

HYPOTHETICAL FOR SESSION DISCUSSION

Mr. S Case

PART 1: Trauma Informed-Lawyering

Mr. S is a 26 year-old, black, cisgender man facing a misdemeanor assault charge due to an alleged fight he had with a stranger on a subway platform. The clinical team is composed of two white female cisgender supervisors, a black cisgender female law student, a white cisgender male law student, and a biracial cisgender female social work student. This was Mr. Smith's first arrest and the team determined he had a possible justification defense.

The students noted in their first conversation with Mr. S (all contact was over the phone b/c of COVID) that he was highly agitated, scattered, and deeply distrustful of authority and people in general. Unable to reach Mr. S initially, the students were soon able to engage him in consistent weekly scheduled phone calls. Lengthy and often curricular conversations veered from student's planned agendas. Students often felt Mr. S didn't fully understand their advice and that they did not get Mr. S's concrete input about decisions in the case. The team learned that Mr. S had another concerning interaction with the police following his arrest when he went to the public transport precinct seeking video surveillance footage of the incident. Prior to this, the team had already confirmed and informed Mr. S that there was no such video, and advised him against trying to obtain it himself.

Mr. S was estranged from his family, living in a homeless shelter, and unemployed. He had a city-funded housing voucher but could not find landlords who would accept the voucher. Mr. S and his siblings grew up in a series of foster and group homes. Mr. S recently learned, through a child protection agency, that he may have a daughter whom he was previously unaware of and that she had been placed in foster care. Mr. S disclosed that although he was seeing a therapist and was prescribed medication, he was inconsistent with both. At times, he said therapy was "useless" and that he "had been diagnosed with so many different things over the years" that he didn't know what he was currently prescribed or what his current diagnosis was. He did not want the team to have contact with his therapist. He frequently stated things like he "wished [he] would just die" and the supervisors were brought in several times because of concerns over possible suicidal ideation; each time it was assessed that he was not a danger to himself or others.

The night before the court date, the prosecutor (a white cisgender male), communicated an offer. The team relayed this offer to Mr. S and discussed his options. In this conversation, Mr. S consistently said things like "it doesn't matter," and "do whatever you want" before deciding to accept the offer. The team informed him of what would take place in court and that the judge (a black cisgender female) would ask him directly to consent to the appearance being remote, at which point he should answer "yes." Mr. S was adamant that he did not want to speak to the judge, even that one word, b/c that would mean "bowing down to the master," and that the system viewed him as "disposable," so it didn't "matter what [he] said anyway." Eventually the conversation ended with the team asking him to think about it some more, and that they would check in with him before the appearance. The day of court, Mr. S indicated he would answer the judge's questions. When the judge asked if Mr. S. consented to a virtual court appearance, Mr. S did not speak but instead held

up a piece of paper with the word “yes” written on it. After some slight hesitation, and prompting by the team, the judge stated that she saw Mr. S holding up a piece of paper with the word “yes” written on it and accepted that as his consent.

Discussion questions: Part 1

1. How does trauma play a role in this case? What do you think would be helpful for students to understand and reflect on regarding the impact of trauma on their client and the attorney-client relationship? How would you go about discussing issues of trauma in case supervision?
2. What role can professionals from other disciplines play in promoting trauma-informed lawyering practices in your clinic?
3. Should the team explore discussing the impact of trauma in its negotiation with the prosecutor? How can education about the effects of trauma be used as a tool for advocacy with decision makers like the judge or prosecutor?

PART 2: Vicarious Trauma

[Flash forward two weeks from the court appearance.]

The clinical supervisor and a student working on Mr. S’s case are in the office. A co-worker comes to tell the clinical supervisor that their student was seen crying near the bathroom. The clinical supervisor goes to the student’s desk and asks them if they are free for a check-in. The student says yes and they head to a meeting room with visual and auditory privacy. The clinical supervisor asks the student how they’re doing and the student, with embarrassment, expresses that they feel very overwhelmed by Mr. S’s case, that they have been constantly thinking about the case, even dreaming about it. The student adds that they really want to do a good job representing Mr. S but they’ve also started to dread calling Mr. S, feeling like the court representation was one thing but in the scheme of issues to address, they really can’t do much. The student shares they feel terrible for saying that and don’t know if they can get the next assignment done by the deadline. With hesitance, the student adds that they themselves were in the foster care system and the case has been bringing up stuff for them.

Discussion Questions: Part 2

1. As a clinical supervisor, how would you respond? What would be your goals for the conversation?
2. How could you incorporate vicarious trauma teaching and awareness into your clinic?

Note: As a resource, we included an excerpt of a sample conversation on the next page. This type of interaction is nuanced and complex so we acknowledge the sample conversation does not account for all circumstances.

Excerpt of a Clinical Supervisor-Student Sample Conversation regarding Vicarious Trauma

Supervisor	Hi Cheryl, I want to check in because I can see you're upset. Do you feel comfortable talking about it?
Student	Yeah, sure, sorry, this is kind of embarrassing.
Supervisor	You don't need to be sorry. I want to understand how you're doing and if I can support you in any way.
Student	Well, I'm pretty overwhelmed by Mr. S's case. It's been stressful to represent him and I noticed I'm constantly thinking about the case. I even dreamed about what he said about not wanting to live. I really want to do a good job representing him, but I also started to kind of dread calling him because I don't feel like I can really help that much. I feel terrible for saying that. I know I'm supposed to be done with my current assignment this week but I don't know if I can get it done.
Supervisor	First I want to appreciate you for sharing this with me. It can be really hard to express feeling overwhelmed and can bring up feelings of guilt, but I think it's a sign of strength to be able to recognize how you're doing and reaching out. It's important for your own wellbeing and it's also in service to your client if you think it's impacting your advocacy.
Student	Another thing, I don't really talk about in law school but I was in the foster care system. Hearing about Mr. S's daughter brought up some stuff for me.
Supervisor	<p>I will respect your privacy about that and I see why that would impact you. That's a lot to carry.</p> <p>When we share personal experiences with our clients we are both uniquely equipped to be advocates who empathize with them and we bring insight and skills from our backgrounds that enhance our representation AND it can be a place of vulnerability and bring up feelings about our own lives.</p> <p>I think it's possible you're experiencing symptoms of vicarious trauma. I'm not a mental health expert, but things like exhaustion, mental rumination, a sense of helplessness, and avoidance are symptoms that can show up when you're being impacted by the trauma of your client. That can also intersect with your own personal background. This is normal and common for advocates in helping professions, and I want to talk about how we can support you.</p> <p>I have some ideas about how to support you in clinic and I want to hear from you what you think is best. And to the extent you're comfortable sharing, I'd also like to hear about what sources of support you have in your life and what steps you can take to rest and get what you need.</p>