

Edney v. Smith (1976)

Nature: Physician-patient privilege in criminal cases.

Facts: Edney was charged with the kidnapping and murder of the eight-year-old daughter of a former girlfriend. During the trial, a psychiatrist retained by the defense, testified that Edney did not know the nature and quality of his actions, nor did he know that his actions were wrong, due to a mental illness. The prosecution called Dr. Daniel Schwartz, a psychiatrist who had previously evaluated Edney at the request of defense counsel. Dr. Schwartz found no evidence of a mental disease or defect and opined that the defendant knew what he was doing and was aware that it was wrong. Defense objected based on attorney-client and physician-patient privileges.

Procedure: Edney was found guilty and sentenced to 25 years to life. He appealed, based on the assertion that the admission of Dr. Schwartz's testimony violated his federal constitutional rights. The New York Court of Appeals affirmed the initial decision. Petition for appeal to the federal courts was dismissed.

Issue: Can defendants expect physician-patient privilege from forensic examiners hired by the defense?

Holding & Rationale: No. The court held that by asserting an insanity defense, Edney had waived any privilege. When a defendant offers evidence to show his insanity in support of a plea (i.e., introduces evidence of a mental or emotional condition), he/she waives physician-patient/attorney-client privileges. The court held that admission of Dr. Schwartz's testimony did not violate psychiatrist-patient privilege because Edney was examined by Dr. Schwartz for the purpose of litigation, rather than for treatment or diagnosis for medical purposes. Thus, "the relationship actually implicated by the facts of this case is that of attorney-client." However, the court noted that even if it were assumed that physician-patient privilege was involved in some remote way, such privilege is deemed to be waived because the defendant introduced the information regarding his mental or emotional condition. Similarly, the court held that admission of Dr. Schwartz's testimony did not violate attorney-client privilege, as the defendant cannot "suppress any unfavorable psychiatric witness whom he had retained in the first instance, under the guise of attorney-client privilege, while he endeavors to shop around for a "friendly" expert, and takes unfriendly experts off the market."

Implications: If an individual asserts an insanity defense, privilege is waived and the government should have access to data and conclusions drawn by experts the defense decides not to use. This is in contrast to the decision in *United States v. Alvarez* (1975), in which the court ruled that the defendant's communication to an examiner is protected by attorney-client privilege following the work product rule. Therefore, forensic examiners are responsible for knowing if the state they are practicing in follows the *United States v. Alvarez* (1975) or the *Edney v. Smith* (1976) decision.