), convicted of lesser offenses (five cases), hung juries (two cases) and not guilty by reason of insanity (one case).

In eight of the cases, the defendant received a long prison sentence — a life sentence or a sentence of more than 30 years. Five defendants received death sentences. Other outcomes included suspended sentences (one case), community control or probation (nine cases), community service (two cases) and fines (10 cases) ranging from the \$200 to \$300,000.

"Our data suggests that some criminal defendants have potentially legitimate reasons for proceeding without counsel," Mossman said, quoting Judge David Brazelon's observation that court-appointed criminal defense lawyers are often "walking violations of the Sixth Amendment." Brazelon served in the U.S. Court of Appeals for the D.C. Circuit.

The most commonly stated reasons for choosing self-representation were the defendant's dissatisfaction with his lawyer and a belief that he could do as well without attorney representation, Mossman said.

"Ridding oneself of a poorly performing lawyer or having a generally low opinion of attorneys is not, on its face, irrational," Mossman said.

For media interviews, contact **Dr. Douglas Mossman** at (937) 258-6214 or via e-mail at [dmossman@pol.net](mailto:dmossman@pol.net). From Oct. 18 to 22 he can be reached at the Hotel Vancouver at (604) 684-3131. For a copy of the research study, contact Pam Huber at (937) 229-3256 or via e-mail at [huber@udayton.edu](mailto:huber@udayton.edu).