

What Would You Order, Part I

1. Kyan is an 11-year-old juvenile charged with committing a second-degree forcible sexual offense. Kyan's attorney first requested funds for an expert evaluation and, on receiving that evaluation, questioned Kyan's capacity to proceed. The prosecution then requested, and the court ordered, a forensic evaluation. Both evaluations conclude that Kyan does not have the understanding needed to have capacity to proceed. The report from Kyan's expert states that Kyan lacks capacity due to diagnosis of post traumatic stress disorder and ADHD and due to his developmental immaturity. The evaluator concludes that Kyan is not likely to attain capacity in the foreseeable future given his developmental immaturity and mental health conditions.

The report from the court-appointed evaluator also concludes that Kyan lacks capacity to proceed. However, that evaluator diagnoses Kyan only with ADHD. The second evaluator also concludes that Kyan's lack of capacity is due primarily to his developmental immaturity and that his lack of understanding about the court process and how to work with his attorney could likely be remedied with six months of remediation. The second evaluator recommends that Kyan receive both psychoeducation and mental health treatment for his ADHD in remediation.

Kyan was initially ordered into secure custody as a result of his charges because the alleged victim lives in his home. He is currently in a secure bed at a juvenile crisis and assessment center.

Both evaluators testify in support of their reports as described above at the capacity hearing. You find that Kyan lacks capacity to proceed.

How will you rule on the following questions and why?

1. Is Kyan substantially likely to attain capacity in the foreseeable future?
2. If so, will you order remediation services?
3. If you order remediation, what services will you order (psychoeducation and/or mental health treatment) and what is the least restrictive setting for those services to be provided?

2. Jonathan is a 17-year-old who is charged with breaking or entering into 20 motor vehicles. When he appeared for his probable cause hearing he appeared disheveled and he insisted that the courtroom was being monitored by aliens. The prosecutor raised the question of Jonathan's capacity to proceed, and the court ordered a forensic evaluation. The report from the evaluation states that Jonathan has initial symptoms of potential psychosis, including delusions that his attorney is a government spy. The evaluator concludes that Jonathan does not have capacity to proceed and that he is substantially likely to attain capacity in the foreseeable future with medication for his mental health condition and with completion of the remediation psychoeducation curriculum. The evaluator estimates that remediation should take about eight months and can be done safely with Jonathan living at his home.

The evaluator testifies according to the above report contents at the capacity hearing and you find that Jonathan lacks capacity to proceed.

How will you rule on the following questions and why?

1. Is Jonathan substantially likely to attain capacity in the foreseeable future?
2. If so, will you order remediation services?
3. If you order remediation, what services will you order (psychoeducation and/or mental health treatment) and what is the least restrictive setting for those services to be provided?

What Would You Order, Part II

1. You are at the first remediation review hearing for Kyan. The report from the psychoeducation provider states that Kyan has had 12 scheduled sessions during this reporting period. The juvenile attended a total of 11 of the 12 scheduled sessions. One session was cancelled due to reported illness. On days where sessions were attended, Kyan demonstrated varying levels of participation in the session materials. The support specialist provided frequent reminders to him during sessions about the importance of his engagement with session materials.

The report notes that Kyan has finished the first three modules in the JRC. His performance on the assessments was:

Module	Number wrong assessment 1	Number wrong assessment 2
1	2	1
2	5	3
3	6	3

Kyan's attorney argues that the length of time it is taking Kyan to complete the modules and the number of assessment questions he is getting wrong are evidence that Kyan is not likely to attain capacity in the foreseeable future. She asks the court to find that Kyan is not likely to attain capacity in the foreseeable future and to therefore dismiss the petition. The prosecutor argues that Kyan should continue to participate in the JRC for at least another 90 days as this is well under the maximum time limit for remediation when charged with a Class C felony (which is 12 months with the possibility of an additional 12 months) and Kyan appears to be learning because he is getting better scores the second time he completes the module assessments.

There is also a report from a mental health provider who has begun treating Kyan for his ADHD. The report notes that Kyan saw the provider once and he was prescribed medication to treat his ADHD. At the review hearing Kyan's mother testified that Kyan does not like the way the medication makes him feel and he refuses to take it.

How do you rule at the remediation review hearing? Will you find that Kyan is not substantially likely to attain capacity in the foreseeable future, that remediation should continue (and, if so, will you make any changes to the remediation order), or that a new forensic evaluation should be obtained?

2. You are at the third remediation review hearing for Jonathan. For the first 180 days Jonathan was getting established with psychiatric care. It took six months for him to be

seen and evaluated by a psychiatrist. He then began taking medication for his mental health condition. He began JRC psychoeducation seven months after remediation was ordered, after he was on medication. The remediation report from the psychiatrist notes that Jonathan has been compliant with his medication and his mental health symptoms are under control.

The report from the JRC provider notes that Jonathan has attended two of the six scheduled sessions to date. The two sessions that Jonathan attended focused on the first learning topic for this module. During the first session, Jonathan laid his head down on the table and did not speak or respond to the support specialist's questions or prompts to participate in the session content. The support specialist provided Jonathan with frequent breaks during each session, during which time he sat up and played on his phone quietly. The support specialist also supported Jonathan's engagement with the session materials by reading the session materials out loud to him. During the second session, Jonathan laid his head down again and did not respond to the support specialist, and then, during the middle of this session, Jonathan got up suddenly from the table and walked away when asked to participate in learning activities associated with session content. He refused to come back and sit down when asked by the support specialist, who then ended the session early due to Jonathan's behavior. Jonathan has missed the remaining four scheduled sessions for this module. Jonathan's mother called the support specialist and cancelled the third session for this module, which was scheduled to take place at the youth's home, an hour before the session, stating that the family was sick with the flu. The support specialist moved the remaining sessions to Jonathan's school to maximize his support for participation and engagement with session materials. However, without notice, Jonathan missed the three remaining scheduled sessions because he was absent from school on the days each session was scheduled. As of the writing of this report, Jonathan's mother has not responded to any of the support specialist's attempts to contact her. Therefore, Jonathan's current whereabouts and the reasons he missed these four sessions are not known to the JRC worker.

How do you rule at the remediation review hearing? Will you find that Kyan is not substantially likely to attain capacity in the foreseeable future, that remediation should continue (and, if so, will you make any changes to the remediation order), or that a new forensic evaluation should be obtained?