

*Law Offices*  
WYNNE & WYNNE  
*Langston, Texas*

September 27, 1940.

Re: Still v. Magnolia et al.

Dr. William Thomas,  
The Terrell State Hospital,  
Terrell, Texas.

Dear Doctor:

I am sending you herewith a copy of your testimony given in the former trial.

I don't think your answers can be improved upon much, but thought you would like to have them to check over and to familiarize yourself with the cross-examination which was given.

I am going to stress a little more, this time, in my examination, C. C. Still's lack of capacity to have or exercise judgment in regard to values and his lack of capacity to reason about values. I think we will have an improved case this time, though we really had them licked last time except for the sinkers on the jury.

We will want you in Henderson Tuesday morning, the 1st of October. Philip Brin will call you either Monday or Monday night, if for any reason the case isn't going to be tried. He will also see you Saturday to ask you about one point that we didn't cover before.

With best wishes, I am,

Very truly,

*Angus G. Wynne*  
Angus G. Wynne.

AGW-L.

DR. WILLIAM THOMAS, a witness called on behalf of the plaintiffs, after being first duly sworn, testified as follows:

DIRECT EXAMINATION

(Examined by Mr. Wynne:-)

Q Tell the jury your name, please sir.

A William Thomas

Q What is your business or profession?

A I am a physician

Q Are you a graduate of a medical school?

A Yes.

Q. What school was that, doctor?

A The University of Nashville.

Q Doctor, how long have you been practicing medicine?

A Since 1906.

Q After getting out of school, did you specialize in any particular branch of medicine, doctor?

A Yes sir

Q What branch was that?

A Mental and nervous work.

Q Doctor, in specializing in that branch of the medical profession, the mental and nervous diseases, is that - in order that it may be plain to us, is that the study of the human mind and of the nervous system?

A It is.

Q Are you connected with any institution, Doctor?

A I am.

Q You are?

A Yes.

Q What institution is that?

A The Terrell State Hospital.



Q Is that called the North Texas Hospital for the Insane,  
at Terrell, Texas?

A Formerly it was.

Q Formerly it was?

A Yes sir.

Q How it is what?

A The Terrell State Hospital.

Q When did you first - what position do you occupy there first?

A Superintendent.

Q How many patients are under your care and supervision there  
at that hospital?

A It was 2,927 yesterday.

Q How many years have you been there as superintendent, Doctor,  
of that institution?

A Nearly two and one-half years.

Q When was the first time you ever became connected with that  
hospital?

A In 1906.

Q And in what capacity were you connected with it at that time?

A As assistant physician.

Q How long did you stay there when you went there in 1906?

A About seven years.

Q Then where did you go?

A I went to west Texas, in the general practice.

Q And how long did you stay there?

A Until about the time of the war.

Q Did you --

A No; in 1911 I went back to Terrell.

Q You went back to Terrell in 1911.

A Yes sir.

Q How long did you stay there that time?

A As assistant superintendent from 1911 to 1918.

Q While you were there from 1911 to 1918 as assistant superintendent, what was the average number of inmates under your care and supervision there?

A There were 1819 patients the last year.

Q In 1918 where did you go?

A To the army.

Q While you were in the army what did you have to do with reference to nervous and mental diseases in the army, if any?

A Well, a part of the time I was in charge of the mental and nervous unit with Hospital 22, in Jersey City.

Q New Jersey?

A Yes, sir.

Q All right.

A Then I was in the attending surgeon's office, as mental and nervous consultant through about two-thirds of my time in the army service.

Q While you were there as consultant, was it your duty to examine the mental and nervous patients?

A Yes sir.

Q In order to do that, did you have any tudy in regard to testifying in Court Martials with reference to nervous and mental diseases?

A That was the principal work.

Q Now, after the army was over and after you were discharged from the army did you continue in this specialty of mental and nervous diseases?

A After about six months I became district neuro-psychiatrist for the thirteenth distfict.



Q What district did that cover?

A For the Federal Government and it embraced Texas, Oklahoma and Arkansas.

Q What were your duties in charge of that district in regard to mental and nervous patients?

A I had general supervision of the neurotic cases throughout this territory.

Q How long did you continue in that position?

A Until 1927.

Q Then in 1927 where did you go and in what capacity?

A I went back to work for the State as Superintendent of the Rusk State Hospital.

Q How long did you stay as superintendent of the Rusk State Hospital?

A A little more than ten years.

Q You stayed there from 1927 to about 1937?

A Yes sir.

Q Then where did you go?

A I went to Terrell as Superintendent of the Terrell State Hospital.

Q When you were in Rusk about how many was the average number of patients under your care and supervision there?

A There was about 2100 at the time I left there and about 1200 when I went there.

Q Twelve hundred when you went there and about 2100 when you left?

A Yes sir.

Q Were they under your care and supervision as Superintendent of the Hospital?

A Yes sir.

Q Doctor, this is a suit by the guardian of a man by the name of C. C. Still, in which it is claimed by the guardian of C. C. Still that he was not of sound mind or rather that he was feeble minded and incapable of transacting business, etc. through the years from 1900 -- say, 1929, 1930, 1931, 1932 and up to now; did you ever have occasion to examine C. C. Still?

A I did.

Q Do you remember the date of your first examination -- this suit appears to have been filed, and I will introduce in connection with this testimony the file mark on the petition as plaintiffs' Exhibit No. 22, showing it was filed on January 26th, 1939 -- do you remember the date of your report, Doctor?

A My first examination of Mr. Still was on the 27th of October.

Q On the 27th of October of what year?

A 1939.

Q 1939?

A The 27th of October.

Q Do you remember the date -- did you make a written report?

A Yes sir.

Q All right.

A That is I believe it is the second.

Q This shows your examination was had on the 27th of October?

A Yes sir.

Q Of what year?

A 1938.

Q Then your first examination, if the suit was filed on January 26th, your first examination was prior to the time the suit was filed because it was in October of 1938?

A Yes sir.



Q At whose instance did you examine Mr. Still that time?

A At Mr. Davis'.

Q Mr. W. M. Davis?

A Yes sir.

Q This gentleman here?

A Yes sir.

Q Had anyone phoned you to ask you to examine him before Mr. Davis brought him up there, if you remember, or had written you?

A I don't remember when you first mentioned it to me or whether it was by phone or letter; no, I am not right certain about that.

Q Whatever -- whoever it was that made the arrangement you did examine him to determine as to his condition, did you not?

A I did.

Q Doctor, explain to the jury what you did and what you usually do to examine patients of that kind?

A Well, it embraces a rather lengthy examination if you go into the things and examine properly; it must be taken into account the physical condition, the pathological condition and then any intervening depravities and illness of any type or nature throughout a person's life. The first thing generally is that of a physical examination; the elimination of pathological conditions that might have any bearing upon the nervous system or the mind; eliminating those things then it is a question of going back practically from birth or as early as we have any history or what history you can support the findings on at the time of the examination, taking it up then through tests and questioning together with neurological findings as regards specially the mental activities or reaction in the absence of

any organic condition which was the case in the instance of Mr. Still because there was no evidence of any organic condition, in other words, a psychosis.

Q Doctor, do you mean to say you found no organic injury?

A No organic injury; no pathological condition, nor any of those conditions and reactions of the mind that are characteristic of any cardinal of a true psychosis; no delusions or outstanding or predominant conditions that are so at variance with an otherwise normal or average mind; those things, in this case, were ruled out and it was proven that his condition was of an inherent nature.

Q Do you mean it was inherited?

A I mean it was from birth; it was a lack of development from the beginning; a deficiency.

Q Like -- would you call that what we call a hypo-phrenic condition?

A Yes; you could call that a phrenic condition.

Q That means what?

A Mental deficiency, or feeble-minded.

Q Now Doctor, is that condition one that is what we call hereditary, or not, in a family?

A It is, more than any other type of mental involvement, or deficiency of the mental powers.

Q Would you figure, Doctor, in that kind of a family you would have idiots and imbeciles; would you figure that they run in that kind of a family?

A You would figure on idiots; on feeble minds, from idiots all the way up the line.

Q Do you mean up the line from idiots and feeble-minded - what is next?



A Idiocy, imbecility, and gradations of feeble-minded and morons.

Q About what you do figure a moron to be, doctor; about what mental capacity would he have?

A He would ordinarily grade from 12 to 14 or 15 years.

Q What do you find Charlie Still to be with regards to the grades as to idiocy, imbecility or a moron? Is he either one of them?

A He is in the imbecilic class; feeble-minded.

Q Doctor, in that class in these families, is it unusual to find the Mongolian type, or what we call the Mongolian idiot; will you observe this young lady?

A Yes sir.

Q That is all, thank you; let her sit down right there, or if she wants to go back with you, that is all right. Doctor, have you ever examined that young lady before?

A No sir.

Q You have never seen her until today?

A No sir.

Q Doctor, explain to the jury whether or not that is a typical example of this family trait you are telling them about; if she looks like a typical example of them?

A I would like to qualify any explanation of that; it is not always but it is generally the case and particularly in feeble-minded people, that you have what we find and see outstanding and what is known as stigmata, lack of development, facial and bodily irregularities and abnormal conditions that crop out among these feeble-minded people in seventy five or eighty per cent of the cases.

Q Will you look at this little lady they have just brought in and explain to the jury whether or not that is an example of what you are talking about as far as you can tell from looking at her?

- A I should say she is, yes.
- Q Would you expect to find in that kind of a family others who cannot talk or speak or cannot learn?
- A Most of the offspring of parents of that type are feeble-minded people that will follow along more than any other type of mental derangement.
- Q And it is outstanding with her from her appearance?
- A Yes.
- Q Would you expect one of that type to be able to learn very much in school and to learn to read and write and to go on up through school?
- A That of course depends on their capacity and that degree or stage of development that the mind may have reached but in numbers of children out of families of that class you would not find more than one out of five or six maybe who would or could take an education.
- Q If the child did attend school several years and being unable to learn its A, B, C's would you think that would be about an example of what you are talking about?
- A That is about the height of a lot of them.
- Q Did you later on examine Mr. Still a second time at my request?
- A I did.
- Q Did that examination confirm your first opinion and report?
- A All the way through; yes.
- Q Will you tell the jury, now, Doctor, whether or not C. C. Still is in what class as a man from his mental condition?
- (Mr. Ledbetter: Your Honor, we object, we submit that that is not the proper test.
- (Mr. Wynne: Wait a minute, I will withdraw that and save time.
- Q Doctor, in the human mind are there any elements with regard to quality and quantity?



A It is divided separating the organic from the functional or inherent line; that is the mind of the individual. I presume what you are driving at is that it bears upon the quality of the mind.

Q That is right.

A And quantity.

Q In other words a man may have quality without quantity and quantity without quality?

A Yes, and the feeble-minded is lacking in quantity of brain power.

Q And that particular feeble-mindedness that you are talking about is what is called cerebral agenesis or aplasia in that there is not a development or something of that kind?

A It is of the agnesic type; there is no question about that, it is a lack of development from the beginning.

Q Is that type a type that runs in families?

A Yes sir.

Q From your examination of Charlie Still and your work with him and from all of your years of experience as you have detailed to this jury tell this jury whether or not in your opinion he is in the feeble-minded class?

(Mr. Ledbetter: We object because that is not the proper test of insanity or unsoundness of mind.

(Mr. Wynne: Let me say some more time, I will change the question.

Q Doctor, tell the jury, what you found about his mind?

A I found it very limited in capacity; in other words an imbecilic type; feeble-minded and incapable.

#### C R O S S E X A M I N A T I O N

(Examined by Mr. Ledbetter)-

Q Doctor, I believe you said that taking C. C. Still physically he is -- well, you found nothing wrong?

- A Nothing that would justify a belief or an opinion that there was any physical depravity to which we might attribute his mental weakness.
- Q And also in a pathological sense?
- A No, no outstanding pathology, no, sir.
- Q What do you mean by that?
- A Well, you would have embraced in that the neurotic diseases and conditions and syphilis or physical disability or tuberculosis and emaciating diseases that bring about the depravity of the physical body.
- Q I believe you said you found no psychosis?
- A Yes
- Q Explain to the jury what you mean by that?
- A Psychosis is that term that is applied to depraved aberrations of an otherwise average or normal mind in which ordinarily you find delusions or hallucinations and so on; these are considered an organic upset; in other words, it is a dethroned reason or depraved mental capacity from a mind that formerly was an average or normal mind.
- Q A person with what you call a psychosis is a person in a condition of what the ordinary layman would call crazy?
- A I think so.
- Q It is about as near an equivalent as we have in the ordinary language?
- A That brings us back as to the state of mind that is to separate it and the condition or the result is a qualitative or a quantitative proposition.
- Q You found no psychosis?
- A I found no psychotic condition.
- Q Now, doctor, on your examination -- your first one was October 27th, 1938, I believe you testified?



A Yes.

Q Was it during that day or how long altogether was it is what I am driving at?

A It was about four hours; it was from about 10:30 until 12:30 and then from about 2:00 to 3:00 or 4:00 o'clock -- it was four or five hours but I am not just right sure.

Q He was over at your hospital then?

A Yes.

Q That was not a continuous examination but he was there under your observation during that time?

A It was except for about thirty minutes off at lunch time.

Q Now, the second examination, when was that, Doctor?

A I don't remember, I am sorry I do not have that exact date.

(Mr. Ledbetter: Will you show him his report on that?)

(Mr. Wynne: He did not make a report on the last examination.)

(The Witness: There was nothing to report other than the fact that his condition was identical with that of the first examination.)

Q About when was that, Doctor?

A I believe that was in the latter part of December of last year.

Q Last year would be 1939?

A It would be 1939, yes.

Q How long was --

A I think it was either the latter part of December or the early part of January.

Q Where did you see Mr. Charlie Still at that time?

A At Terrell.

Q At the hospital?

A Yes.

Q Over what period of time did you see him that time?

A For two or three hours.

Q Now then at that time did he come up there by himself?

A No sir.

Q Who brought him that time?

A Judge Wynne, I don't know if there was some other party along or not, I think there was Judge Wynne and maybe some other one.

Q Do you know Mr. Davis?

A Yes sir.

Q He brought Mr. Still up there the first time, didn't he?

A I think so.

Q Don't you know he did?

A Yes; I know that to be a fact but who else I don't remember about that.

Q The second time in December of 1939, who brought Mr. Still up there?

A. I believe Mr. Davis and Mr. Wynne both, I believe were along at that time but I could not be positive about that.

Q You do not remember any other member of the family that was along at either time?

A No, I don't know, I just could not say. I think some other parties were along though.

Q What was the character of the examination you made the second time?

A Well, it was rather a casual physical examination there and rather a re-checking of my former mental and neurological examination.

Q Now, Doctor, as to the casual physical examination you found about the same condition existing that you had found before and that was negative was it?



A Practically so.

Q And then your neurological examination?

A It was essentially negative; there was nothing neurological at either time.

Q Doctor, tell the jury what you mean by negative?

A No neurological symptoms were elicited that were looked upon with any significance or bearing as regards his mental state.

Q And then as far as his mental state was concerned did you give him any additional tests at that time?

A I think nothing more than I had the first time.

Q Did you give him the same things you did the first time or something different?

A No, it was practically the same examination but in a more brief manner.

Q And that was, if I get it, as to his mental ability, is that what that was?

A His mental state in general, yes.

Q And that disclosed what we might ordinarily call how much intelligence he had?

A Yes; having eliminated in my opinion the psychotic or organic involvement and it was trying to arrive at his capacity and intellectual level.

Q From an examination?

A Yes sir.

Q Now, then was that in part organic?

A No.

Q None?

A No.

Q It was then as to his functions -- his mental functions?

A Mental, yes.

Q Is function the correct word?

A Well, the capacity I think the mental capacity I think would more clearly express it.

Q I am partly groping for terms.

A It is to the functioning or from the functioning of the mind you arrive at the capacity of things if that is of any assistance to you.

Q Now then, the functioning of the mind then is anything that a man might do to disclose how his mind produces that, is that approximately correct?

A The reaction and the behavior as a result of the action and how he responds and behaves to stimulation -- that is the functioning of the mind and we all respond and react to mental stimulation.

Q Wasnt a mental stimulation as if I look here and that makes a picture on my eyes and then into my brain and I say that this is a black hat or a blue hat, why that might be what you would call a stimulus to the brain?

A That would be a fairly normal reaction.

Q I thank you doctor, then it was some such a test as that, an additional test that you gave to Mr. Still?

A Yes; involving deduction, reasoning, judgment, reaction, store of acquired knowledge and so forth.

Q Now then, such a test as that for a person that has learned to read and write is not the same as that for a person who has not learned to read and write or in other words you do not give the same tests to a college student that you would give to C. C. Still, do you?

A You could not after you have separated them.



Q All right.

A In the end it is the same thing too, that is the principle involved would be the same.

Q The principle involved then is the reaction of the mind to the stimulus we will say to the ear, or the feeling or to the touch and really lately they have added many other ways that impressions reach individuals, haven't they?

A We react to all of the senses.

Q But the most common is the eye, isn't it?

A Well, I don't know about that.

Q Well, that is one of the ones -- I want put the most common one but that is one of the common ones?

A Yes, that is one of the means of stimulation reaching the brain.

Q And one of the common ones is also through the ear?

A Yes sir.

Q And like, if without looking, I say the word "clock" that enters your ears and makes an impression on your brain, doesn't it?

A Yes.

Q That is fairly normal through the ears, isn't it?

A Yes sir.

Q Then if another, if I close my eyes here or put it over here and ask someone to put something in my hand - someone of you put something in my hand here - anyone about the table can do it - now, doctor, if I say this is a fountain pen, that is a fairly good reaction from touch?

A Yes.

Q That acts on my mind through my touch, if my eyes are properly hidden?

A Yes.

- Q And they were properly hidden, but you will have to take my word for it that they were properly hidden, wont you?
- A Yes.
- Q And if they are not properly hidden it would register on your mind from your eye sight?
- A Yes.
- Q Is it some such tests as that that you gave Mr. Still to test his senses?
- A Yes, that is covered in the neurological examination.
- Q Then he can see and it will register on his mind say that this is a hat or that is a book or some other such thing, can he?
- A Yes.
- Q In your tests?
- A Yes, but let me get it clear if I may.
- Q All right, I am just trying to understand it.
- A That is apart from the capacity of the mind that is through the sense or the instinct as any other normal animal without any mind at all will respond to those things and I don't want to be understood to say that that is the way I measure the capacity of the mind if you will excuse me for that.
- Q Yes, I will but you say because I saw that and called it a black hat and because I felt this and called it a fountain pen that it shows I do not have any intelligence or sense?
- A No, it shows that those two factors of the senses are intact.
- Q If I should look across there at that distance and point to the picture there on the wall and I could read it at that distance and properly describe what was over there that would indicate that at least the photographic part of my mind is all right?
- A That you were not blind.



Q That is all?

A That that sense was operating.

Q Now then in addition to that you did some of those things or all of those things with him -- why did you do that?

A Because in a neurological condition if your eye sight is at fault you would immediately or you might think of syphilis or any pathological condition that of itself might be responsible for a weakened or an incapacitated mind.

Q Or in other words a lack of opportunity for the impulses to come into the mind and you checked that?

A Yes; some interference with their registering.

Q In this neurological sense -- you found Mr. C. C. Still's eye sight registered all right?

A Very good.

Q And you found his hearing registered all right?

A Yes; so far as it had any bearing; yes, all of the senses.

Q You found that the touch of Mr. C. C. Still was all right; I mean his sense of touch?

A Why there was not anything -- there may be some defect in his sight or in his hearing but not anything enough that it could be accepted as having a bearing on his mental condition.

Q That is what I mean.

A Yes, sir.

Q In other words we are all the same when it comes to the eye sight?

A No sir.

Q We are not?

A Not normally.

Q Or to the touch?

A Not normally.

Q But there was nothing sub-normal about Mr. C. C. Still in those respects that would be of significance in this examination?

A No; not anything that would be accepted as having any significant bearing on his mental capacity.

Q Now there is another simple kind of test that you give -- don't you sometimes sort of crack the knee like that?

A That is the reflex.

Q The reflex?

A Yes; deep and superficial reflex.

Q In other words, if you or somebody else hits that knee and I kick up a little bit you would say what?

A Do you mean the significance of it?

Q Yes; that is my reflex?

A It would be hyper-active or retarded or sluggish.

Q But that don't show whether the one being tested is sane or insane but it might be a cause?

A Per se, no.

Q So without me taking up so much time you likewise tested all of the senses and methods of testing the sensor stimuli from the outside into the brain, didn't you, or practically?

A I did sufficiently so to satisfy myself that there was no pathological condition.

Q That is what I am getting at. In other words, I am not quarreling with you to what extent you did it and how long you might have done that and it might have been only by flashing your hand in front of his face as to his eyes and you might have stood behind him and called out a word and he could hear it but you satisfied yourself.

A Yes; I satisfied myself.

Q I expect you tapped him on the knee?

A Yes.

Q And you found that all right?

A Yes.



Q And so on with all of them and you found those senses all right?

A Yes.

Q Then you said that so far as the entire physical condition and the entire neurological condition you found nothing of an apparent external nature which would lead you to believe or to call C. C. Still insane?

A Any psychosis.

Q I might have used the wrong word?

A No organic condition is correct.

Q Now, doctor, tell the jury then exactly what tests in detail you gave him to determine -- I will use the word function or the resulting quality of his intellect that is outside from those things we have already talked about and those tests?

A Having eliminated the question of any organic condition then the more recent involvement of a man's mind or aberrations or abnormal state, it is necessary then just to take up a series of questions that cover fairly well his entire activities throughout his period of life; that is, his entire period, beginning with reasoning, judgment, and his ability to acquire and store up knowledge and his observations and to observe how and what it registers on the mind of any kind or type, so far as that goes, and without going into detail, I guess you dont mean that.

Q I mean not in general, but as to your tests on C. C. Still in particular. I do not mean what it is necessary to do in general, but eliminating all of those things I have gone through about the eyesight and all of those things and the feeling, and so on, what additional kind of test, that is, what additional mental test did you give to get the quality and in telling that and in giving the picture; that is what I am driving at, what you used with him, what did you use with him?

A It is largely a matter of questioning and his reactions to a series of questioning through any and every field that you can carry a man through, because you have to take into consideration everything there and I must qualify some as I go along with this if I do that, because you have your malingerers who may be adept and expert in those things, and his emotional powers, as well as crying and getting mad and his reaction to grief and things of that type; those are things which concern very markedly individuals with weak or who are feeble-minded and on some it does not more than register, so to begin with, first of all, you try to find out what his behavior was, as near as you can during his childhood and even back into - - -

Q But what I am getting at, did you ask C. C. Still about those matters. I am getting at exactly what you did there, not what you ought to do but just what did you ask C. C. Still and did you ask him the questions and those things you are talking about?

A I asked him when he was born; to begin with where he was born, who his parents were and how many children, what his father or what his brothers and sisters did, how far they ever got in school, how much education they were ever able to take and I included he, himself, in those things, and how early he began to mix with other children, and what games he played, and if he participated in those things that were normal and expected of the average child; what age he began to bear responsibility about the place and from that on through then to his attempt to attend school and that of other members of the family as well as including his parents and into his adaptability or how he maintained himself with other children and comparing that with the average age of the average child



and taking those things up on through into adolescence and his development and when pubic hair began to show up and evidences of manhood or adolescence took place and it is the same thing as with females when they begin menstruating and through then to his beginning of any and how much courtship he had and on into when he launched out onto his own resources and how long he would stay on this job and how long he would stay on that job and what he thought was the most important work he did and how much money he might have had in the bank at any one time and what was his object for saving and acquiring property or of having anything ahead and how he looked upon that and then his relationship that he might have had or his attitude toward members of his family and that of other people and the way it concerned his regard for his neighbors and the public in general and his general aspect on society, schooling, church, religion, laws and on up and down on those and more subjects and in later years the management of his own affairs and whether or not he ever did anything in this type and class that it might have been possible for him to go ahead in a successful manner and make a good citizen and to appreciate the intent and purpose of the law and his idea as to religious matters and if he is able to go on and handle his own affairs in a successful manner or whether or not somebody had been steering him along through this period of time and whether or not he had been affected specially or materially through death or those misfortunes that might be calculated to bring about in an average person a change in their life and attitude and then with that as you go along with his life how much capacity he has for benefit out of his experiences through the earlier periods of his life and all of those things taken into

consideration, his judgment, his reasoning and his own intuition as to working out and developing ideas and thoughts of his own and whether it was in a very satisfactory manner or not thereby establishing the level of the mental capacity or what is known as the mental level. Judge, does that give you any information on that?

Q Yes; and I want to ask you one or two more questions. You got that history and that information from C. C. Still, didn't you?

A I corroborated it, every bit of it as far as could be because that is a requirement and unless you can find it is substantiated with those things it is without effect but those are things that enter into every man's life.

Q I am not trying to be facetious but in that you got that information from C. C. Still, didn't you?

A Yes; nobody was present but he and myself at the examination for that period of time.

Q That is what I was getting at. Now, you have never treated him, have you?

A No, sir.

Q As his family physician, or otherwise, have you?

A No sir.

Q He was brought to you for the purpose of examination only?

A That is it.

Q You mentioned many things there which, we might say, sums up into how he adapts himself into his surroundings and society and that is one of the best tests of all, isn't it?

A His attitude and movement in society is one of the things that has significance.

Q And particularly in relation to economic acquisition?

A No, I would not say that would be next. I think society and those things and his appreciation of those things for which society stands for and which law stands for and his



interpretation and evaluation of the law and of domestic affairs and his relationship to his family and church and government and the community would be next.

Q You did not find that Mr. C. C. Still had ever had any clash with the law, did you?

A I believe very little. I don't think so, I think he came in conflict with the law very little. In fact C. C. Still knows mighty little about the law or why we have churches or laws. He knows that there are such things as churches and laws but they are simply things to him and that is about the extent of his appreciation and understanding of it.

Q You do not tell us that you discarded how well he got along in supporting himself during his life, do you?

A How is that?

Q In your examination and in arriving at your conclusions did you discard the information as to how well he supported himself and his family?

A My object in that --

Q I am not trying to get facetious with you now, doctor.

A I know. No, I did not discard it but I took it into account with the other things.

Q It is a very important matter to take into account, isn't it?

A One's attitude on economic conditions, I should say yes.

Q And boiling it down as to how well he sustained himself in life and his family is very important?

A I would say yes as to his efforts and intentions because misfortune would certainly alter things.

Q In other words you say that although he has some efforts and intentions misfortune might have prevented that?

A I say misfortune may alter that and to get a satisfactory opinion on that you must search out a person's attitude and position as regards those things and how he accepts them.

Q Then if I make my question clear as a total result of that it is important to know how well he was successful in sustaining and supporting himself and his family?

A Well, I think that would be a part of that but in connection with that you would have to take in pretty well all of these other things and how he arrived about those things and how much guidance he had, if any, or who protected him.

Q And it would be an important part about it?

A Yes sir.

Q Now, skipping this economic part that I was on, Doctor, and coming from the property to the conversation, you did have conversations with Mr. Still?

A Yes sir.

Q And you judged him from them?

A Yes sir.

Q And you said here that voluntarily, and to qualify it that you have to have the cooperation of the person you are examining in order to make those tests, don't you?

A That is the reason I mentioned about the malingerers, because you have to satisfy yourself if you want to arrive at a satisfactory opinion or conclusion.

Q Yes.

A And if he balks, as is frequently the case in many of the details that you are trying to get then you cannot rely on him.

Q Take this, if one is being tested and says he dont remember then there is not any satisfactory way by which you can test whether he does remember back ten or fifteen years prior thereto except his own statement.

A If you go on with anyone and carry them through enough to arouse their emotions or get them mad or come up on the other side of them in some way there will be other things that we can get an opinion on as to whether they remember or not.



Q Well, now let us see about that.

A I will say you can then.

Q I was not jumping over the emotions, doctor, but we are just passing them up for the present?

A I beg your pardon, but I want to be as clear as I can.

Q We were speaking on the intelligence and that is not the emotions and that might affect it, might it not?

A Might I come back and say that that is one of the ways.

Q Yes; I was asking you if you did not judge of his intellect by the conversations and the reactions which he gave those conversations plus the answers and plus all of your other examinations that you said you used on him?

A It covers that entire field because certainly we would not be able to accept an answer on a limited sphere.

Q Now then, a man who can tell a connected reasonable correlated story or relate an event and the reasons is an indication of an ordered normal mind, isn't it?

A I would say that it has its bearings, yes, and that is a part of the test in which you go back over the stories.

Q Now then coming specifically then, that is if, within the period since 1931, C. C. Still has appeared in Court on the witness stand, and under oath in response to questions of lawyers and if he has answered those questions and has parried with the lawyers and has given a connected story of a business transaction including the purchase of property and the consideration paid therefor and as regards the boundaries of his property that is an indication of an orderly normal mind, isn't it?

A That indicates some capacity.

Q But you will not say that it indicates a normal mind?

A I could not, no sir, not just from that of itself.

Q But that would be very significant wouldn't it, Doctor?

A I should think so.

Q Doctor, I haven't asked you one thing; I forgot my notes and overlooked that; that is nothing unusual for someone to forget even after having the notes on it, is it?

A I should say not.

Q It still does not show me to be entirely sub-normal, does it Doctor?

A No, sir.

Q I believe you said that it was the usual thing for children in families where there are imbeciles to be imbeciles. To what extent? You said something of one out of five or six but I don't know which way you had the percentage figured; whether it would be one out of five or six that had good sense or one out of five or six that did not have good sense. I did not catch your fraction?

A I said six or eight, I think.

Q Well, if you did I wrote it down wrong here then. Well, I won't take the time to get the reports to go back to look it up for me but you say it is six or eight now and now tell us how that percentage is?

A I said more frequently and more often where you find feeble-minded children following -- I mean children following from feeble minded parents they are going to follow the original stock.

Q Yes.

A More than you find them in organic cases or psychosis where they have delusions and are maniacs and the depressed states and it runs in the true feeble-minded person. I am not going to back this exactly on the figures because I don't remember



what the figures are but I should say that six out of eight of those children would be markedly deficient or with some stigmata.

Q Then six out of eight children of imbeciles would likewise be imbeciles or would have a stigmatic condition?

A It is somewhere in that vicinity.

Q Somewhere in that vicinity is about right?

A There will be more of them than you find in any other true mental condition.

Q My arithmetic says that six out of eight is seventy-five percent, is that correct?

A That is not far from what I estimate it to be.

Q And seventy-five per cent would be imbeciles or would have some stigmatic condition?

A It runs generally up very high.

#### RE - DIRECT EXAMINATION

(Examined by Mr. Wynne)-

Q Now, Doctor he asked you about if you treated Charlie Still and the things that is the matter with Charlie Still. Is there any treatment for that?

A Not for his mental condition.

Q Is that a mental condition that has grown worse or has he had it throughout his life?

A In the main it is an inherent proposition, a lack of normal development, he stopped there and it is an incapacity and he has been that way from birth or rather I mean from early years.

Q Now, he asked you about judgment --

(Mr. Ledbetter: I dont think so, did I use that word?

(Mr. Wynne: Yes, I marked it down here as judgment and also as to mixing.

(Mr. Ledbetter: All right.

Q Is the type you found Charlie Still to be, is that a type that has the capacity to judge values?

A Up to only --

(Mr. Ledbetter: We object to that as being particularly a matter calling for a conclusion and it is condemned by the cases saying that you cannot give a conclusion which is one of fact and of law and which invades the province of the jury.

(The Court: The objection is sustained.

(Mr. Wynne: Note our exception.

Q Now, doctor, that type of man that you have explained about what is usual with them with regard to staying at one place or living at one place or moving about at various places, what is their usual attitude about that?

A Well, as a general rule they are not very stable. They are not very stable in any respect; they shift about because they fail to make adequate adjustments, economical, financial or otherwise and they become dissatisfied and are nearly all always drifters more or less and they carry dissatisfaction in their breasts.

Q How are they when they are children with regard to mixing and mingling with other normal children?

A Generally they don't because, not so much of their own choice, but naturally as they have begun to get up in years because they are pushed out.

Q Pushed out by the other children?

A Yes, pushed out by the other children.

Q Now, how are they with reference to talking, or what, until you ask them something; that is a man of this type?

A They may be either.

Q What?



A They may be either; you take a certain type of these feeble-minded people and you will find some of them are talkers; as a general rule though, when one is given to that, he is rather to the extreme, and then the other one will be more seclusive and shut in; they are rather pronounced in that, or rather in that respect.

Q It is according to which type it is as to whether it is the talkative or the retiring type?

A Yes sir.

Q Now, he asked you about economy and you said it was according to what was done with reference to guiding him; what did you mean by that?

A I think I stated that the economic condition or quality of the mental state would necessarily take in and have to embrace those factors in arriving at a conclusion if this man did get any money or have capacity to be successful in that field would be whether or not he would be guided because most of them are rather subject to and rather seek the guidance of somebody that they place confidence in and as a rule that the average person would shy around; in other words they are easier prey for financial vandalism than are any other field.

Q Do they or not usually listen to the men that they are depending on?

A During that period of time, yes, and then they are liable to fall out with him and want to go to somebody else; that is generally the case.

Q What would be their capacity for physical labor under guidance or without guidance or either way?

A They are as enduring as any person and a lot of them are more so because they have been committed to it and nothing else.

Q In your experience in charge of the insane asylum at Terrell and also at Rusk what is your experience with reference to the patients there, insane or otherwise performing farm labor under the direction of other people -- can they do that?

A Many of them, many of them.

Q That type of patient, even the type of patient you designate Charlie Still as, a feebleminded person is he capable of laboring on the farm?

A Yes, he may not always make as satisfactory a hand as others but as far as carrying on ordinary labor, he would go right along.

#### R E - C R O S S   E X A M I N A T I O N

(Examined by Mr. Ledbetter)-

Q I believe one more question, doctor on the matter that he brought out; at least, doctor, does the saving of money that a person might make from his labor indicate a normal sound mind?

A It would have significance but I would not want to say yes or no to that and restrict myself.

Q I wouldn't either, Doctor, but it would be very important, wouldn't it?

A It would be taken into consideration, certainly, that with his consideration in an equal regard with his evaluation of other activities and factors in his life.