

# Berkowitz Is Ruled Fit for Trial; Declares He'll Have 'a Lot to Say'

By MAX H. SEIGEL

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David R. Berkowitz listens to decision of Justice John R. Starkey in Supreme Court, Brooklyn. Behind Mr. Berkowitz were Craig Glassman, who helped capture him, and Neysa Moskowitz, mother of a girl he allegedly killed.

## Berkowitz Is Ruled Fit for Trial; Declares He'll Have 'a Lot to Say'

By MAX H. SEIGEL

David R. Berkowitz is fit to stand trial for murder, a justice of State Supreme Court in Brooklyn ruled yesterday.

Mr. Berkowitz is accused of being the .44-caliber killer—the slayer of 20-year-old Stacy Moskowitz, the victim in the case that produced yesterday's ruling, and five other young people.

The defendant, who had consistently declared his readiness to go on trial despite his lawyers' efforts to have him declared mentally incompetent, smiled broadly when the justice, John R. Starkey, announced his ruling.

"Now I'll be ready to have a lot to say," he told those near him in the sixth-floor recreation room of the Kings County Psychiatric Center, where the competency hearing, which lasted one and a half days, was held.

Earlier, Mr. Berkowitz interrupted the court proceedings to repeat a statement that he was ready to be put away for a long time.

"Your Honor, remember what I said,"

he called out in the makeshift courtroom. "Lock the door and throw away the key. I mean that."

In announcing his decision only moments after defense and prosecution lawyers ended their arguments, Justice Starkey declared:

"I've listened to the testimony of three experts. It's a very inexact sphere, the science of psychiatry. The question is, can he perceive, recall and relate? Yes. Does he have a rudimental understanding of the trial process? Yes. Can he establish a working relationship with his attorneys? Yes. Is he sufficiently intelligent to listen and evaluate? Yes. Is he able to stand trial? Yes.

"Therefore, I find we are able to proceed."

### Meeting Set for Nov. 2

After consulting briefly with lawyers for the 24-year-old former postal clerk and with District Attorney Eugene Gold of Brooklyn, Justice Starkey scheduled a meeting for Nov. 2 to set a trial date and to discuss what pretrial sessions were necessary.

Listening intently as Justice Starkey delivered his opinion was Neysa Moskowitz, the 39-year-old mother of the .44-caliber killer's last victim, who was slain on July 31. The hearing was open

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to the public, but Mrs. Moskowitz wore a New York Post press card as a temporary employee of that newspaper. When other reporters sought to question her, she would not talk.

To a reporter for The New York Post sitting with her, she said, looking at Mr. Berkowitz some 15 feet away: "I feel like killing him. Look at him. Look at that smug smile. He's thrilled to death. He's never had so much attention in his life."

Outwardly, Mrs. Moskowitz appeared to show little emotion as she looked at the man accused of killing her daughter.

Also among the spectators was Craig Glassman, an auxiliary Westchester County sheriff who played a role in the capture of Mr. Berkowitz by identifying him to police officers. Mr. Glassman, whose name was found scrawled on the walls of the Berkowitz apartment in Yonkers, one floor above his, had been named by the defendant as one of the "demons" haunting him.

Leon Stern, one of the defendant's two lawyers, disclosed that a hearing would be held in State Supreme Court in Queens on Tuesday to determine whether to have a competency proceeding in that county:

Since a determination of competency is not subject to appeal, the defense lawyers would have to raise the issue either in Queens or in the Bronx—the two other counties where Mr. Berkowitz has been indicted for murder—if they wish to prevent their client's going on trial.

## Question of Venue Raised

Mr. Stern disclosed, after the court session yesterday, that Mr. Berkowitz' defense would be based on a plea of not guilty by reason of insanity that was entered in August. This is a different question from that of competency to stand trial. He added that he would raise the question of venue at the Nov. 2 meeting, saying his client could not receive a fair trial in Brooklyn because of all the publicity, the case had received.

Justice Starkey, who walked out of the building just then, was asked about a possible shift of the trial.

"There has been a lot of publicity," he said. "But it hasn't been local. It has been nationwide. Where could he get a fair trial? And who contributed to the publicity if not the defendant, by writing letters?"

During the competency hearing, which began Thursday morning and ended shortly after 2 P.M. yesterday, the lawyers for the defendant relied on a report issued by a court-appointed psychiatrist, Dr. Daniel Schwartz, the head of forensic psychiatry at the Kings County facility.

Dr. Schwartz had acknowledged that Mr. Berkowitz was aware of the crimes he had committed and of the charges against him, thus satisfying one of the two statutory requirements for being declared competent to stand trial. But he insisted that, because the defendant was emotionally dead and suffered from delusions, he could not meet the other requirement—that he be able to assist in his own defense.

## Doctor Cites Paranoia

Dr. Schwartz submitted as evidence a taped interview with Mr. Berkowitz in which the defendant contended that evil demons commanding his body had committed the murders.

"It was Sam," he had said, referring to Sam Carr, a neighbor in Yonkers. "I'm the Son of Sam."

Dr. Schwartz had testified that the defendant wanted to have a trial so he could tell the world about the demons, but that he had shown little interest in the outcome of the trial. He is paranoid, the psychiatrist said.

Under cross-examination by District Attorney Gold, who was trying his first case since becoming District Attorney nearly nine years ago, Dr. Schwartz acknowledged that the defendant was not indifferent about what lawyers would represent him and that he was not emotionally dead.

In addition, Dr. David Abrahamsen, a psychiatrist hired by the District Attorney, said his conversations with Mr. Berkowitz had convinced him that the defendant was mentally fit to stand trial.

Mr. Berkowitz, who has been ordered transferred to Rikers Island or to the Brooklyn House of Detention, faces 15 years to life in prison if convicted of killing Miss Moskowitz.