

Intervention in Lieu of Conviction Evaluation

**For The Honorable Judge Thomas M. Marcelain
The Licking County Court of Common Pleas
Client: Dennis Aaron Rudd
Case #: 2015 CR 00732**

**Prepared by Ryan P Smith LISW-S, LICDC, SAP
February 16, 2016**

Referral & Charges

Dennis A. Rudd is a twenty eight year old, single male who was referred to Directions Counseling Group by his attorney, Jessica D'Varga, for an Intervention in Lieu of Conviction Evaluation. Mr. Rudd is charged with aggravated possession of drugs, a felony of the fifth degree under ORC 2925.11(c) (1).

Mr. Rudd has no prior record of felony or misdemeanor convictions. He is currently released on bond and residing at 6750 McKinney Street, Roanoke, Virginia, while he awaits further court proceedings. This case is in the court of the Honorable Thomas M. Marcelain, Judge in the Licking County Court of Common Pleas.

This evaluation is pursuant to Section 2951.041 of the Ohio Revised Code. Accordingly, the purpose of this evaluation is to determine whether the defendant had a substance use disorder and:

- That substance use was a factor in the commission of the alleged offense;
- Whether the granting of an intervention in lieu of conviction status would demean the seriousness of the crime;
- Whether rehabilitation with treatment would substantially reduce the likelihood of future crime.

(In the case that an ILC is recommended an intervention treatment plan is also required as part of Section 2951.041 ORC and will be supplied.)

Evaluation Procedure, Release of Information, & Informed Consent

On February 11th, 2016, I had a 120-minute webcam session with Mr. Rudd to conduct a comprehensive ILC assessment. The purpose of the evaluation was explained to Mr. Rudd, and he signed consent for this evaluation and consent for the release of this information to his attorney. He is fully aware that by signing this he has waived his right to keep the evaluation information confidential and that his attorney and subsequently the court will be reviewing this evaluation.

Mr. Rudd was on time for his evaluation, was appropriately dressed, was alert, and oriented to person, place, and time. Mr. Rudd appeared to be a reliable historian regarding the events surrounding his case. His mental status exam found no delusional, psychotic or other psychological features that would inhibit his ability to give an accurate account of his personal history and events surrounding his current charge.

Background & Family Relationships

Mr. Rudd was born on April, 6, 1987 in Lewisburg West Virginia, to parents, Dennis (father) and LeAnn (mother) as their only son. Mr. Rudd has two older half siblings, a 50 year old half-brother and a 47 year old half-sister. Mr. Rudd stated his father owned his own business, an appliance & tire shop store, for many years, and his mother works for the state of West Virginia, allowing him to grow up with a “middle class lifestyle”.

Mr. Rudd noted that he had an “enjoyable childhood” and spent his childhood playing sports, going to church, and being involved in Boy Scouts, karate, and football. Mr. Rudd denied experiencing any childhood trauma or having had negative childhood experiences.

Mr. Rudd did share that his parents were involved with frequent alcohol consumption at neighborhood cocktail parties although he could not provide specific details to their alcohol use. “Four to five times a week they’d go over to the homes of other couples to have cocktails and dinner. I’ve grown up around alcohol all my life.”

Academic History & Extracurricular Activities

Mr. Rudd attended Lewisburg elementary school in Lewisburg, West Virginia and shared that he was involved with sports from a very young age.

Mr. Rudd attended Greenbriar junior high and high school. He stated his grade point average was 3.0. He quit playing football when he entered high school because he “didn’t want to do the daily practice and then the games on the weekends.” Instead Mr. Rudd took up golfing and invested himself heavily in fishing. Throughout high school Mr. Rudd would golf three to four times per week, stating that there were five to six friends

with whom he would golf. When fishing, however, he would go by himself because “I didn’t want to have to train some newbie.”

Mr. Rudd stated that he first had exposure to alcohol and other drugs while in high school. He recalled his first use of alcohol was at the age of 15 to 16 years of age with other peers around a bonfire at a friend’s house. He did not have vivid recall of his initial alcohol use and reported that throughout high school he would drink on one to two occasions every two to three months. Mr. Rudd shared that he did not have a drink of choice but would consume whatever was available. He reported that his typical use was six or fewer drinks and remarked, “I was 140lbs back then and it didn’t take too much to become drunk.”

Mr. Rudd graduated from Greenbriar high school in 2005 and began working. In 2006 he began taking classes through New River Community and Technical College, the local community college, before attempting to transfer to West Virginia University. Midway through his program of study, his program was reaccredited and instead of being able to transfer courses to West Virginia University his courses could only be transferred to Liberty University. Mr. Rudd’s original plan was to take a year off to reassess his educational interests but decided to pursue employment instead.

Employment History

In 2006 Mr. Rudd took a sales position with Grand Home Furnishings, a regional chain of furniture stores headquartered in Roanoke, Virginia. Mr. Rudd has remained employed with Grand Home Furnishings for the past nine years, and moved to Roanoke, Virginia in 2010 in order to work in a more cosmopolitan and “higher traffic” area. His work schedule is typically five to six days per week, averaging between 40 and 50 hours depending upon the season.

Mr. Rudd stated that he enjoys his employment though acknowledged that he has been interviewing with other companies to find a sales position that affords more predictable hour. “I want to be on the same schedule as my girlfriend.”

Medical & Mental Health History

Mr. Rudd is 6’1” tall and weighs 180 pounds. He reported his current health as “good”. He denied having any known medical problems and denied having any surgeries within the past five years. Mr. Rudd obtains a physical evaluation every year with his most recent physical having occurred on November 27, 2015. Mr. Rudd stated that his father has had type II diabetes for multiple decades and that there is a family history of cancer. He shared that he obtains check-ups every year to test his blood sugar and insulin

levels and to have cancer screenings. “This is why I try to stay active and eat natural foods.”

Mr. Rudd denied ever being diagnosed with a mental health condition and denied any knowledge of a family history of mental illness. He denied taking any prescription medications within the past 10 years. His only use of medication is over-the-counter use of Flonase for seasonal allergies.

Legal History

Aside from the current charges being considered by the court, Mr. Rudd reports that he has no other history of legal charges or convictions of any kind.

Substance Abuse History

Alcohol – Mr. Rudd’s first use of alcohol occurred between his sophomore and junior year of high school around the ages of 15 to 16. Alcohol use was regular if infrequent, occurring once to twice every two to three months throughout his high school career. Mr. Rudd shared that he and friends would consume alcohol at a friend’s house and typical consumption was five to six drinks per occasion. He denied that alcohol use had ever caused any personal problems with school, family, or close friendships. He denied ever experiencing alcohol-related memory impairment.

Following his graduation from high school in 2005, Mr. Rudd shared that his alcohol use remained the same. “I didn’t drink a lot after high school; really I smoked more pot.” He shared that his alcohol use did not increase in frequency or quantity until he turned 21 and acknowledged, “Then I’d get together with friends and we’d drink in a more intense way.” From 21 to 23 years of age, Mr. Rudd would shoot pool after work from 6:00 pm to 10:00 pm. On occasions in which he would have to work the next day, he would limit himself to two to four drinks. On days in which he did not have to work the following day, Mr. Rudd’s alcohol use would increase to five to seven drinks, typically free-poured mixed drinks and draft or bottle beers. These occasions would often result in alcohol use in a hazardous situation (e.g. driving).

Over the past two years, Mr. Rudd reported that his overall alcohol use has declined in quantity although the frequency of his alcohol use has increased. “I’ve moved more into expensive scotches and fine wines.” He stated that he drinks six to seven days per week, usually one to two glasses of wine or scotch or bourbon. In addition Mr. Rudd shared that when he drinks more heavily, he will do so on his night off, usually a Wednesday, and will have six to seven bourbon and Coca-Cola mixed drinks over the hours of 6:00 pm to 11:00 pm. Mr. Rudd’s alcohol use occurs primarily at home, and he

stated that if goes out, “I always take a cab or an Uber. I never go anywhere that is beyond \$7.00 cab ride home.”

Mr. Rudd denied that his alcohol use has had any negative impact to his social or occupational functioning. He did acknowledge several instances of drinking more than what he had intended over the past year. He denied experiencing any cravings for alcohol and denied needing to consume increasing amounts of alcohol in order to feel the effects of alcohol. I did not find clear indications of tolerance or a preoccupation with alcohol use nor did I find symptoms of a withdrawal syndrome. Mr. Rudd did acknowledge that his longest period of abstinence since age 21 was while he was on pre-trial bond for the present charge. His last use of alcohol as of February 11, 2016 was at a social event at his home for the Superbowl during which he consumed four mixed drinks and three beers over the hours of 6:00 pm to 11:00 pm.

Marijuana – Mr. Rudd was 15 years old when he first experimented with marijuana. “It was seldom a thing at first; never really had a lot of money to buy dope.” He acknowledged that as high school progressed it became easier for him to obtain marijuana. By his senior year he estimated that he was smoking two to three days per week but was certain that he was not smoking daily. “\$40 a bag was too expensive to smoke every day. Really it was just something to use and then lay back, listen to music, and relax.” His marijuana use was discovered by his parents while he was in high school. “My mother was disappointed when they found out, and my dad didn’t really care. I was always pretty self-sufficient in that I took care of my own needs. My dad bought me a \$3,000 car when I first began driving but I’ve bought the vast majority of everything since that time.”

Mr. Rudd shared that the period of time in which he used marijuana most often was right after his graduation from high school. “I worked a lot and didn’t have a whole lot of ambition; only really attending community college at the time.” He shared that he would smoke marijuana on a daily basis, both on his way to class and afterwards. He shared that he would often smoke marijuana to calm his experience of anxiety and relieve distress. “I once gave a presentation in a class right after smoking and was told by the professor that it was the best presentation I’d ever given.”

Mr. Rudd drastically reduced his marijuana use around age 24-25 because he lost interest in having to go out of his way to purchase it. “I liked smoking it, but I wasn’t going to go out of my way to have to get it...no one wanted to drive it to my house and present me with options. So when it got to the point that I had to meet somebody at Walmart at 11:00 pm at night it just wasn’t worth it.” His last use of marijuana was over

two years ago at his home after a peer had given him some marijuana. “Someone had given me some, and I thought ‘why the heck not’. Even though I was at home and comfortable it wasn’t a pleasant experience...made me jittery and feeling paranoid. It wasn’t that great.”

Psychedelic mushrooms – Mr. Rudd experimented with psychedelic mushrooms on one occasion on the evening of his 25th birthday.

MDMA – Mr. Rudd acknowledged trying MDMA on one occasion on his 18th birthday. He also reported using MDMA at the festival in which he received the present charge although he referred to it by the slang term “molly”. “Molly”, MDMA, and “ecstasy” are all synonyms for the same illegal substance.

LSD – Mr. Rudd tried LSD when he was 23 years old. He reported engaging in the use of LSD on only two occasions, once at a festival and once at a music concert. He reported that, “It was always really fun; two of my favorite experiences.”

Cocaine – Mr. Rudd reported that he was in his early twenties when he first experimented with cocaine. He recalled that he would engage in occasional cocaine use and that it began initially while he was drinking at a bar and someone would offer him a “bump” of cocaine. He shared that as his income increased his cocaine use increased as well because “I could spend a couple hundred dollars on cocaine.” Mr. Rudd shared that he did not start buying cocaine until he moved to Roanoke, Virginia in 2010. He would always keep a small bag of cocaine in his cupboard and reported that he would inhale “a few lines of cocaine” once to twice a week prior to going out to a party or to a bar. “I tried never to travel with cocaine on me so I’d only use before going out or right after coming home.”

Mr. Rudd shared that the peak of his cocaine use was in 2013 in which he was spending \$400-500 dollars per month on cocaine. He stated that he could notice it was having a negative impact on his ability to function: “sometimes I’d find myself at the kitchen counter and think, ‘what the hell am I doing?’” Ultimately, he shared that his cocaine use began to curtail about six months before his July 2013 charge. “The quality was starting to go down and the high wasn’t worth what I was paying for it.” He acknowledged that while he enjoyed using cocaine his use began decreasing in January 2013 as cocaine became less available, less reliable quality, and more expensive. Mr. Rudd shared that those three qualities, availability, reliable quality, and cost were always the measure by which he judged whether or not to try and/or use a substance. Mr. Rudd’s last use of cocaine was three years ago at the age of 25. He has not used any cocaine since he began dating his present girlfriend, Lisa P.

Substance Abuse Screening Results & Explanation

SASSI-3 - Mr. Rudd was administered the SASSI-3 to assess for substance abuse and substance dependence disorders. Mr. Rudd's SASSI-3 test results indicated a high probability for a substance dependence disorder. His scores were negative for rules #1-8 and positive for rule #9, resulting in an overall *high probability* of a moderate to severe substance abuse disorder diagnosis. The SASSI-3 screening was administered with a lifetime frame of reference.

AUDIT – Mr. Rudd was administered the AUDIT (alcohol use disorders identification test) to assess for an alcohol use disorder. Mr. Rudd's AUDIT screening results revealed an overall score of 13. Scores of 8 or more indicate hazardous alcohol use and scores of 15 or more indicate a moderate to severe alcohol use disorder. The AUDIT screening was administered with a past 12 month frame of reference.

DUDIT – Mr. Rudd was administered the DUDIT (drug use disorders identification test) to assess for any other substance use disorder. Mr. Rudd's DUDIT screening results revealed an overall score of 0. Scores of 6 or more indicate a likely drug use disorder. The DUDIT screening was administered with a past 12 month frame of reference.

Defendant's Account of the Alleged Offense

Mr. Rudd reported that the alleged offense is that of aggravated possession of a drug, a felony of the fifth degree. His account of his this offense is as follows:

On Friday July 19th, 2013, Mr. Rudd traveled from Roanoke, Virginia to Licking County, Ohio, to attend the All Good Festival. Upon arriving he met a man who was selling MDMA. Mr. Rudd shared that he tested the drug's quality using a test kit, discovered that the quality was high, and bought 15 pills and used them all throughout the weekend. Mr. Rudd shared that on the last day of the festival a companion bought additional MDMA pills and gave two to him. Mr. Rudd stated that he wasn't interested in using anymore MDMA and so put the two MDMA pills in a bag that he had previously contained marijuana that he had smoked throughout the weekend.

Upon leaving the festival, Mr. Rudd's exhaust came loose from his car due to a faulty engine mount. He was subsequently pulled over for having a loud exhaust and after being pulled over the officer noted a scent of cannabis. The officer asked to search the car, and Mr. Rudd stated that he informed the officer that he had marijuana in the car because his prior experience had been that when he was honest he was let go with a warning. Mr. Rudd stated that he told the officer where he had marijuana and upon

seeing the officer find the bag, realized that he had forgotten about the MDMA pills still in his possession.

After the officer found the MDMA pills, he took down Mr. Rudd's information and let him go. He was eventually cited for possession of a drug and placed on pre-trial bond. Mr. Rudd shared that he has been on probation with probation officer Kevin Gossett and has tested negative for all substances for every drug test since placed on pre-trial bond.

Consideration of Each ILC Criteria in Section 2951.041

Mr. Rudd was evaluated pursuant to court order and to Section 2951.041 of the Ohio Revised Code, Intervention in Lieu of Conviction. Accordingly I will interact with and comment on the following criteria:

- *As to: whether Mr. Rudd's use of substances was a factor in the commission of the alleged offense*

It appears clear to this evaluator that Mr. Rudd's use of hallucinogens and marijuana was directly tied to his charge of aggravated possession of drugs. Mr. Rudd was engaged in frequent use of marijuana as a means to deal with unwanted, negative emotional states and personal distress. At the time of his charge Mr. Rudd regularly smoked marijuana, snorted cocaine, and ingested hallucinogens in order to obtain a euphoric state. His excessive use of hallucinogens and marijuana on July 19th, 2013 clearly affected his decision-making capabilities. Furthermore, it is clear that his overall judgment was directly impaired by his willingness to consume pills of an unknown substance. Mr. Rudd's clinical interview and substance use history reveals a clear pattern of a positive outlook toward substances of abuse and a lax attitude toward possessing illicit substances. It is clear that Mr. Rudd's substance use was a factor in the commission of the alleged offense.

- *As to: whether or not the granting of an intervention in lieu of conviction would demean the seriousness of the crime*

In his clinical interview Mr. Rudd was able to discuss with some insight the negative impact his substance use and this charge has had on his life and present functioning. At the same time, Mr. Rudd maintained a favorable attitude toward his past substance use and does not appear to have adequate insight into the excessive and possibly abusive nature of his present alcohol use. Certainly in the midst of his marijuana, cocaine, and hallucinogen use, Mr. Rudd had minimal insight into the seriousness of his drug possession and use. Now sober from illicit substances and willing to engage in

treatment, he does appear to have a growing awareness of the seriousness of his prior substance use.

When I questioned him regarding his desire to maintain abstinence from illicit substances that he once enjoyed, Mr. Rudd shared that he feels his past drug use has and continues to jeopardize what he hopes to get out of life. He stated that his primary goal is to remain sober from drugs and pursue employment that will allow him to spend more time with his significant other.

It is my clinical judgment that the granting of an intervention in lieu of conviction would not demean the seriousness of the crime. In contrast the granting of an intervention in lieu of conviction would greatly increase Mr. Rudd's awareness of the harmful nature of his past drug use and provide current insight in his present misuse of alcohol. The granting of an intervention in lieu would likely augment his understanding of the seriousness of his crime.

- *As to: whether rehabilitation with treatment would substantially reduce the likelihood of future crime*

Mr. Rudd meets DSM-5 criteria for multiple substance use disorder diagnoses. While he has remained sober from stimulants, hallucinogens, and marijuana for several years, he does continue to drinking excessively on a weekly basis. Furthermore, Mr. Rudd's rationale for quitting and abstaining from illicit substance use seems to be associated more with the low quality of drugs, their increasing cost, and the overall decrease in ease of access and availability. It is reasonable to question whether Mr. Rudd's present abstinence would continue if any of these drugs were to become highly available, be easily accessed, and be of high quality.

It is in that sense that rehabilitation with treatment would serve to substantially reduce the likelihood of future crime. It is clear to this evaluator that Mr. Rudd's level of awareness and insight into the harmful nature of his past substance abuse is not sufficient to provide a strong foundation for lifelong abstinence from illicit substances.

Up to this time, Mr. Rudd has not engaged in substance abuse treatment services. By meeting with a licensed professional substance abuse counselor he can have the opportunity to enhance his own awareness of the dangers of illicit substance use and gain the skills in relapse prevention to increase the longevity of his present abstinence. It is this evaluator's professional judgment that substance abuse treatment would substantially reduce the likelihood of future criminal activity by introducing Mr. Rudd into a recovery program.

Summary of Professional Opinion

Mr. Rudd meets all three criteria necessary per Section 2951.041 of the Ohio Revised Code to qualify for the granting of Intervention in Lieu of Conviction.

At present Mr. Rudd meets DSM-5 criteria for:

- F14.20 cocaine use disorder, moderate, in sustained remission
- F16.20 hallucinogen use disorder, moderate, in sustained remission
- F12.20 cannabis use disorder, severe, in sustained remission
- F10.10 alcohol use disorder, mild; Rule out moderate alcohol use disorder

Provided an opportunity to engage in professional substance abuse treatment, it is this evaluator's clinical judgment that Mr. Rudd has a good prognosis of gaining necessary skills to continue and sustain his present abstinence and mitigating the likelihood of a resumption of illicit substance use. In summary Mr. Rudd meets full criteria for the granting of an Intervention in Lieu of Conviction status. The following items recommend a long term treatment plan outline corresponding to the ILC recommendation.

Treatment Recommendations

Accordingly, I recommend Mr. Rudd obtain the following services:

1. Recommend Mr. Rudd participate in *twice monthly outpatient substance abuse counseling* with a licensed professional whose scope of practice includes substance abuse treatment; outpatient counseling is recommended for a minimum of *6 months*; recommendation includes agreement to sign a release of information for counselor(s) to contact Mr. Rudd's probation officer with treatment updates;
2. After completion of initial counseling, recommend Mr. Rudd attend quarterly follow-up monitoring sessions with the same professional substance abuse counselor until the counselor deems it appropriate to terminate counseling;
3. Random drug tests supplied to the court and the professional counselor
4. Two meetings/month of SMART Recovery, AA or NA 12 step meeting attendance for duration of outpatient counseling; attendance should be documented and sent to court and counselor.
5. Any subsequent substance-related legal charge or positive drug screen would be reason for the substance abuse counselor to consider an increased treatment recommendation of *Intensive Outpatient Treatment or Inpatient Treatment* at a substance abuse rehabilitative facility.

Evaluator Credentials and Brief Professional History

Ryan P. Smith, LISW-S, LICDC, SAP
SW Lic. #1.1000155-S; CD Lic. #101182

I am a Licensed Independent Social Worker performing direct services for individual clients as well as providing counseling for couples and families. My education was at The Ohio State University where I obtained a Bachelor of Arts in (2005) and Master of Social Work (2008). In 2010 I obtained an IC&RC (International Certification and Reciprocity Consortium) certificate as a Substance Abuse Professional (SAP) and IC&RC certification and a licensed independent chemical dependency counselor (LICDC). SAP certified providers are uniquely qualified to provide substance abuse assessments and recommendations for safety sensitive employees under Federal DOT rules (pilots, freight carriers, marina workers, pipeline workers, and transporters/handlers of hazardous materials). As such, I evaluate numerous employer-referred individuals as well as court referred individuals (commonly OVI charges) on a weekly basis. A resume and scope of practice will be provided at the court's request.