TAKE A VAGUE RULE, ADD SPECULATION AND SOME SCIENCE, AND MIX: FUTURE DANGEROUSNESS IN RECENT CAPITAL CASE RULINGS

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This article focuses on "future dangerousness" as that concept has been addressed in death penalty litigation, with attention to recent rulings and literature addressing how the assessment of future dangerousness is conceptualized in death penalty cases. The Supreme Court has left the definition of future dangerousness to the 30 some legislatures and court systems in death penalty jurisdictions. The Court has made clear its view that the scientific and technical issues involved can be "sorted out" by jurors. The conclusion here, hardly a novel one, is that the Supreme Court's casual treatment of future dangerousness in relation to the death penalty should be reconsidered, especially where courts allow predictions of future dangerousness by psychiatrists, psychologists, social scientists or correctional institution staffers.

DEVELOPMENT OF A MEASURE OF ADJUDICATIVE COMPETENCY: THE NEW JERSEY COMPETENCY ASSESSMENT TOOL (NJ-CAT)

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Assessment of competency to stand trial is a relatively common evaluation in the context of a criminal adjudication with the potential for significant consequences for the defendant and the criminal justice system as a whole. A wide variety of assessment measures have been developed to aid evaluators in competency assessments based on the standards set forth in Dusky v. United States*, yet many of these measures have been criticized in recent years for a variety of reasons, including poor applicability to the competency standards set forth by individual states. The present study involves the initial development of a measure of competency specifically designed to assess competency based on the New Jersey standard. This study focused on development of scoring criteria for the New Jersey Competency Assessment Tool (NJ-CAT) based on review of previous competency evaluations in New Jersey. It was hypothesized that the NJ-CAT scores would differ significantly for criminal defendants determined to be competent versus incompetent by expert evaluators, and that significant differences would be found in NJ-CAT scores for those adjudicated competent versus incompetent by the fact finder during a competency hearing. Both hypotheses were supported by statistical analysis.*