

**Cultural Considerations
in Forensic Assessment**

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***State v. Sisouvanh* - Washington
(Oct 2012) Appeal Decision**

Phiengchai Sisouvanh challenged the adequacy of the competency evaluation due to lack of cultural competency of the evaluator

Facts of case - Ms. Sisouvanh:
Charged with first degree murder
Convicted of first degree murder in 2008
Defense retained Dr. Richard Adler, who argued that competency evaluation was inadequate since it didn't take into account cultural factors
Oct 2012, Appeals Court upheld adequacy of competency evaluation and affirmed conviction

The Court opined

It is critical that competency evaluations be conducted by qualified experts and in a qualified manner. There may be times when an otherwise qualified expert fails to reasonably account for the need for cultural competence, and we may, in an appropriate case, conclude that a trial court has abused its discretion by accepting a competency evaluation that did not reasonably account for the defendant's culture.

Cultural competence is important in many forensic evaluations such as:

- Competency to stand trial
- Involuntary medication
- Criminal responsibility
- Risk
- Mitigation
- Pre-employment evaluations
- Fitness for duty, and fitness to practice safely/competently (maintenance of professional license)
- Obtain concealed fire arm permit

A 'Cultural Defense' Case (*People v. Kimura, 1985*)

- Oyako-shinju
- A comparative case in Japan
- Translation issues

Indiana v. Yin, 2002

- Use of a cultural psychiatrist
- Malingering Test
- Acute Delusional Disorder

Use of Psychological Test Instruments

- *Ewert V. Canada, 2018*
- Personality assessment
- Malingering assessment

Hare Psychopathy Checklist

- Cultural Limitations
- Interview bias
- To determine if using standard western normed tests is appropriate, need to assess level of acculturation to western culture

Acculturation Assessment

- Definition
- Key aspects
- Specific instruments

A Way Forward...

- Culturally competency is an ongoing pursuit
- Consider cultural factors in every forensic evaluation
- Assess level of acculturation
- Consult with a cultural expert if necessary
- If psychological testing is used, be transparent about limitations in interpretation

Suggested Reading

- *Crazy Like Us*, Ethan Waters
- *Cultural Competence in Forensic Mental Health* (Tseng, Matthews & Elwyn, 2004)
- *Clinician's Guide to Cultural Psychiatry (Practical Resources for the Mental Health Professional)*, Wen-Shing Tseng | Jun 7, 2003
- *But they don't speak English!* (Judd et al., 2011)
- *The Five Habits: Building Cross-Cultural Competence in Lawyers* (Bryant CUNY School of Law (2001)
- *International Test Commission* (website: www.intestcom.org) Good resource for guidelines on testing (Oct 2013) and ITC Guidelines for large scale assessment of linguistically and culturally diverse populations (2018)
- Instruments To Measure Identity and Acculturation <https://www.ncbi.nlm.nih.gov/books/NBK248425>
- *The Online Readings in Psychology and Culture (ORPC)* <https://scholarworks.psu.edu/orpc/vol8/iss1/10> - designed to serve as a resource for researchers, teachers, students, and anyone who is interested in the interrelationships between Psychology and Culture. Sponsored by the International Association of Cross-Cultural Psychology (IACCP)
