

OPINION

EDITORIALS

What jurors should know

Even if judges and juries are appropriately wary of psychiatric testimony in criminal cases, sometimes it can be critically important to jurors' full understanding of the case before them.

That certainly is true in the case of Franklin "Jack" Burr, a 60-year-old East Brunswick piano teacher convicted of molesting a 9-year-old girl. Burr has Asperger syndrome, a fact the jury that convicted him was never told. The state Supreme Court on Wednesday said the jury should have been informed.

The court got it right, and the retrial it ordered should be much fairer.

Psychiatric testimony might have been crucial to a better understanding of Burr's behavior. Unfortunately, the trial judge, Superior Court Judge Phillip Paley, refused to allow it.

Asperger syndrome, a disorder on the autism spectrum, is characterized by inappropriate social interactions, among other behaviors. Knowing that might have cast Burr's behavior in a different light for the jury, the Supreme Court noted.

Burr was accused of touching a student intimately over her clothes on many occasions. The child also testified that he would pull her onto his lap.

The prosecution theory at the trial was that Burr had the girl sit on his lap to "groom" or prepare her for sexual assault. The defense argued that much of this behavior stemmed from his disorder, and sought to have the jury hear expert testimony about Asperger syndrome.

Nothing the Supreme Court did suggests someone with Asperger syndrome is entitled to a free pass when it comes to sexually molesting children. A jury might still find Burr guilty, but psychiatric testimony will shed new light on the facts.

Psychiatric testimony could have given the jury another explanation for Burr's behavior. It might also have explained his odd conduct during the trial, the court noted. Perhaps most important, it might have encouraged Burr, who did not testify on his own behalf, to take the witness stand.

While psychiatric testimony can sometimes take a trial on an irrelevant side trip, in this case it's a worthwhile excursion to help the jury — which is engaged in a search for the truth — better evaluate the case in front of it.