

In Search of Madness

James Q. Wilson

Jan. 15, 1998

Is Theodore Kaczynski competent? Competent for what? To stand trial? Almost certainly, yes. To be criminally accountable for his alleged crimes? Almost surely, yes. To conduct his own defense? In all likelihood, provided the court is prepared to manage his behavior in a clear and forceful manner.

The narrow question of whether he is competent to stand trial in the Unabom case is now being investigated by Dr. Sally Johnson, a court-appointed psychiatrist. Whatever her findings, the legal standard that will be used to apply them is broad. If Mr. Kaczynski has a rational understanding of the charges against him and if he has the ability to consult rationally with his lawyer, he can stand trial.

Although he may have tried to hang himself and has not always helped his lawyers, none of these acts by themselves suggest that he is unaware of the charges or cannot discuss them with a lawyer. The psychiatrist may find that since being arrested, he has become deranged, and therefore find him incompetent. Even then, he would be sent to a mental institution until he was judged ready for trial, and then it would start.

If Mr. Kaczynski is as competent today as he was over the 10 years when prosecutors say he killed three people and injured 28 others, he is highly rational. I speak with some feeling about this matter, as I was one of the few people mentioned by name in the Unabom manifesto. When I learned this, I studied the document carefully.

It makes what some readers may feel is an absurd, even irrational, statement — namely, that human life has been tragically harmed by the Industrial Revolution and the coercive nature of society and its technological apparatus. Because of this, the Unabomber calls for a “revolution against the industrial system.”

But once you grant his first assumption and the tolerability of his principal recommendation, the manifesto is a carefully reasoned, artfully written paper. It even begins with two or three pages of errata — small grammatical and spelling corrections that the author wishes the reader to insert.

There is nothing in the manifesto that looks at all like the work of a madman. The language is clear, precise and calm. The argument is subtle and carefully developed, lacking anything even faintly resembling the wild claims or irrational speculation that a lunatic might produce.

The reference to me is neither openly hostile nor wildly inaccurate: “Eminent social scientists (e.g. James Q. Wilson) has [sic] stressed the importance of ‘socializing’ people more effectively.”

The Unabomber does not like socialization, technology, leftist political causes or conservative attitudes. Apart from his call for an (unspecified) revolution, his paper resembles something that a very good graduate student might have written based on his own reading rather than the course assignments. If it is the work of a madman, then the writings of many political philosophers — Jean Jacques Rousseau, Tom Paine, Karl Marx — are scarcely more sane.

The test of insanity in Federal law is akin to the M’Naghten Rule. In 1843 Daniel M’Naghten thought that the British Prime Minister, Sir Robert Peel, was conspiring

to kill him. When he confronted the Prime Minister's secretary, Edward Drummond, whom he wrongly thought was Sir Robert, he shot and killed him.

An English jury acquitted M'Naghten because it thought he was insane. In reviewing the case, an appellate court formulated a general rule: M'Naghten was insane if he did "not know the nature and quality of his act" or if he "did not know he was doing what was wrong."

In 1982, John Hinckley successfully used a broader insanity defense in his trial for trying to kill President Reagan. In response, Congress abolished that defense in Federal law and replaced it with a version of the M'Naghten Rule.

This defense is not often used. When it is, it usually comes to this: The jury is convinced that the suspect is crazy as evident from hallucinations he entertains or delusions he believes. Assuming that Mr. Kaczynski is the Unabomber, then his manifesto, his skill in manufacturing bombs and the clever ways in which he concealed his identity suggest to me that he was clearly sane by any reading of the Federal test. He did not hallucinate, had no bizarre delusions and clearly knew what he was doing and that it was (by the standards of a society he disliked) illegal.

This leaves the question of whether Mr. Kaczynski should conduct his own defense. Unless he has lost the ability to grasp the charges or confer with his lawyers, he should be allowed to defend himself. Some people worry that this would turn the trial into a farce, and they cite the case of Colin Ferguson, who represented himself in the trial where he was convicted of killing passengers on the Long Island Rail Road. Though Mr. Ferguson did make outrageous statements, that trial was not a farce, and the jury reached a sound verdict.

The Supreme Court has held that the right to counsel is intended to help, not hinder, a defendant. An accused person who competently and intelligently rejects that counsel is exercising a right protected by the Constitution.

The Ted K Archive

James Q. Wilson
In Search of Madness
Jan. 15, 1998

The New York Times, January 15, 1998, Section A, Page 21.
<www.nytimes.com/1998/01/15/opinion/in-search-of-madness.html>

www.thetedkarchive.com