

# Brother Tells of Ordeal After Deciding to Turn Kaczynski In

Mark Gladstone

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In being singled out recently for having “the courage of his convictions,” David Kaczynski focused on his family’s wrenching ordeal during the nearly two years since he suggested to the FBI that his brother might be the notorious Unabomber.

“Someone we love went over the edge [or so it seems],” Kaczynski told an Albany, N.Y., audience gathered last month in his honor.

In the wake of his family’s experience, the social worker voiced the hope that “our nation’s criminal justice system will find the courage and wherewithal to take a closer, more understanding and compassionate look at the problem of mental illness.”

In doing so, Kaczynski spotlighted an issue that has emerged as a major point of contention in Theodore Kaczynski’s upcoming murder-by-bombing trial: the mental condition of the former UC Berkeley mathematics professor.

At the heart of the dispute, as reflected in a flurry of pretrial motions and hearings, is whether Theodore Kaczynski had the intent to commit the bombings.

“The fact that someone is quite crazy does not demonstrate that he didn’t have the requisite criminal intent” to commit the bombings, said UCLA law professor Peter Arenella.

To make their own determination, federal prosecutors are pressing to have two nationally known forensic psychiatrists conduct face-to-face interviews with the recluse accused of being responsible for a string of notorious bombings over 17 years.

Attorneys for Theodore Kaczynski have fought to block the evaluation even as they appear poised to raise questions of their own about their client’s state of mind as they seek to save his life.

So far Kaczynski’s attorneys, Quin Denvir and Judy Clarke, have balked at providing any specific details to the court about their client’s “mental defects.” And so far they have not sought to mount an insanity defense.

In their view, they are only obligated to alert prosecutors of “an ‘intention’ to introduce expert testimony regarding the defendant’s mental condition.”

But U.S. District Judge Garland E. Burrell Jr. has ordered that by 1 p.m. today, they provide the government with more details of their strategy.

The defense response, coupled with the proposed mental exam, will help shape the direction of the case, including selection of jurors. Even before the scheduled Nov. 12 start of the trial, hundreds of prospective jurors earlier this week gathered under tight security at the state fairgrounds to fill out detailed questionnaires.

Theodore Kaczynski, 55, has pleaded not guilty in Sacramento to a 10-count indictment that alleges that he was responsible for four blasts, including two fatal attacks in the state’s capital.

Kaczynski was arrested in April 1996 at his isolated cabin near the tiny mountain town of Lincoln, Mont., where prosecutors say they found stacks of evidence indicating that he was the anti-technology bomber responsible for blasts across the nation dating back to 1978.

“The mountain of evidence could potentially indicate that this is the person who sent the bomb. . . . But the prosecution also has to prove the mental state,” said Linda Carter, a law professor at McGeorge School of Law in Sacramento.

Federal prosecutors contend that they are entitled to a fuller explanation of the nature of Kaczynski’s mental defense. They also want the right to have their own experts examine the Harvard-educated mathematician now being held at a federal prison in Pleasanton about 90 miles from Sacramento.

“The most reliable way to determine whether there is any validity to the unidentified ‘mental defect’ is to permit a searching examination by experts in the field of psychiatry,” prosecutors have argued in court papers.

The government is seeking to have two experts examine Kaczynski on videotape over about seven days starting as soon as possible. They have been identified in court papers as Park Elliott Dietz, a nationally known psychiatrist from Newport Beach, and Phillip J. Resnick, a professor of psychiatry at Case Western Reserve University School of Medicine in Cleveland.

In a court declaration, Dietz said he would cover Kaczynski’s personal and psychiatric history as well as “a detailed inquiry into each alleged criminal act . . . and the defendant’s commentary on all available relevant evidence.”

Pasadena psychologist Michael Maloney said his goal in such an exam would be “to figure out in detail where [Kaczynski’s] thinking came from.”

“What you’re trying to do is get a very detailed history of this man’s life,” said Maloney, who has conducted similar evaluations.

Kaczynski’s defense attorneys maintain that federal prosecutors already have formed an opinion of their client’s mental state.

“It’s our understanding that in the process of seeking the search warrant [for the Montana cabin] and working with David Kaczynski, that the government rendered a variety of opinions about his mental health, his mental well-being, how turning him in would be the best thing for him so that he could get mental treatment,” said Clarke, one of the defense attorneys.

Clarke also told Judge Burrell during a recent hearing that those statements reflect an opinion by the FBI and other law enforcement officials that Kaczynski “suffers mental impairment.”

“I would separate regular old FBI agents whose lay opinions on someone’s mental health is as good as yours or mine, or worse, as opposed to medical personnel,” Burrell responded.

“Except that the FBI, your honor, would have rendered those opinions based on the evidence as they were collecting it,” Clarke shot back. “Either they did that and rendered an honest opinion based on evidence as to David Kaczynski, or they lied to David Kaczynski.”

But prosecutors insisted to Burrell that they had not developed any independent medical analysis of Kaczynski and that Clarke was merely alluding to a conversation between an FBI agent and David Kaczynski.

David Kaczynski, eight years younger than his brother, was honored last month with an award by Equinox, the Albany, N.Y., youth shelter where he is assistant director.

It was after the New York Times and the Washington Post in 1995 published a 35,000-word manifesto written by the Unabomber that David Kaczynski became suspicious of his brother. He realized that his brother's writings were similar to the Unabomber excerpts. To prevent more killings, he turned him in.

During his speech, David Kaczynski indicated that any reward money he receives would be funneled to survivors of the bombings.

"I hope that I can somehow emerge from this ordeal as a better person and more effective social worker," he said. "I hope that Ted will someday forgive me.

A critique of his ideas & actions.



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