



Can Accused Killer Seth Winder Stay Sane Long Enough to Stand Trial?

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Dallas Detective Eddie Lopez pushed a photo across the table in a tiny interrogation room. "All I care about is finding this guy right there. It's that simple. I know you know where he's at."

A huge, manic grin spread across Seth Winder's face as he laughed nervously. It vanished as quickly as it appeared. "I don't know," he said, his voice trembling.

"I don't want to hear 'I don't know.' You do know. ... I only want to hear about one thing."

Lopez slammed his palm down on the photo. "Where's he at?"

Winder glanced at it. Lopez leaned in. "Where's he at?"

"I don't know what you're talking about," he said flatly.

Another detective, Dwayne Thompson, charged into the interrogation room. He stabbed the photo of the victim with his index finger. "You look at that. Look at it! Don't be scared to look at it! Look at it!"

"Where's he at?"

"I don't know."

"Did you kill him?"

"No."

"How'd you get that blood on your backpack?" Thompson asked, his voice rising again as he knelt, his face even with Winder's.

"I don't know what you're talking about."

"There was blood on your backpack, the old backpack that you had. There was blood on it."

"There was blood in your camp," Lopez interjected.

"Blood in your camp," Thompson thundered, his voice ringing off the walls. "Did you cut him up? Did you cut him up, son?"

"No."

"You didn't cut him up? What'd you do with him? Look at it! It hurts, don't it? I can see the tears in your eyes." He held the photo close to Winder's face, placing his massive hand on his bony shoulder, shaking him gently. "We gotta bring him home, man. We gotta bring him home."

The interrogation had gone on like this for hours, ever since police had found 29-year-old Winder hiking down Hebron Parkway, sweating in the September heat. "I don't know" was his insistent refrain that day in 2008, when they asked over and over whether he had anything to do with the murder – a murder so brutal it stunned veteran detectives and terrified Dallas' gay community, so gruesome it would be featured on A&E's *The First 48*, whose cameras were rolling as the detectives tried to break Winder down.

It would be more than three years before the "I don't knows" gave way to a trial, during which the legal system would face a daunting Catch 22: Winder is a paranoid schizophrenic, and without antipsychotic medication he is too insane to be prosecuted. But with medication he becomes someone else entirely, capable even of calm rationality. He would have to be induced into a state of synthetic sanity before he could stand trial for a crime that he allegedly committed while unmedicated.

For now, though, he was just another uncooperative suspect.

"We need your help. Are you going to help us?" Thompson's index finger jackhammered the photo. "Look at him!"

With his slight build and his short, blond hair, Winder looked hunted, like a boy among men. He looked up at the detectives and murmured, "I don't remember."

At around 8 years old, Seth Winder insisted on clutching a baseball bat in bed. The devil was trying to break into his bedroom at night, he told his parents.

Back then it was easy to write his visions off as the product of an overactive imagination. He'd been born in Dallas in 1979, a son of divorce. His father worked construction and drank excessively. His mother worked in the accounting department of The Colony. He grew up in that suburb, a planned development that broke ground in 1972 and became an expanse of single-family homes, strip malls and steeples. He fished and golfed with his father, wrote poetry and drew intricate sketches, some of fantastical castles perched on mountaintops carved with winding roads.

He was a shy, withdrawn, even socially phobic child, but he was intelligent. His IQ was tested at 130. But he struggled to make connections. He completed A-plus homework and left it in his locker. He was an outsider who was often picked on, but his friends in ROTC said he was sensitive and thoughtful.

"For me to hear all these bad things about him, it's like, wow. That's not the person I know," says Stephanie Pittman, a friend of Winder's at The Colony High School. "He was always real calm, real mellow. We all knew he took medicine."

Like any suburb, The Colony exerted its own gravity. "If you get out you're very lucky, because there's a lot of drugs," she says.

Winder started drinking, smoking weed and experimenting with hallucinogens. His paranoia intensified and he struggled to carry on conversations. His eyes would become vacant, lost to some inchoate threat. At 16 he was diagnosed with paranoid schizophrenia.

Winder didn't believe the doctors. He dropped out of high school his sophomore year and was soon kicked out of his mom's house, unable to follow her rules. He camped out of a friend's garage for a few months, then moved in with another friend named Barb Sweeney.

Sweeney, a retired postal worker, doted on the fragile young man. "He was very confused," she recalls. "He was very paranoid. He thought everybody was following him." But he was also harmless – the kind of guy who recoiled at confrontation, who would pick a spider up and release it rather than see it harmed. He hung out with a close-knit group of kids, including Sweeney's partner's daughter. It was an age of experimentation for Winder. The group's sexualities, Sweeney says, were fluid.

"I knew they were all, how do I put this, into each other," she says. "Girls and girls, guys and girls, guys and guys." Winder lived with Sweeney for a year and a half. When she retired and moved to New Mexico, he moved in with his father.

At 19, Winder got a job unloading semis at a Walmart in The Colony. Eventually he graduated to cashier. At four years, it was the longest he'd ever hold down a job. He bought a car and moved into an apartment with his girlfriend.

"It looked like he was doing OK," his father, Rodney Winder, says. "He was living like a normal person." It didn't last. His girlfriend dumped him because he lacked ambition, his dad says. Winder quit his job and cashed out his 401k. He drove to New Mexico to stay with Sweeney, but after a few weeks, he begged his mother for a bus ticket back to Texas.

He became paranoid, Sweeney remembers. "There's nobody following us," she told him. "He got spooked and said he had to go, and that's the last I saw of him."

At 24, he moved back in with his dad. Rodney chafed at having his adult son at home, but he also feared for him. Winder held a succession of fast-food jobs that rarely lasted longer than a week or two. He oscillated between frenetic peaks and catatonic valleys. He could sit in his room, staring into space for hours. Sometimes he stalked through the house, brandishing a pool cue and raving about some nebulous "they." He talked about some unseen entity named "Max" who apparently spoke to him. During a short stint working at Taco Bell, he fled the restaurant, bare-chested and bare-footed, claiming green Lilliputian creatures were pursuing him.

By 2004, Rodney had had enough. "You can't do anything, so you got to join the Army," he told him. "The Army will make you into a man so you can live." Winder completed his GED and, in August 2005, he was shipped off to basic training. After three months the Army washed him out because of his mental illness.

Winder was despondent. He crashed from couch to couch, staying until his welcome was worn out. He began using methamphetamines. He called his mother, Nanci Rolbiecki, and asked her to meet him at a nearby IHOP. Winder looked terrible that day. His skin had a gray, sickly pallor, and his eyes darted around the restaurant. (Rolbiecki declined to speak on the record for this story.)

Rolbiecki and Winder's stepfather took him to the Medical Center of Plano. As Rolbiecki waited with her son in the examination room, he tore off his hospital gown and threatened to leave. Rolbiecki asked him to stay. The doctors, she told him, would make him better. She started to leave the room, but Winder called out to her. "Mom." She turned and he leapt at her, gripping her throat with both hands and bashing her body against the wall.

Before she lost consciousness, her husband rushed in, pulled Winder off of her and pinned him to the floor until help arrived. Rolbiecki declined to press charges, and Winder was committed to the state hospital in Terrell for roughly two months of treatment. The doctors said he had suffered a psychotic break. Later, when asked about the attack, he said he couldn't remember it.

Rodney took his son in after he was discharged from the hospital. Worried his son might get violent again, he slept with golf clubs propped against the door of his bedroom. He saw Winder come home drugged, his pupils so dilated they swallowed his bright blue irises. For a while Rolbiecki put him up in an apartment in Far North Dallas, just off of George Bush Turnpike. She wanted to help him get back on his feet, but Winder couldn't keep a job. When she stopped paying rent, he was evicted.

He was 27 now, and homeless. He started camping near his father's house in The Colony. Though he was no longer allowed inside, he showed up on Rodney's doorstep, asking for food, to use the phone or to store his ever-growing collection of found or stolen detritus – canoe paddles, satellite dishes, furniture, DVD players – in his garage.

Then his father would watch him leave, trudging over the uneven sidewalk to a clearing a few hundred yards away. He'd walk beneath huge transmission lines, past wood privacy fences and swing sets and barking dogs, to a campsite deep within a wooded area on Army Corps of Engineers property. "He got dirtier and skinner," Rodney says. "He'd spend a lot of time walking. Just walking. It's so sad."

Winder became known around town as "the walking man," because he was often seen hiking down Hebron Parkway or some other main thoroughfare, shouldering a backpack. He also gained a reputation with police as a troublemaker. Among other things, he was picked up for stealing a laptop in March 2008 and spent five months in jail.

He got out and returned to his campsite, but getting locked up only made things worse. Rodney found chopped lengths of rotting snake strewn across his garden. He discovered a glass jar filled with some putrefying carcass hidden in his shrubs. Winder coated his lawn with coal dust and hung snakeskins from the fence. "He thought he was putting a spell on the house," his dad says.

By his 38th birthday, Richard Hernandez had worked at the Walmart on Marsh Lane for a decade. Most recently he was the UPC clerk, charged with maintaining the barcode and adjusting for the daily mark-ups and mark-downs. He rarely missed a day of work and he never took vacations.

The job paid the bills, but Hernandez lived paycheck to paycheck, with little left over by the time the next check hit. His co-workers occasionally had to spot him a few bucks for lunch or buy him a couple of margaritas when they all walked across the street to the bar. They gave him rides from time to time, too, since Hernandez didn't own a car. He lived only two miles away, in a cluttered, 400-square-foot apartment just off the George Bush Turnpike.

Outside the store, Hernandez lived a solitary life. It was no secret he was gay, but he was intensely private. He rarely if ever discussed his love life. He hadn't been in a relationship since he moved to Dallas, says Rudy Arraiza, his friend of more than 20 years, and he eschewed labels – although he did sometimes hook up with men he met in the bars and clubs along Cedar Springs Road.

"For the most part, he was a loner," Arraiza says. "He didn't want a partner in his life. He didn't want the drama."

But he found at least one of the two in Seth Winder. The two worked together at Walmart, and during Winder's last stop before homelessness, he had lived in Hernandez's building. Sometime around September 2008, Winder started staying with Hernandez. Little is known about their relationship, except that it wasn't platonic. Hernandez took photos of Winder in the nude. He also shot video of him showering, and of himself performing sexual acts on Winder. "If Rich was taking pictures of Seth in the nude, they could have been friends with benefits," Arraiza says.

But it wasn't just Winder. Hernandez often brought men back to his apartment and filmed them. Later, Winder's attorney, Derek Adame, would argue that Hernandez was paying Winder for sexual favors. Arraiza says he doesn't know whether he was HIV-positive, but Winder was. And he was almost certainly desperate for money and shelter from the late-summer heat.

Whatever their relationship, on September 4, 2008, a neighbor who lived in the apartment below Hernandez's heard a series of loud thuds at three or four in the morning. It sounded like someone was moving furniture.

At around 7 that morning, a car pulled up and idled in front of the complex. A co-worker, there to give Hernandez a lift to work, called his cellphone. She got no answer. She waited five minutes and pulled away. It wasn't like Hernandez not to call in, but his co-workers suspected he might have gone out and had a few too many. The day before was payday, after all. But as the day wore on, it was strange that he didn't return any of their calls. His cellphone, a colleague said, was his lifeline.

Their worry sharpened when he didn't show up the next day. A coworker sent her husband to his apartment. He knocked on his door but got no response. He stepped into the leasing office and asked the assistant property manager to look in on him. She sent a maintenance man, who unlocked the door and walked inside. He didn't turn on any lights, but he did notice a stain on the carpet that he thought looked like Georgia red clay. Nevertheless, he returned to the office and reported that no one was home.

Hernandez's colleagues weren't satisfied. They called Dallas Police and requested a welfare check, and at around 9:30 that morning, a patrol officer strode up to the apartment with the maintenance man, who now confided that he had seen some blood. For Officer David Ruiz, this was his first call of the day, and as he stepped inside he was overwhelmed by a pungent, musty odor.

"There was not just a little bit of blood like he said. There was blood everywhere," he would later testify. "It was like a Stephen King movie."

Ruiz conducted a brief search of the apartment and called his supervisor. When the supervisor arrived, he took one look at the apartment and said, "Oh shit! Call the CAPers (Crimes Against Persons)."

Homicide detectives moved through the apartment, with a crew shooting for *The First 48* in tow. They saw a dark stain the size of a basketball on the carpet in the center of the living room, partially covered with a striped bathmat. A crooked lampshade near the door was splotched and smeared with blood. Along one wall, the narrow drag marks of bloody shoulders and elbows showed darkly on the white paint. Spread across the ceiling were collections of fine droplets arrayed in elongated slashes – the cast-off blood from an edged weapon. Drag marks on the carpet led into the bathroom, where police found a scattering of gelatinous yellow globules in the bathtub.

They found a trail of blood leading down the stairs, through the breezeway and along a sun-dappled sidewalk that took them past the sliding glass doors of other tenants' patios and grills. They arrived at a pair of empty green dumpsters. The trash had been picked up the day before. In a few hours they would learn that some 2,000 tons had been dumped at the landfill since then.

As the investigation got underway, Detective Dwayne Thompson checked Hernandez's bank account, looking for activity on his debit card. Since his disappearance, it had been used at 7-Eleven and QT, Sonic and Kentucky Fried Chicken, and at SuperTarget on Hebron Parkway, where a PlayStation2, a backpack and bug repellent were purchased. Target security queued up the tape and the detectives huddled around the monitor. At the time of the purchase, a man with short, blond hair stepped away from the cashier, carrying his bags. "Now, the only problem I have with that is the bug repellent," Thompson said as he watched. "You're talkin' about going out into the woods, brother."

The detective showed a still image to Arraiza and another friend, but neither recognized the man. But then the detectives went back to the complex and showed the photo to the property manager. She knew exactly who he was: Seth Winder. He moved out in 2007, she said, and not in good standing. And she'd seen him the day Hernandez disappeared. He was asking about renting an apartment. When she saw him again the next day, she told him to leave. He said he was visiting a friend, turned and walked away.

Sunday morning, three days after Hernandez disappeared, a call came in to the Carrollton Police. A man on Robin Hill Lane had found a bloodstained backpack in the trashcan, which sits in an alley behind his house. Some 50 yards away, through a break in the 10-foot hedge lining the alley, Winder had built a second camp in a small tangle of trees at the edge of a lot owned by Hebron Community Church, about 100 feet from the busy six lanes of Hebron Parkway. His mother used to live nearby. Dallas Police and U.S. Marshals had watched the camp all night, with no sign of Winder.

Digging through the bag's contents, they found empty beer cans and a Money Gram receipt from Winder's mother. They called her, and she led them to his father. Her son had left a samurai sword in his dad's garage that Friday, she told the police.

Yes, Rodney Winder told detectives, his son had been to the house. He'd shown up with a bag of damp towels, he said. He was almost certain someone dropped his son off. Winder had asked his dad if he could leave some things in his garage, and had pulled from his backpack a sword still in its packaging. His dad had also noticed a large wound on Winder's knuckle. He claimed he hurt it working on a car, Rodney said.

The detectives pressed Rodney for his son's whereabouts. He pointed to the woods near the transmission lines. They radioed for a helicopter, moved into the thick undergrowth and located the campsite – little more than a shredded tent, canvas flapping loosely from the frame. Inside, they found nothing but a jumble of soiled possessions – a box spring with a filthy sleeping bag on top of it, a blue Thermos, a broken sword, a Mahjong board, a pair of bloody pink shorts, a blood-spattered window treatment, a PlayStation2 and bug repellent.

From a brown paper bag, they pulled a receipt with the name "Richard Hernandez" printed on it. From a nearby limb, two vulture skulls and a feather swayed on a string, flesh still flaking from the bone.

They returned to Rodney's house the next day. The detectives had missed some things, Dad said, like the trash bag filled with sodden towels. But as they picked through a pile of Winder's belongings, they found something even more helpful: a canvas bag containing a camera and a video recorder. They turned on the camera and showed Rodney a picture of his son, nude and recumbent on a Scooby Doo blanket – in Richard Hernandez's apartment.

"That's Seth," Rodney said, and turned away.

Detective Thompson got a call later that day. Hernandez's debit card had been used to book a room at the Comfort Inn near Vista Ridge Mall. When they rushed into the room, guns drawn, they found nothing but an unmade bed. But not long after, a Lewisville patrolman who'd been dispatched to the motel passed a man matching Winder's description walking along Hebron Parkway, not far from the SuperTarget off I-35. The officer circled back around, no lights, no siren. When the patrolman cuffed the young man, he offered no resistance. He knelt there in the summer heat, sweat staining his faded Army T-shirt and beading on his tanned, expressionless face.

Back at Dallas Police headquarters, the detectives dug through his backpack. They found a set of keys, a few gift cards, copies of *Paradise Lost* and *Easy Japanese* plus a book by Sun Tzu.

Detective Thompson stepped into the interview room, where Winder was waiting, flicking a packet of sugar and emptying its contents into a cup of black coffee, a cigarette dangling from his lips.

"Me and you, we got a lot in common," he told Winder. "See that shirt you got on? I was in the Army. What branch was you in?"

It's an axiom dating back to English Common Law that justice demands a defendant able to understand the charges against him. If he can't, an attorney usually petitions the court for a competency hearing. If he's found incompetent, he's shipped off to a psychiatric facility for treatment until he's fit for trial. Only when he can successfully complete a 50-question test demonstrating a grasp of basic legal terms and an ability to assist his attorney can his prosecution legally proceed.

The definitions of competence and incompetence do not at all resemble the medical understanding of mental illness in all its complexities. Psychosis isn't enough to render a defendant incompetent. So it's no surprise that at the end of this process, even desperately ill defendants like Winder are prosecuted. Nor is it surprising that seriously mentally ill prisoners in Texas outnumber those in psychiatric treatment centers by a ratio of seven to one. Substantial budget cuts to mental health services in Texas have turned the prisons into mental hospitals.

But just because a defendant is ruled "competent" doesn't mean the legal system is ready to capitalize on his newfound coherence. The ponderous engine of American justice has many moving parts. Continuance requests, the wrangling of out-of-town witnesses and utterly unforeseen roadblocks all work to slow the already halting march to trial.

In April 2009, six months after he was arrested, Winder was found incompetent. He was shipped to the state hospital in Vernon and nursed back to health, or some highly medicated version of it, and four months later he managed to pass his competency test. But seven months later, in March 2010, his trial had yet to begin when his father and stepmother self-published a book describing the investigation, his prosaic childhood and troubled adulthood.

Both the prosecution and the defense needed time to review it for potentially incriminating or exculpatory evidence, creating even more distance between Winder's hospital stay and opening arguments. "When the book came out, we were pretty much ready to go," Winder's attorney, Derek Adame, recalls. "That shot our wheels off. Then we got delayed from there and other things happened."

As the trial was pushed back by delay after delay, Winder waited in solitary confinement in Denton County Jail for two years, during which he seesawed between lucidity and incoherence. "My understanding is in a place like Vernon, they have procedures. They'll do observation periods where they'll sit there and make sure he doesn't spit [his pill] out or hide it," Adame says. "As soon as he's brought back to Denton County, that's not what they're trained to do. There are no safeguards in place."

In a letter from jail to his father in April 2010, Winder wrote that there was a monster living beneath his bed. He was able to keep it at bay by cleaning his cell. "Do you have a monster under yours or in your closet maybe?" he asked.

In June, he insisted he was not schizophrenic and had been misdiagnosed. In March of 2011, he wrote of his failing health and his HIV status. Yet he was optimistic, primarily because he was convinced the prosecution was preparing to drop his case. He also noted that he wasn't taking his antipsychotic medication anymore because he couldn't afford it and didn't need it.

In June of 2011, Winder wrote that he and Rodney shared Druid and Viking heritage. "No other roots go deeper than the night of the tree. But it goes unseen when we may have come from."

With only three months left until trial, his break from the real world appeared complete. In a letter filled with gibberish, he declared his intention to re-enlist in the Army. The very existence of the planet was threatened by revolution, he wrote.

"It is of vital necessity to go to war AND I want to go there, to war. ...They are releasing me and you will have to get over whatever problem you might have regarding his disappearance."

He was considering the Special Forces.

"He was butchered, literally, in his own home," Denton County prosecutor Cary Piel told the jury during his opening statement on November 15. His theory was simple: Winder murdered Hernandez, dismembered him in the bathtub and carried the pieces to the dumpster. Somewhere along the way, he cut his own hand, leaving the trail for detectives to follow. There was no body with which to compare DNA left at the scene, so they sampled one of Hernandez's razors. It all sounded so tidy. Eyewitnesses placed Winder in the apartment complex. He used Hernandez's debit card at Target. DNA testing proved that the blood on his shirt, shoes and pants belonged to Hernandez.

As he finished addressing the jury, Piel approached the jury box. "That is all that's left: The fat in the bathtub. And that is Richard Hernandez's body," he said, placing a plastic baggie filled with yellow, gelatinous globules – belly fat – on the railing in front of the jury.

Winder's attorney, Derek Adame, a broad-shouldered man with thick and slicked-back black hair, popped a handful of Tic Tacs into his mouth. He began by informing the jury that the prosecution had nothing more on his client than circumstantial evidence. There was no body, no murder weapon, no witnesses. He accused Thompson and the other Dallas detectives of focusing on Winder to the exclusion of all other suspects so that their investigation would fit the time frame required to make an episode of *The First 48*.

"There were videos of a sexual nature taken by Richard of Seth, but also of other men in very similar ways," Adame said. "The police had that. I got it from their investigation. As far as I can tell, no effort was made to identify those men."

"How does an adult man disappear?" he asked the jury. "By Seth, a homeless man with no money, no friends?"

During the first day of the trial, as he was led into and out of court, Winder never failed to smile sheepishly at his mother, who sat in the first row. On day two, though, something changed. His attorneys noticed he was less attentive. The officers at the Denton County Jail noticed, too.

When he walked into court that afternoon, he didn't look at his mom. He was taken to his seat, his hands stuffed in his pockets, his suit hanging from his thin frame. The jacket lining was torn; its sleeves brushed his fingertips. His pants pooled around his ankles in thick folds, imparting the ill-fitted look of a boy wearing his father's clothes.

For much of the rest of the day, Winder was bent over a legal pad, his face inches from the paper, his pen moving steadily. But as a prosecution's witness testified, Winder stopped writing. He put his pen down and sat bolt-upright in the chair, the palms of his hands resting on his thighs. He fixed his gaze straight ahead and his eyes were emptied of anything that indicated cognition or sight. He remained catatonic for the rest of the day. This time, even the judge and the jury could see that inside of him, something had given way.

The next day, before the trial resumed, Adame approached Judge Bruce McFarling. Winder hadn't been led into court yet. The attorney's partner, Tricia Perry, was in the holding room with him. Adame stepped over to the door, cracked it and peered inside. "Do me a favor," he said to a bailiff sitting nearby. "Peek in there every once in a while to make sure everything's cool."

"We just want to put on the record that we're gonna keep him back there," Adame said to the judge. Prosecutor Piel sidled up to him.

"He OK?" he asked.

"We don't know."

McFarling finally addressed the court.

"The court has learned that at some point last night a psychiatrist at the jail put the defendant on a 15-minute watch and no sharp objects," he said. The court would recess for the day and locate a forensic psychologist to evaluate Winder.

Out in the hall, Adame explained that Winder was supposed to take a course of medication every day and every night. The attorney feared he may not have been taking any of it. He had no idea for how long. "It's my feeling that he's been completely unmedicated," he said.

The next day, McFarling declared a mistrial.

"Yesterday we found out that the defendant had not been taking his medications this week as the doctor had ordered," the judge announced, "so his mental state is no longer in a condition where he can stand trial."

Under court order, Winder was to be sent back to the state hospital in Vernon, where he would once again be treated until he's deemed fit for trial, however long it took. The elliptical cycle of drawing back to competence an insane defendant who believes unequivocally that he is sane was to begin anew. As of press time, Winder was still in jail, waiting for a bed in Vernon.

If he can be retrieved from whatever dark place he's gone, another jury will be empaneled. Adame will plead his innocence and Piel, or some other prosecutor, will seek to hold him to account for the murder of Richard Hernandez, praying he doesn't lose him again during the interminable wait between a competency determination and trial.

Out in the hallway after the judge's announcement, Piel shook his head. "I've never even heard about something like this happening to somebody else," he said. "He was faking competency."

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