

THINGS WERE DIFFERENT IN THE '60'S. TELEPHONES DIDN'T MOVE, A HOT OOL COST \$.45, BUT KNIVES WERE STILL SHARP AND LAWS WERE STILL FUN! MURDER WAS STILL ILLEGAL ONLY A DOCTOR MAYBE WASN'T OBLIGED TO PROTECT ANYONE FROM A THREATENING PATIENT. TIME FOR A CLASSIC! YOU KNOW THE STORY. BOY GOES OFF TO COMBE. GIRL ATTENDS DANCE LESSONS AT Boys HOUSING COMPLEX. THEY DATE OR MAYBE DON'T AND KISS WHEN THE BALL DROPS ONE NEW YEARS EVE. BOY THINKS THEIR A COUPLE, GIRL LOES ON ACTUL DATES WITH OTHER BOYS. BOY STAKES GIRL. BOY MOVES IN WITH GIRLS BROTHER. BOY CASSETTE TAPES GIRL I THINK THIS WAS A ZANY ADAM SANOLER ROM-COM? BOY GETS DEPRESSED AND PSYCHOTIC. BOY PLANS A BOMB-ING. BOY TELLS PSYCHIATRIST OF MURDER PLOT. WE'VE ALL BEEN THERE AMI RIGHT. WHAT, NO?! OH, ALRIGHT. SOME PEOPLE HAVE NAMES THAT SOUND MADE UP, LIKE CHURCH OF ENGLAND VICAR MICHAEL VICKERS AND HIS DAD THE VICAR. PROSENJIT PODDAR'S NAME HOWEVER IS POSITIVELY COMMON FOR A STUDENT FROM BENGAL INOIA. MAYBE A TOUCH EXOTIC, BUT NOT FOR A KESTDENT AT UC BERKELY'S INTERNATIONAL HOUSE.

IT'S A MULTI- CULTURAL RESTOENCE AND PROGRAM CENTER, INTERNATIONAL HOUSE, FOR STUDENTS AND VISITING FACULTY OF U.C BERKELEY. THE KIMD OF PLACE WHERE ONE GETS EX-POSURE TO MORE THAN JUST THE CAMPUS CULTURE AND GROWS AS A PERSON. SOME PEOPLE GROW INTO STALKERS. IT'S A BIG PLACE, CREATED WITH A GIFT FROM JOHN D. ROCKEFELLER SKANK, ITS ABLE TO HOUSE 600 RESTDENTS DURING THE ACADEMIC YEAR. BACK IN '88 THEY HOSTED FOLK DAUCIUG CLASSES WHERE PROSENTIT MET A GIRL NAMED TATIANA TARASOFF. THEY DATED, OR MAYBE DIDN'T. THE THIRTY-FIVE YEAR OLD FELLA FROM INDIA THOWHT THEY DID AND FELT IT WAS GIRLFRIEND-IN-A-COMA, SERIOUS. HE THOUGHT THIS WAS SEASON TEN FRIENDS. AT TRIAL HIS SIDE WOULD TRY TO BRING IN ANTHROPOLOGIST TO ARGUE THAT HIS PLACE IN THE INDIAN SASTE OF THE UN-TOUCHABLES MADE HIM TO SIMPLE FOR THE COSMOPOL-ITIAN WOALD OF UC BERKELEY. SHE WANTED TO ESTABLISH HIS DIMINISHED CAPACITY. THE JUDGE SAID SHE COULD TESTIFY BUT NOT TO THAT. THE DEFENSE SAID, WELL FORLET IT THEN. FOR HER PART TATIANA WAS IN A SEASON OF SEIN FELD; SHORT AND CASUAL. WHEN TATIANA LEARNED THEY WERE LOOKING FOR DIFFERENT THINGS SHE BROKE IT OFF. THEY WERE NOT ON A BREAK, THEY WERE BROKEN W.P. ALTHOUGH FROM COURT DOC-UMENTS ITS WILLEAR IF THEY WERE EVER ACTUALLY DATING OR JUST SHARED AN INNOCENT KISS

AT A NEW YEAR'S EVE PARTY.

ON THE OTHER END OP THINGS, THINGS WERE BAO. PROSENJIT WAS RESENTAL OF HIS, EX? DEVASTATED OVER THE END OF A FIRST "RELATIONSHIP" HE WENT INTO A MAJOR DEPRESSIVE STATE. HE LOST TOUCH WITH REALITY AND BEGAN TO SHOW SYMTHOMS OF SCHIZOPHRENIA EVEN AS HE STARTED STACKING TATIANA. HE TOLD A FRIEND, THE IMPROBABLY NAMED MR. MISTREE, THAT HE COWLANT CONTROL HIMSELF. DURING CONTRINED MEETINGS WITH TATTANA HE SECRETLY TAP-RECORDED THEIR CONVERSATIONS ONLY TO RETREAT TO HIS BED TO LISTEN TO THE TAPES OBSESSIVELY. AT THIS POINT HE FAILED TO REGNAIN FUNCTIONAL. HIS PHYSICAL HEALTH SUFFERED FROM HIS OWN NEGLECT AND HE IGNORED HIS DUTY TO HIS STUDIES. HE REMAINED ABED FOR DAYS AT A TIME, WEEPING CONSTANTLY WHEN HE DID GO OWT HIS SPEECH WAS DISJOINTED AND PECULIAR. HE ASKED A NUMBER OF PEOPLE IF A PELLET GUN "LIKE THIS" AND SHOWED THE PELLET PISTOL HE HAD BOUGHT, COULD KILL SOME ONE.

IN THE SUMMER OF '69 TATIANA WENT ON AN EXTENDED TRIP TO SOUTH AMERICA. ABSENCE MADE THE HEART GROW BRASILIA CALMER, AND WEEKLY SESSIONS PROSENJITS WITH DR. LAWRENCE MENTAL STATE MOORE AT U.C. IMPROVED. HE BERKELEYS COWELL WAS RECOPTIVE TO A MEMORIAL HOSPITAL FRIENDS RECOMENDATION MAY HAVE ACTUALLY BEEN TO SEEK PROFESSIONAL A HELP TO HIM. STILL HELP. NURING AT LEAST ONE SESSION PROSENTIT REVEALED TO THE DOCTOR THAT HE INTENDED TO KILL A GIRL WOON HERRETURN FROM BRAZIL. LIKE A PROFESSIONAL, DR. MOORE REACTED TO THE VERY THREATENING DISCLOSURE BY NOTIFYING THE COPS. NO ONE ELSE INVOLVED DID. AT LEAST ONE FRIEND WAS TOLD OF PLANS TO BUMB TATIANA'S ROUM. I LIKE TO IMAGINE IT WAS THIS FRIEND WHO GOT PROSEN JIT TO SEE SOMEONE, IT'S ALL LESS AWFUL THAT WAY. THE COURT BRIEF THAT MENTIONS THE BOMB PLOT MAKES PAINS TO NOTE THE PUBLIC HAS NO DUTY TO WARN OR PROTECT. OVER THE COURSE OF THE OUTPATIENT TREATMENT DR. MOURE DIAGNOSED PARAMOID SCHIZOPHRENIC REACTION, ACLUTE AND SEVERE. WHEN HE CALLED THE

PIGS HE ASKED FOR A 72 HOUR INVOLUNTARY HOLD ON PATIENT. HE EVEN CAUTIONED THAT PROSENDET COULD COME OFF AS PERFECTLY RATIONAL DESPITE HIS TLLNESS. THINKING THE WHOLE SITUATION NEEDING OF A RECORD OR. MUDRE WENT SO FAR AS TO PUT HIS REQUEST IN WRITING AND MAILED IT TO THE POLICE. LAW ENFORCEMENT DECIDED THAT SEEMING RATIONAL WAS AS 6000 AS BEING. WHEN THEY INTERVIENCED PROSEN DIT THEY ACCEPTED THAT HIS ATTITUDE TOWARDS TATIANA HAD CHANGED AND FOUND HIM NO DANGER TO HIMSELF OR OTHERS. THEY DID ENCOUNAGE HIM TO STAY AWAY, AND WERE ENTIRERY SATISFIED WITH THE PROMISE OF A MAN IN PROFESSIONAL CARE AS REGARDS HIS INTENTIONS TO WARD A WOMAN HE HAD REPEATERLY THEREATENED TO KILL. THEY WERE ALSO KEEN TO BUY A BRIDGE PROSENJIT HAD FOR SALE OVER IN BROOKLYN. IT ALL SEEMEN TO SOUR THE DOCTOR PATENT REATION-SHIP AND PROSENTIT CEASED HIS APPOINTMENTS WITH DR. MOORE. TRIAL BRIEFS ACTUALY NOTE THAT AN INVOLUNTARY ORDER IS APT TO END VOLUNTARY TREATMENT. THEN OF COURSE DR. MOORES BOSS, DR. HARVEY POWELSON ORDERED HIS SUBORAINATE TO CEASE HIS EFFORTS. HE WENT SO FAR AS TO ORDER THE LETKIEVAL OF THE LETTER AND ITS BURNING TOGETHER WITH ANY NOTES. BECAUSE THATS A HEALTHY REACTION TO THE WHOLF SITUATION.

ITE JUST AS WELL HE WAS DOWN A PATIENT. DK. MOORE WAS BUSY WITH HIS MENTALLY UNSTABLE WIFE WHOM HAD ATTEMPTED TO KILL THEIR INFAM CHILD. EVERYPAY CONCOLNS LIKE THAT CAN'T BE PUT OFF INDEFINITELY- THEIRS NO MENTION OF ANY ERRATIC BEHAVIOR BY IROSEN JIT AFTER HE STOPED TREATMENT. ONE ASSUMES HE WAS PUT TOGETHER ENOUGY TO NOT BE WHER CONSTANT PRESSURE TO RESUME TREATMENT. WE KNOW HE WAS WELL ENOUGH TO BEFRIEND TATIANAS BROTHER. SO FRIENDLY IN FACT THEY MOVED IN TO LETHER. THAT OCTOBER TATIANA RETURNED TO CALIFURNIA. FAR FROM RE-MAINING FAR AWAY, PROSENUST RESUMED HIS STALKING. ON AT LEAST ONE OCCASION HE HEARD TATIONA HAD A SUMMER ROMANCE WHILE IN BRAZIL. THIS WAS UPSETTING TO THE MAN WHO WAS STELL SOMEHOW UNDER THE IMPRESSION THAT THEY WERE NATING, AND GIRLFRIEND IN A COMA IKNUW, I KNOW, IT'S SERIOUS. EVENTUALLY HE WENT TO HER HOUSE. HER MOTHER CAME TO THE DOUR HAD WAS SHUVY ENOUGH TO KNOW THEY WERENT DATING. SHE TOLD HIM TO STAY AWAY FROM TATIANA BUT HAD NO PROBLEM WITH HIM You know, LIVING WITH HER SON. HE WENT BACK TO THAT SHALDS APPARTMENT, GOT MIS PELLET GUN AND A LONG KITCHEN KNIFE, TATIANA NOW HOME ALL ALONE. AND WENT BACK TO FIND



REFUSED TO CHAT AN SCREAMED IN MIS FACE. THEN SHE RAN. HE MUST HAVE HAD HIS TOE IN THE DOOM AS SHE RAN OUTSIDE RATHER THAN INSIDE. BECAUSE THIS IS A HORACK STORY HE CAUGHT HER, SHOT HER WITH HIS PELLET GUN, AND STABBOD HER TO DEATH WITH HIS LUNG KITCHEN KNIFE.

LIKE A RESPONSIBLE PARTY TO A MURDER HE THEN

CHURD HIS FRIENDS THE COPS TO SAY HE STABBED A

WOMAN TO DEATH. WHEN THE PIES ROLLED UP, HE ASKED

TO BE HANDCUFFED. TRIAL BRIEFS MAKE CLEAR THAT

HE CALLED FROM TATIANA'S HOME PHONE, BECAUSE NO

ONE LIKES A MYSTERY.

THE SAME DOCUMENTS, ALL OF THEM, MAKE SPECIAL EFFORT TO NOTE THAT NO ONE TOLO TATIANA OR HER

PARENTS THAT PROSENTIT HOD THREATENED MURDER. LET ME BE TRAGH HERE A SENTENCE. SHE WASN'T MENTALLY ILL SO MAYBE SHE COULD HAVE NOTICED THAT HER STALKER WAS DANGEROUS.

AT THE INITIAL CRIMINAL TRIAL THE CONFESSED MURDERER PLEADED NOT GUILTY BY REASON OF INSANITY. TO THIS END THE DEFENSE PROPULED THREE PROPESSIONALS WHO TESTIFIED THE ACCUSED WAS SCHIZOPHRENIC AND LACKED THE CAPETY TO MURDER. THEY ALSO FRIED AND FAILED TO GET THE TESTOMOMY OF AN ANTHROPOLOGIST, ALSO ARGUING DIMENSION CAPACITY, ADMITTED. THE JURY FOUND PROSENSIT GUILTY OF SECOND OFFICE MURDER.

ON APPEAL THE COURT SUSTAINED THE MURBER CON-VICTION. HOWEVER, BECAUSE OF SOME PREJUDICIAL ERRORS BY THE LOWER COURT, THEY RECOMMENDED THE CASE BE REMANDED BACK TO THE LOWER COURT SO A REDUCTION TO MANSLAWGHTER COULD BE APPLIED.

ON FINAL APPEAL THE COURT TOOK ISSUE WITH THE JURY

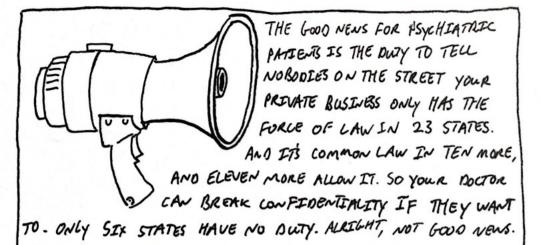
INSTRUCTIONS ON THE CHARGE OF SECOND DEGREE MURBER.
THE PINDING WAS THAT BY FAILING TO INDICATE THAT DIMINISHED CAPACITY WAS A VALID DEFENSE AGAINST THE COUNT
IN THE INSTRUCTIONS OF THE CHARGE, HE WAS ROBBED OF
HIS DEFENSE. DIMINISHED CAPACITY REMOVES THE MENTAL
STATE REQUIRED FOR MURBER. IF A DEFENDANT IS UNAWARE
OF OR UNABLE TO OBEY THE LAW RECAUSE OF DIMINISHED
CAPACITY THEN AMY VIOLATION LACKS MALICE. WITH OUT
MALICE THE STATE CAN NOT ESTABLISH A CHARGE OF

MURDER.

BASICALLY, THE SAME KEASON MOST EVERY DRWK DRIVER GOES UP FOR MAN-SLAUGHTER INSTEN OF MUXDER. IN A DISSENT OPPINION ONE JUSTICE SAID HEY LISTEN! THE JURY WAS TOLD YOU NEED MALICE FOR MURDEO. THEY WERE TOLD DIMINISHED CAPACITY MEAN NO MALICE. IT SHOWLONT MATER THOSE FACTS WERE IN THE JULY INSTRUCTIONS FOR OTHER CHARGES. HEY LISTEN, LET'S JUST REDUCE IT TO MANS LAUGHTER! THEY REVERSED THE LUMBR COURT AND CALIFORNIA WAS GIVEN LOAVE TO RE-TRY THE CASE. BEFORE RETRIAL, A "PLOK" DEAL WAS OFFERED AND BLUENTED TO JUST GET THIS ALL OVER WITH. PROSENTIT WOULD GO BACK TO INDIA AND THAT WOULD BE THAT. TATIANAS PANTLY, NATURALLY UPSET, CONTINUED WITH CIVIL SUITS ALAENST EVERYONE THEY COMO THINK OF. THE CIVIL CASES ARGUED THAT THE DOCTORS, THE BOARD OF REBENTS, THE COPS, EVERYONE, HAD A OUTY TO WARN TATEANA THAT SHE HAD A MURDEROUS STALKER. HOW ELSE COULD SHE HAVE KNOWN SHE WAS AT RISK? AFTER ALL, HE KEPT HIS VIOLENT INTENTIONS SO WELL HIDDEN, ONLY TELING A FRIEND, MR. MISTREE, AND POSIBLY HIS ROOM-MATE, TATIANAS BROTHER, THAT HE WAS GOILL TO KILL HER. SWIER SECRET.

ALL THE LOWER AND SUPERIOR COURTS SIDED WITH THE DEFENSE. THEN IT GOT TO THE SUPREME COURT OF THE STATE OF CALIFORNIA.

THE COURT DECIDED LAWS ARE THE LIZARD KIND AND FOUND A FEW THIMS. FIRST THEY FOUND THAT THE PLAINTIFS CAN SUE FOR NOT BEEND TOLO A DUDE WANTED TO KILL THEIR DAUGHTER. THEY FOUND NO ONE PERSON HAS A OUTY TO WARN (GETTING MR. MISSTREE AND FRIENDS OFF THE HOOK). THEN FOUND THAT OR MOORE WHO WAS NO LONDON TREATING PROSENTIT HAD A DUTY BOTH TO COMMIT HIM, AND WARN TATIANA OR HER PARENTS. AS PART OF THAT THEY FOUND THE PIGS FARLURE TO HOLD PROSENDIT INCREASED THE OCTORS DUTY. NEXT THEY FOUND THE GOVERNMENT HAD NO IMMUNITY FOR FAILING TO WARN, BUT DID FOR FAIL WAS TO HOLD. FINE TO DO NOTHING, BUT SHOLD HAVE TOUGHER. MAKES TUTAL SENSE. THEY FOUND THE SAME IMPUNITY APPLIED TO THE INDIVIDUAL COAS WHO WELL SUDD AS PRIVATE CITIZENS AND AS COPS. FINALLY THEY RULED THA POWERSON, DOCTOR BURN IT ALL, WAS IMMUNE, AUT OFO HAVE A DUTY TO WARN CAUSE HE WAS A BOCTOR. BUT THAT WAS MOOTED BECAUSE THE KAINTERS FAILED TO SUE HIM INDIVIOUALLY FUR DAMAGES. IN SHORT THEY PUT IT ALL ON DR. MOORE. SO HE WAS GIVEN MORE TIME WITH HES WOULD BE INFANTICIOE WIFE BY BEING PIRED. IF A PATIENT THREATENS VIOLENCE A DOCTOR HAS A DUTY TO PROTECT THAT SUPERSCOES A PATTENTS AIGHT TO PRIVACY. THE POLICE HAVE THE SAME DUTY, BUT NEE IMMUNE IF THEY PAIL AT THAT DUTY. THE COURT FOUND THAT YOU SHOWLD NOT DECOME A MENTAL HEALTH CARE PROVIDER.



EVERY BODY PROBABLY FIGURED ONE OF TWO SITUATIONS APPLIED.

PRIVILEGE IS IRON-CLAD, BASICALLY MODIE PRIVELEGE, ON THE

OUTY IS TO TELL THE POLICE. I'LL BET NO ONE THOUGHT THAT

DOCTORS HAD TO TELL THE POTENTIAL VICTIM THEY'D BEEN

THREATENED. HOW MUST THOSE CONVERSATIONS GO?

THE TAKE AWAY HERE IS READ COURT BRIEFS. THEY'RE OFF
THE WALL, HONESTLY, LAWS ARE FUN. THAT AND YOU SHOWLD
PROBABLY KEEP YOUR MOUTH SHUT WHEN YOU FEEL ANGRY.
I MEAN A LOT OF US DON'T EVEN TELL FAMILY WE SEE
MENTHL HEALTH CARE PROFESSIONALS, I REALLY DON'T WANT
SOMEONE I DON'T LIKE TO KNOW.

REFERENCES:

PEOPLE U. PODOAN, 103 CAL. RPTR. 84 (CAL. CT. APP. 1972)

TARASOFF V. REVENTS OF UNSV. OF CAL., 108 CAL. RPTR. 878 (CAL. CT. AM 1978)
PEOPLE V. PODBAR, 518 P.2d 342 (CAL. 1974)

TARASOFF V. REGERTS OF UNIV. OF CAL., 529 P.2d 353 (CAL. 1974)
TARASOFF V. REGERTS OF UNIV. OF CAL., 551 P.2d 334 (CAL. 1976)

THE STATE IS ALL FIFTY PLUS THE DISTRICT OF COLUMBIA. THE PUTY IS THE DUTY TO DISCLOSE A THREAT AND MAY BE ENSHATNED IN LAW, COMMON LAW, PERMITTED WOOD THELAW, OR THEKE MAY BE NONE. WHO IS WHO HOLDS THE DUTY AND MAY BE ANY MEMAL HEALTH PROVIDER, PHYSICIANS, NOT PSYCHIATRISTS, NUBODY, PHYSICIANS ONLY, OR UNCLEAR. STATE WHO OWTY ALABAMA MENTAL HEALTH PROVIDER, PHYSICIANS COMMON PERMITTED NOT PSYCHIATRISTS ALAGKA ARIZONA LAW MENTAL HEALTH PROVIDER, PHYSICIANS ARKANSAS NONE NOBORY CALIFORNIA LAW MEMAL HEALTH PROVIDER COLORADO LAW MENTAL HEALTH PROVIDER, PHYSICIANS NOT PSYCHEATRISTS CONNECTICUT PERMITTED DEZAWALE COMMON MENTAL HEALTH PROVIDER PERMITTEN FLORIDA NOT PSYCHIATRISTS GEONGIA UNCLEAR COMMON UNGLEAR HAWAIT COMMON MENTAL HEALTH PROVIDER, **LOAHO** LAW PHYSICIANS IUINOÍS PERMITTED MENTAL HEALTH PROVIDER, PHYSICIANS MENTAL HEALTH PROVIDER, PHYSICIANS TNOTANA LAW IOWA COMMON UNCLEAR KANSAS NONE NOBORY KENTUCKY LAW MENTAL HEALTH PROVIDER, PHYSICIANS LOUISTANA LAW MENTAL HEALTH PROVIDER MAINE NONE NUBODY MARYLAND MENTAL HEALTH PAOVIDER LAW MASSACHUSETTS MENTAL HEALTH PROVIDER, PHYSICIANS LAW MENTAL HEALTH PROVIDER MICHIGAN LAW UNCLEAR LAW MINNESOTA MENTAL HEALTH PROVIDER, PHYSICIANS LAW MISS ISSIPPI

STATE WHO PUTY MENTAL HEALTH PROVIDER MISSOURI LAW MENTAL HEALTH PROJECTE , PHYSICIANS MONTANA LAW LAW NOT PSYCHEATRESTS NEBRASKA NONE NOBDOY NEVADA PHYSICIAN ONLY NEW HAYSHILLE LAW MENTAL HEALTH MORDER, PHYSICIANS NEW JEKSEY LAW NOBORY WALLEAR NEW MEXICO NONE MENTAL HEALTH PROVIDER PERMITTED NEW YORK UNCLEAR NORTH CAROLINA COMMON NOBODY NOVE NORTH DANOTA MENTAL HEALTH PRUSDER, PHYSICIANS LAW OHIO NOT PSYCHIATRISTS OKLAHOMA LAW MENTAL HONLIN MOUTOER, PHYSICIANS PERMITTED OR ELON NOT PSYCHIATRISTS PENUSYLVANTA COMMON MENTAL HEALTH PROVIDED , PHYSICIANS PERMITTED RHODE ISLAND anclere COMMON SOUTH CALLINA SOUTH DAKOTA UNCLEAR COMMON MENTAL HEALTH PROSPER, PHYSICIANS TENVESSEE LAW UNCLEAR PERMITTED TEKAS MENTAL HEALTH PROVIDER, PHYSICIANS WTAH LAW UNCLEAR COMMON LEKMONT MENTAL HEALTH PROVIDER, PHYSICIANS LAW VIRLINIA MENTAL HEALTH PROVINCE, PHYSICIAMS WASHIUTON LAW MENTAL HEALTH MOUDDER, PHYSICIANS WASHILLTON 17.0. REAMITTED PERMITTEN UNCLEAR WEST VIKGINIA **UNCLEAR** COMMON WISCONSIN MENTAL HEALTH PROJUCE, PHYSICIANS PERMETTED WYOMIND