

# 有關被告精神鑑定之目的與方法<sup>①</sup>若干事項

Certain Matters about the  
Purpose and the Method of the  
Psychiatry Assessment for the Accused

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令和1（う）年第368號殺人、銃砲刀劍類所持等取締法違反、  
殺人未遂、公務執行妨害被告事件  
令和2年2月17日 名古屋高等裁判所



## 摘要

患有思覺失調症之被告始於2015年12月出現症狀，2016年4月與2018年3月均有發病並於2018年4月犯下殺人、妨害公務與非法攜帶刀械等諸罪而遭起訴。地方法院依鑑定報告，根據被告犯行前仍有求職、各地移動與短期工作等行為，因而判斷其犯行時幻覺、幻聽症狀已消退，而僅有不直接或顯著影響犯行之輕度症狀，是以謂其具完全責任能力。被告不服遂主張其鑑定乃有不正當質問方法，以及鑑定時已脫離思覺失調症之急性期，據之質疑鑑定結果。惟高等法院駁回其上訴，認為就鑑定訪問的實質內容並無誘導或違背被

關鍵詞：思覺失調症（schizophrenia）、責任能力（criminal responsibility）、精神鑑定（psychiatry assessment）

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告己意之陳述，且鑑定非以治療為目的，於看守所進行亦無不可。又鑑定乃以被告犯行前之行為為根據，縱實施鑑定時被告已脫離思覺失調症之急性期，仍無礙於醫師判斷。

The accused suffering from the schizophrenia has symptoms since December 2015 and had morbidities in April 2016 and March 2018. In April 2018, he was accused because of committing murder, interfering with public affairs and bringing knives illegally. According to the assessment that the accused had looked for a job, moved around and had part-time jobs before the committing, the District Court judged that the symptoms the accused suffered from like hallucination as well as auditory hallucination had been recessed, so that he had the complete criminal responsibility even though suffering from light symptoms causing indirectly and inapparently the committing. The accused didn't satisfied with the result of the assessment and questioned it by arguing over the improper interrogation and the symptoms of the Schizophrenia had been recessed during the assessment. Nevertheless dismissed the High Court the appeal, believing that the interrogation during the assessment didn't induce the accused to make the statement, nor against his own will. Not to be aimed at giving medical treatment, an assessment could also be held in a detention center. Furthermore depends the assessment on the behaviors of the accused before the committing. It should be available for the medical judgment that the accused had been out of the acute phase of the Schizophrenia during the assessment.

# Angle

## 壹、事實概要

### 一、事件概要

患有思覺失調症之被告，依殺人、對臨場警官殺人未遂、妨害公務及非法攜帶水果刀等犯罪事實遭起訴。一審認定被告於犯行當下具有完全責任能力，但被告律師以犯行當時有可能因思覺失調症產生之幻覺及幻聽症狀，致使被告處於心神喪失狀態，而提起上訴。

### 二、原審見解

依鑑定人A醫師之精神鑑定結果，被告於2015年12月左右發生思覺失調症之病徵，而至犯行當時，其幻覺、妄想等陽性症狀已消退，且殘餘的陰性症狀（如感情平板化、思考遲滯、抗壓性低等）亦為輕度。雖說其殘餘症狀對犯案動機的形成可能有一定程度的幫助，但並不至於對整體犯行有直接或顯著的影響。

此外，基於本件各犯罪事實之證據，被告的犯案動機並非難以理解，且被告於本件犯行前五個月左右都在全國各地移動，具有一定程度的自營能力，對自身行為的違法性亦有所認知。故觀其犯行前後的行為，被告以殺害被害者為目的，在判斷周遭狀況的同時尚能冷靜地行動，難謂被告在各犯行當下喪失判斷是非的能力，或喪失對自身行為的控制能力。

### 三、判決經過

名古屋高等法院（2020年2月17日）判決，維持一審對被告具完全責任能力之判斷，本件上訴駁回。