Evidence

Problem 1
Relevancy & Materiality

Consider the three news stories about the case of Claus von Bulow, tried in Rhode Island in 1982. They will appear again in connection with other problems in this course.

Von Bulow was accused (and cleared at a later trial) of having administered an excessive dose of insulin, which caused his wife to sink into a coma. In light of the charges and von Bulow's defense, as summarized in the news stories, consider for each of the witnesses named, whether the testimony is relevant, and to what issue or issues in the case.

(a) For the story of 3/3/82
   i. Biastre
   ii. Roberts
   iii. Gurley
   iv. Isles.
   v. Drs. Holub & Cahill

(b) Story of 3/4/82
   i. Mark Millard
   ii. Joy O'Neill

(c) Story of 3/6/82
   i. Ruggins
   ii. Dr. Carr
   iii. Sanders
After 11 Weeks of Trial, von Bülow Opens Defense

By DUDLEY CLENDINEN
Special to The New York Times

NEWPORT, R.I., March 2 — Clara von Bülow returned today to the cramped old courtroom where she has heard so much damaging prosecution testimony since Jan. 11. It was the turn of the defense lawyers to make the best case for their client, who is accused of twice trying to kill his wife, the heiress Martha (Sunny) Crawford von Bülow, by injecting her with insulin.

It had not been an easy task for the defense. The jury, sequestered for two weeks, had been shown a careful pattern, trying to have the evidence crowd in on Mrs. von Bülow.

Exercise Teacher May Be Called

The defense does not have nearly so many witnesses to call, and may complete its presentation in a week or less. Only a few witnesses are known, but none, not yet publicly identified, will be the switch by which the defense will attempt to derail the state's train of evidence. The state's case against Mr. von Bülow rests on the assumption that his wife's coma, which doctors have described as irreversible, is a direct result of insulin injection. That was Mr. von Bülow who had the insulin and the hypodermic needles and that was he who injected her.

Wednesday or Thursday the defense lawyers expect to call to the stand a worker at an exercise salon frequented by Mrs. von Bülow, who has said, according to sources close to the case, that Mrs. von Bülow told her of using hypodermic needles to inject herself with vitamin, Valium and insulin.

If she is called and does give such testimony, it would be the first specific indication that Mrs. von Bülow ever used hypodermic needles herself or made personal use of insulin. It also would be at variance with the statements of that woman that Mrs. von Bülow's serum tests at her Fifth Avenue apartment and her Newport mansion have shown was a woman so private about her personal affairs that she kept the knowledge of a face lift from her own children.

The first defense witness was Marshall Saltzman, a locksmith, who contradicted details of prosecution testimony about the search that uncovered the bag containing hypodermic needles at the von Bülow's Newport mansion in January 1981.

Another defense witness, Robert Blum, the couple's Newport butler for 10 years, said that Mr. von Bülow was always concerned for his wife's health and welfare.

Charles Roberts, the family chauffeur, said he drove Mrs. von Bülow to two doctors on Central Park South in New York, in addition to her regular doctor, and that he had to get permission to fill: He said: ‘I did not know the two doctors' names. I did not know their addresses.

The defense plans to draw on other members of Mrs. von Bülow's household staff to try to support its depiction of Mrs. von Bülow as an actually shy and anxious woman who over-indulged in sweets and alcohol and aspirin and eventually brought on her present coma. She fell unconscious at Clarendon Court, her Newport mansion, in December 1980. She had suffered a similar coma here, from which she recovered, in December of the previous year.

Dr. kostenlos Holbrooke, described as an internist and endocrinologist at Rhode Island Hospital, is also expected to be called by the defense, as are Mrs. John Nicholas Brown, a friend of the von Bülow's, and fellow member of Newport's wealthy summer colony, and Mark Millard, a leading financier in whom Mr. von Bülow worked in New York City.

And privately, the defense team is still holding on to the possibility that Mr. von Bülow himself may be called.

For almost two months he has merely nodded, grave for the most part, occasionally smiling or laughing in the earlier stages, often flushing a deep red in their last two weeks as a succession of prosecution witnesses tore holes in the defense's claim that Mr. von Bülow was a man of independent wealth who loved his wife and had no reason to want her dead.

Testimony on His Affair

Morris Gurley, Mrs. von Bülow's trust officer at the Chemical Bank in New York City, testified that the most money Mr. von Bülow ever owned in the 25 years of the von Bülow's marriage was $65,258 in 1980, and that he earned no money from work at all in 1974-75. But Mrs. von Bülow's estate was worth $25 million, he said, and by her will Mr. von Bülow could inherit $14 million tax free and $14 million with a 35% tax.

And Alexandra Lott, a Manhattan social figure and former actress on the soap opera "Dark Shadows," testified in a small, nervous voice that she and Mr. von Bülow had had an affair, that he had threatened her, declared that he loved her and proposed that they marry. She had originally given him six months to act on his proposal, she said, a deadline that would have ended just about two months before Mrs. von Bülow's first coma.

But perhaps the most damaging evidence of the last two weeks came from two medical professors from Columbia University and Harvard, Drs. Donald Hobbs and George Cahill, who were the first experts to testify that both comas were caused by injections of insulin, and that alcohol and sweets could have played no part.

NY Times 3/3/82
Von Bulow Does Not Testify As His Defense Rests Case

NEWPORT, R.I., March 5 — The defense rested today in the trial of Claus von Bulow on charges of twice attempting to murder his wife, and Mr. von Bulow was not called to testify.

Defense attorneys did produce a surprise witness. He was a hospital technician who said that while Martha von Bulow was recovering from her first coma in 1979 she told him she had tried to kill herself.

C. Robert Huggins Jr., a medical technician at Newport Hospital, testified that no one else was in Mrs. von Bulow's hospital room on Dec. 30, 1979, two days after she regained consciousness, when he asked her, "What happened to you?"

"She said, 'I tried to kill myself.'"

Mr. Huggins was the ninth of 12 witnesses the defense called in four days.

The last witness, Dr. John Carr, a psychiatrist, said that Mrs. von Bulow told him on Dec. 31, 1979, that she had not tried to kill herself but had often wished herself dead.

The prosecution's first rebuttal witness contradicted the story of an exercise instructor who had said on Wednesday that Mrs. von Bulow suggested taking shots of insulin and liquid Valium to lose weight and to relax.

The prosecution has charged that Mr. von Bulow tried to kill his wife in 1980 and 1986 with shots of insulin. The defense has contended that Mrs. von Bulow caused her comas in those years by over-ingesting in sweets, alcohol and barbiturates.

Mrs. von Bulow has not recovered from her second coma; doctors say she probably never will.

Judge Thomas H. Needham of Superior Court has said that the jury may get the case Wednesday or Thursday.

Late in Coming Forward

Mr. Huggins, the technician, testified that he had mentioned Mrs. von Bulow's comment about suicide to an acquaintance at the time but not to any doctor or nurse. He said that he first told a close friend about it two or three weeks ago.

John Sheehan, a defense attorney, said that that friend's wife called him on Wednesday, and the technician was subpoenaed.

Mr. Huggins described Mrs. von Bulow's mood as "down, distant and forlorn." On hearing her remark, he said, "I was really taken aback and felt I had put my foot in my mouth. I said to her, 'You shouldn't do that, we like having you around.'"

"She responded, 'Yeah, sure,'" he said.

Under cross-examination by the prosecutor, Stephen R. Famiglietti, Mr. Huggins said that he had not come forward earlier because he did not want to get involved.

"You're saying you knew this man was charged with two serious crimes and you didn't want to get involved?" the prosecutor said.

"I didn't know if she said it out of depression," he replied. When asked why he did not tell police who visited the hospital 30 or 40 times in the last year, he replied, "Why didn't they ask nurses who have some kind of information to support what I heard? That makes my statement sound incredible."

"You can say that again," Mr. Famiglietti said.

Dr. Carr, who was asked to see Mrs. von Bulow by her physician, testified that he talked with her for 20 minutes. In cross-examination, Mr. Famiglietti leaned heavily on the length of time. "I found her very neurotic and desperately in need of psychotherapy," Dr. Carr said. "She was extremely depressed, had been for a long time and did entertain suicidal thoughts."

Mrs. von Bulow, whose financial manager has put her fortune at $75 million, told him that she had almost never been happy. Dr. Carr said, "She said she frequently did not want to get up in the morning and was frequently bored."

Exercise Instructor Contradicted

A rebuttal witness, Jill Sanders, was in charge of the records at an exercise salon, Manya Kahn, where Mrs. von Bulow took classes from 1976 to 1978.

On Wednesday, a former instructor, Joy E. O'Neill, had testified that she gave Mrs. von Bulow private exercise classes daily for four years before their conversation about insulin and liquid Valium in 1978.

Miss O'Neill had testified that she gave Mrs. von Bulow 80 classes in 1978 alone, and that they eventually became "like sisters."

With five years of records heaped on a desk in front of her, Miss Sanders testified that Miss O'Neill actually gave Mrs. von Bulow only five classes in that time. She said that all the classes were in a five-week period in 1977.

In 1978, the year of the purported conversation, she said that Mrs. von Bulow took 100 classes, none with Miss O'Neill.

Miss Sanders testified that Mrs. von Bulow took a class with her six days after recovering from the first coma and three days before the second.
Witness Says Mrs. von Bülow Talked of Shots

Special to The New York Times

NEWPORT, R.I., March 3 — A New York exercise instructor testified today that Martha von Bülow suggested to her that an injection of insulin or vitamin B would help her lose weight.

Joy E. O'Neill, a defense witness at Claus von Bülow's trial on charges of attempting to murder his wife, said Mrs. von Bülow also suggested an injection of Valium to calm down at the end of the day. Mrs. von Bülow took a private exercise class given by Miss O'Neill.

Miss O'Neill did not change her testimony under cross-examination by the prosecutor, Stephen R. Famiglietti. Her account strikes at the heart of the prosecution case, which is that Mr. von Bülow caused his wife to fall into comas in 1979 and 1980 by injecting her with insulin. Mrs. von Bülow has not recovered from the second coma, and doctors say she probably never will.

The defense has contended that Mrs. von Bülow caused the comas by over-indulging in sweets, alcohol and barbiturates. But two doctors testified, for the prosecution last week that neither coma could have been caused by anything but insulin.

Miss O'Neill never testified that Mrs. von Bülow had said she had given herself such injections, but she did quote her as saying that "It’s easy to inject yourself," and that someone had taught her how to do it. Miss O'Neill could not recall who might have taught Mrs. von Bülow how to use the syringe. In cross-examination the prosecution indicated that it might have been her husband.

Dispute on Owner of Black Bag

Witnesses have testified that a black bag found in Mr. von Bülow's closet at the couple's summer home here at various times contained liquid Valium, insulin, hypodermic needles and barbiturates. The defense attorney, Herald Price Fahring, contends those items were Mrs. von Bülow's, not her husband's as the prosecution has asserted.

Mr. Fahring also called a New York investment banker, Mark Millard of Shearson-American Express, to whom Mr. von Bülow has acted as a business consultant on energy deals for three years.

Mr. Millard testified that Mr. von Bülow could eventually earn a salary of $100,000 to $200,000 as a middle- or upper-management executive. On cross-examination, he agreed with prosecution figures showing that the financial services company actually paid Mr. von Bülow $17,500 in 1980 and 1981 for reimbursement of travel expenses plus a daily fee of $300 to $350.

Mrs. von Bülow's financial manager testified earlier that her husband would inherit $14 million upon her death.

1978 Conversation Recalled

Miss O'Neill, formerly a dancer with the American Ballet Theater, said she had the conversation with Mrs. von Bülow in 1978 at the end of 1978 in a private room of the Manya Kahn exercise studio, where she worked since 1974. She said Mrs. von Bülow attended daily private instructions there for four years, and that they had become "like sisters."

"I said I'm really gaining weight," Miss O'Neill testified, "and she said what you probably need is one shot of insulin or vitamin B. At least then you could eat everything you want including sweets."

Miss O'Neill said she first realized the importance of the conversation after reading a magazine article about the case last January. She said she told a friend who is a lawyer, and that her friend contacted the prosecution and the defense.

On cross-examination, the prosecutor suggested that the proprietor of the exercise studio, Manya Kahn, said Miss O'Neill had been dismissed, was never qualified to teach private classes and was allowed to do so only on an emergency basis. "That's totally incorrect," Miss O'Neill said.

At a recess, Mr. Famiglietti said he would call rebuttal witnesses to testify about Miss O'Neill after the defense rests.