

Menendez

'Abuse Excuse' Under Attack

■ **Trial:** Noted forensic psychiatrist says Erik doesn't have post-traumatic stress disorder and was able to think rationally at the time of his parents' slayings.

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Dr. Park Elliott Dietz) has become famous searching for the line that separates evil from madness, probing the dark and twisted psyches of some of the nation's most notorious criminals.

On Thursday, Dietz, one of the FBI's premier forensic psychiatrists, turned his owlish gaze on Erik Menendez, testifying as the prosecution's star rebuttal witness in the once-sensational Beverly Hills murder case.

"I don't believe he has post-traumatic stress disorder," said Dietz, attempting to debunk the defense theory that Erik and brother Lyle Menendez killed their parents out of a mortal but misguided fear, the result of a lifetime of sexual, physical and psychological abuse.

"Instead, I'm diagnosing generalized anxiety disorder," Dietz said. That far less severe malady is characterized by "excessive anxiety and worry that occurs more days than not over six months," he said.

Under questioning by Deputy Dist. Atty. David P. Conn, Dietz told jurors that Erik Menendez's condition, which probably was genetic, did not impair his ability to think rationally as he and his brother shot their parents, Jose and Kitty Menendez, to death Aug. 20, 1989.

And so the psychiatrist—who first rose to national prominence in the early 1980s by questioning would-be presidential assassin John W. Hinckley Jr.'s insanity defense—took on the Menendez brothers' so-called "abuse excuse."

Dietz testified that during 15 hours of interviews with Erik Menendez, he detected several other signs of personality disorders. He described Menendez as overly self-dramatizing and prone to histrionics. He told the jury that Menendez feared abandonment, experienced rapidly shifting, shallow emotions, and held a disregard for the truth and a disrespect for the law.

Dietz's diagnosis was a far cry from that delivered by defense expert John Wilson, a

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Cleveland State University professor who is a leading expert in post-traumatic stress syndrome.

While the symptoms are the same, Dietz said, he was not willing to accept or dispute Erik Menendez's scientifically uncorroborated story that Jose Menendez sexually brutalized him from ages 6 to 18. Without a traumatic event, such as sexual molestation, there can be no diagnosis of post-traumatic stress disorder, Dietz told the jury.

While Wilson had testified that he believed Erik Menendez, Dietz said that as a forensic psychiatrist, he always is skeptical of a subject's story—especially if, like Menendez, the subject has a vested interest in the outcome of a criminal case. By contrast, he testified, clinical practitioners such as Wilson usually accept patients' stories in order to treat them.

Whether Jose Menendez molested his sons ultimately will be the jury's call, attorneys for both sides said.

"I don't think Dr. Dietz has hurt the defense case at all," said Charles A. Gessler, attorney for Lyle Menendez. "He wasn't willing to state one way or another whether he believes Erik Menendez was molested. He can't say that it did occur. He can't say that it didn't."

The battle of the experts, as it unfolded on Day 73 of testimony in the brothers' retrial, cuts to the heart of the Menendez case: Were they battered, frightened sons who killed their monstrous parents in a panic, or were they spoiled children of affluence who planned the malicious shotgun slayings, freeing themselves of controlling parents while getting their hands on the Menendez millions? In short, are they guilty of murder or the lesser crime of manslaughter?

Dietz's appearance on the witness stand reflected the prosecution's more aggressive stance this time around in battling the brothers' defense, which two years ago deadlocked jurors and sparked national debate over the abuse excuse and the issue of taking personal responsibility for one's actions.

At the first trial, prosecutors did not call a single mental health expert to rebut the defense case. This time, they have brought out the biggest gun they could find. Dietz's resume is 37 pages long, typed single-spaced.

He has served as a consultant to the FBI, the CIA, Fortune 500 companies and entertainment such as Cher and Michael Jackson. He has testified at numerous high-profile trials, including those of La Jolla socialite Betty Broderick, who shot her former husband and his new wife to death; the late Jeffrey Dahmer, the necrophiliac cannibal; Hinckley, the would-be assassin with a crush on actress Jodie Foster; and Joel Rifkin, the New York serial killer. Dietz was reportedly the inspiration for the brilliant killer Dr. Hannibal Lecter in the film "Silence of the Lambs."

"I think this is just one of the differences that will assist the prosecution in securing first-degree murder convictions this time," prosecutor Conn said.

Dietz on Thursday also attempted to undercut the defense's panic theory, telling the jury that people undergoing panic attacks usually run away from the source of their anxiety, not toward it, as the gun-toting Menendez brothers did when they burst in on their parents in the mansion's den.

Dietz, who two weeks ago spent 15 hours interviewing Erik Menendez in the jail at the Beverly Hills police station, is considered one of the best among the small circle of forensic psychiatric expert witnesses. He usually testifies for the prosecution, and has earned a national reputation as a master at helping prosecutors win cases involving psychiatric defenses.

This has prompted some defense attorneys to label him a hired gun. "The dragon Dietz," Leslie Abramson, attorney for Erik Menendez, has dubbed him. Abramson is scheduled to cross-examine Dietz, and has vowed to shred him. "I'll ruin his career," she said last week.

Lyle Menendez, who did not testify at the retrial, and therefore did not place his mental state at issue, was not examined by Dietz.