Facilitated communication, Anna Stubblefield and disability studies

Mark Sherry

To cite this article: Mark Sherry (2016): Facilitated communication, Anna Stubblefield and disability studies, Disability & Society, DOI: 10.1080/09687599.2016.1218152

To link to this article: http://dx.doi.org/10.1080/09687599.2016.1218152

Published online: 17 Aug 2016.
ABSTRACT
This article discusses the case of Anna Stubblefield, a US disability studies scholar and Professor of Ethics at Rutgers University who was sentenced to 12 years in prison for sexually assaulting a disabled man. Stubblefield claimed that he consented, using facilitated communication. The article argues that facilitated communication is unscientific and unreliable, and that the support for Stubblefield from some disability studies scholars raises serious ethical concerns.

In facilitated communication, a disabled person’s hand is held by – or, more accurately, it is directed by – another person, towards and onto a communication device. The (conscious or unconscious) power of the person guiding the hands to manipulate the other person is the key flaw in facilitated communication. Critics liken this process to a Ouija board. Even with the best of intentions, the person who ‘facilitates’ the conversation directs the conversation; they are the authors, rather than the disabled person (Boynton 2012; Ganz 2015; International Society for Augmentative and Alternative Communication 2014; Schlosser et al. 2014; Singer et al. 2014; Tetzchner 1996; Todd 2012). Studies of facilitated communication have consistently concluded that the technique has no validity; it has been widely described as a pseudoscience which is unscientific and unreliable (Boynton 2012; Herbert, Sharp, and Gaudiano 2002; Jacobson, Mulick, and Schwartz 1995; Mirenda 2014; Mostert 2001, 2012, 2015; Probst 2005; Saloviita, Leppänen, and Ojalammi 2014; Schlosser et al. 2014; Singer et al. 2014; Todd 2015; Trembath et al. 2015; Wegner, Fuller, and Sparrow 2003; Ziring et al. 1998). The very small number of studies which support this practice are either uncontrolled or poorly controlled case studies with no reliability, replicability, or validity.

Some of the many organizations which have opposed the use of (and rejected the validity of) facilitated communication include the American Psychiatric Association, American Academy of Child and Adolescent Psychiatry, American Association on Intellectual and Developmental Disabilities, American Psychological Association, American Speech-Language–Hearing Association, American Academy of Pediatrics, Association for Behavior Analysis, International Society for Augmentative and Alternative Communication, Autism Society of Canada, and many more (Auerbach 2015; Behavior Analysis Association of Michigan 2016; Riggott 2005). Regardless, an evangelical attachment to facilitated
communication has been observed for decades (Ellis and Singh 1994) and remains today. Like a religious group, those who support facilitated communication have been called ‘believers’ (Green 1994, 70). Consistent with an anti-scientific, faith-based approach, today’s foremost proponents of facilitated communication can be found on social media, rather than in peer-reviewed journals and systematic reviews (Hemsley and Dann 2014).

Some authors call facilitated communication ‘a fad’ (Lilienfeld et al. 2014; Wombles 2014) because of its unscientific nature, but that term will not be used in this commentary because of the longevity of facilitated communication. Even though its flaws were identified decades ago (American Psychological Association 1994; Crews et al. 1995; Eberlin et al. 1993; Green 1994; Wheeler et al. 1993), this practice has lingered well beyond the lifespan of a ‘fad.’ Indeed, one recent author went so far as to call it ‘a cult that won’t go away’ (Auerbach 2015).

The authors who have critiqued facilitated communication include medical professionals, but their position should not be simply dismissed as relying on a medical model of disability. Many of the critics of facilitated communication are deeply committed to disability rights. They argue that facilitated communication limits disabled people’s rights, because it diverts them away from using reliable methods to improve their communication skills – suggesting that it is essentially an exploitative and dishonest sham which prevents these people from receiving appropriate support. For instance, one article described facilitated communication as a process of ‘stolen voices’ labelling it a fundamental abuse of disabled people’s human rights which contravenes the United Nations Convention on the Rights of Persons with Disabilities (Chan and Nankervis 2014). Others have suggested that its popularity stems from a combination of ‘strategic marketing, confirmation bias, pseudoscience, anti-science, and fallacy’ (Travers, Tincani, and Lang 2014, 195) and that it denies disabled people genuine self-expression.

The Stubblefield case

A recent sexual assault case involving Marjorie Anna Stubblefield, a disability studies scholar who was the Chair of Philosophy at Rutgers University, has again drawn attention to the issue of facilitated communication. Anna Stubblefield, as she prefers to be known, was convicted of repeated sexual assault against a disabled man and in January 2016 she was sentenced to 12 years in prison. She must serve at least 85% of this sentence before she can be paroled (Murray 2016). Stubblefield claimed that the man not only consented to sex via facilitated communication, but he initiated it. However, the judge ruled that the case was not about facilitated communication per se, but rather about the specific interactions involved in this case, including the capacity of the victim to consent. She further stated ‘It sounds like … there is a constant effort to backdoor FC [facilitated communication] in this case. That is not what this case is about’ (Wichert 2015a).

The case has gained a great deal of attention, in part due to the salacious nature of the acts which were undisputed in the case. Some of the evidence in the case came from a telephone call with the victim’s family which was recorded by police. In this telephone call, Stubblefield provided many details which would later be used in court. She admitted that on one occasion she had taken him out of his wheelchair, put him on a towel on the floor in her office, removed his diaper and performed oral sex on him. She also indicated that on other occasions they had vaginal sex on the floor of her office. Stubblefield also suggested that this sex was acceptable because her office was a private space.
Stubblefield had met the victim in his home, at the university, and at the Cerebral Palsy Center of New Jersey. His mother and brother, who are his legal guardians, believed that Stubblefield was helping the victim to learn to communicate more effectively. They believed that Stubblefield had been spending so much time with him because she was the only person who was able to elicit effective communication from him (United States District Court for the District of New Jersey 2013). His family testified that they were unable to elicit meaningful communicative responses from him, but Stubblefield pointed to her own success and told them to ‘try harder.’ According to Assistant Prosecutor Eric Plant, ‘She misled the victim’s family into believing that she was making progress in helping their son to communicate while all the while she was simply satisfying her own tawdry desires’ (Murray 2016).

The victim’s family testified that the sexual nature of the relationship between Stubblefield and her victim was hidden from them by Stubblefield. They believed she was having a purely professional relationship with the victim. However, Stubblefield wrote a letter to the judge after her conviction which seemed to cast the relationship in a different light. Her letter was the subject of a Freedom of Information request by the New Jersey newspaper syndicate NJ.com, which then uploaded it to the Internet. This document indicates that Stubblefield never saw her relationship as a professional one, but rather a friendship: ‘Thus, when I met Mr (redacted), I saw him as someone I could potentially help as a friend’ (Stubblefield 2015).

Stubblefield’s sexual relationship with her victim was kept a secret for some time. For instance, the claim filed by the family in the civil case against Stubblefield and Rutgers stated that she told them she was taking him to a ‘pool party’ in 2010 but she actually sexually exploited him there (United States District Court for the District of New Jersey 2013, 2–3). Likewise, his guardians were not aware that she was taking him on ‘dates.’ One of those dates occurred in New York City. On this date, Stubblefield alleges that John Roe told her not to drink alcohol because she was the designated driver (Murray 2016). They assumed that Stubblefield’s profession, and the fact that she was married, would prohibit such behavior. It was some time before she told the family what had actually been happening. Stubblefield eventually revealed the sexual nature of the relationship to his family, who asked many questions about what had occurred. Such conversations have long been recognized as a perfectly acceptable and valid form of evidence. This evidence also demonstrates the flaws in the arguments from some disability scholars that there is no case against Stubblefield without testimony from the victim himself. These suggestions also ignore the testimonies from multiple parties that he is unable to communicate in the way Stubblefield alleged.

Stubblefield stated in her letter to the judge that ‘I believed he and I were intellectual equals’ even though he had been diagnosed with a severe intellectual disability for his entire lifetime (Stubblefield 2015, 1). However, for his entire life courts (such as those which had awarded legal guardianship for him to his family members) had ruled that he experienced a severe intellectual disability as well as cerebral palsy. The court recognized both his physical and intellectual impairments. There was testimony about John Roe’s abilities with regard to communication and cognition during the trial. His guardians asserted that he was physically, intellectually, and legally incapable of consent. They also referenced his physical impairments: he also wears a diaper and requires assistance with basic needs such as eating, walking, and bathing. As well, they discussed his communication skills, stressing that throughout his entire life, every test he had undergone has shown that he is unable to speak or communicate.
One of the most disgraceful elements of this case is that Anna Stubblefield was a Professor of Ethics. Given the importance of informed consent in such a case, and the dangers of sexual exploitation, Stubblefield was doubly obliged to ensure that she was accurately communicating with the victim and not simply projecting her own fantasies. Even if one believed in (fantasies of) facilitated communication, it was incumbent upon her to utilize an independent facilitator to verify her beliefs. It was also important, legally and ethically, to be open and honest with his legal guardians. Given that Stubblefield knew that throughout his life John Roe had never legally been able to consent to any decision-making, and that legal assent could only be provided by his guardians, it was incumbent on her to engage in every safeguard possible to ensure that this was not sexual abuse or rape. Instead, her behavior was shrouded in secrecy; no independent verification of his alleged sexual interest was undertaken. His guardians were kept unaware of this sexual relationship. Indeed, when they found out about the sexual relationship, they told Stubblefield to stay away from the victim and not to try to contact him, a request she ignored (Murray 2016). She admitted in her letter to the judge that although the family had told her to stay away from him, she wrote to the director of his day program to ask whether she could see him (Stubblefield 2015, 3).

Disability studies scholars and the Stubblefield case

It is too soon to see the long-term contribution of disability studies to this case in peer-reviewed journals, but the case has already garnered a great deal of attention online and has been the subject of significant discussion on disability Listservs and on social media sites aimed specifically at disability issues. Some disability studies scholars have also been quoted in the press discussing this case. The response of disability studies scholars to this case has been insightful, but also in some cases deeply troubling on an ethical level.

The most useful contributions of disability studies have been to highlight the enfreakment of John Roe in the case, to question some of the language and diagnostic terminology which was used, and to emphasize the distinction between the physical impairments associated with cerebral palsy and the experience of intellectual disability.

Disability studies scholars have consistently suggested that John Roe did not testify in the case and have argued that without his testimony there is no case against Stubblefield, because it is impossible to know whether John Roe consented or not. His brother and his mother, who are his legal guardians, did bring him to court on one day, where he was presented as a non-verbal ‘demonstrative exhibit.’ This element of the proceedings has been widely critiqued by disability studies scholars – to parade a disabled person as an exhibit is eerily reminiscent of the ‘freak shows’ of yesteryear. There is one element of this argument which is certainly correct: John Roe should not have been treated as a ‘freak.’ But the suggestion that there is no case against Stubblefield without his testimony is greatly mistaken.

There is a litany of ways in which a court can establish the facts of a case, outside of victim testimonies. Many victims are unwilling to testify in cases of rape and sexual violence; this does not mean that the attackers cannot be prosecuted. Alternate evidence can be provided in many ways, including written or oral statements from the accused, witness statements, other court testimonies, recorded messages, and independent evidence of the physical or emotional harm done to the victim. For instance, in the civil case, both the victim’s brother and mother claimed that Stubblefield admitted ‘she had sexually molested’ the victim but
the defense denied this allegation (United States District Court for the District of New Jersey 2013). In the criminal case, the victim’s brother also testified that he saw scratches on the victim’s back after the sexual abuse, and that he now realized the nightmares which his brother was having after these events may have been a sign of Post-Traumatic Stress Disorder (Wichert 2015b). Prosecutors also presented a recorded conversation between Stubblefield and the victim’s guardians, and a diary which Stubblefield had written was provided by her husband.

Disability studies scholars have been on stronger ground when critiquing the language used in the case. In court documents, John Roe was described as ‘suffering’ from cerebral palsy and ‘mental retardation,’ with ‘the mental capacity of a toddler.’ Unfortunately, the language of the court system is often disablist. Given that the courts need to use the specific language of the criminal code in their verdicts, alternative language to the term ‘mental retardation’ was not possible in this case, but it would have been possible to use an alternative word other than ‘suffering’ to describe the experience of having cerebral palsy. Disability studies scholars have convincingly critiqued the notion of ‘mental age’ and identified its disablist underpinnings (Gill 2015). These scholars would also undoubtedly be concerned about any conflation of physical impairment with cognitive capacity. However, to be fair, there was distinct testimony about communication and cognition during the trial. John Roe’s guardians asserted that he was physically, intellectually, and legally incapable of consent.

Unfortunately, disability studies scholars have been particularly weak in discussing other elements of the case, in particular: disclosing personal or financial conflicts of interests; using an alternative name to that used in the court, which would make the victim more identifiable; focusing their attention on Stubblefield rather than on the victim; and failing to critically explore whether support for Stubblefield means they have taken on the role of de facto rape apologists.

There are two potential conflicts of interest for people in disability studies who may discuss this case. The first is a personal conflict of interest. Anna Stubblefield is well known by disability studies scholars in the United States. She has published in Disability Studies Quarterly and has presented at the Society for Disability Studies (SDS) conference. Many American disability studies scholars also know her mother, who has been involved in disability issues for decades. Although I have publicly requested that they do so, I have not seen a single person in disability studies who has engaged in this debate publicly disclose such a relationship. Such admissions may elicit more critical appraisals of their statements, which is necessary given that many have long-standing friendships with Stubblefield. The second potential source of conflict of interest is a looser, financial one. There is absolutely no suggestion that any scholar is receiving funding to support Stubblefield; any potential conflict of interest is far more indirect, and is associated with a generic support for facilitated communication. Some of the authors and institutions which have been vocal regarding their support of Stubblefield’s use of facilitated communication could be perceived to have a financial conflict of interest: they would lose millions of dollars in funding if its fundamental flaws were recognized (Auerbach 2015).

Another disturbing element of the response of disability studies scholars to the Stubblefield case concerns the identification of the victim. In both a civil case against Stubblefield and Rutgers University, and in the criminal prosecution of Stubblefield, the victim was known as ‘John Roe.’ Unfortunately, some disability studies writers have decided to use a more identifiable name – they call him ‘D-Man,’ an identifier which would be
recognizable to those who met him at SDS because the conference paper attributed to him is published in *Disability Studies Quarterly* under that name. The shameful decision to use this more identifiable name, in contrast to the approach of the court and his guardians, was never publicly justified by such scholars. I will not use it here again.

Before Stubblefield was convicted, I closely monitored many disability discussions about the case on social media, and on disability Listservs. Some disability studies scholars expressed their support for Stubblefield, encouraged those near the trial to visit the courtroom to show solidarity, and/or publicly encouraged donations towards Stubblefield’s legal costs. But what was missing in this entire discussion was a focus on the victim. In all of the posts I saw, there was never a suggestion that people reach out to the family, even though many disability studies scholars met the victim’s brother when he read the victim’s purported paper at the Society for Disability Studies conference. In my opinion, the welfare of the disabled victim should have been paramount. I saw these scholars advocate on behalf of Stubblefield, who is a white, non-disabled woman, but I never saw anything to support the black disabled man who was the victim of this sexual assault. I even witnessed disability scholars soliciting contributions to her legal defense fund, but I never saw a single effort to support the victim. In my view, this response to rape is not only misdirected, it is unethical and shameful. The lack of concern for the victim and his family was chilling, disturbing, and alarming.

Finally, I am deeply concerned that there has been a lack of critical reflection from disability studies scholars as to the danger of their role becoming *de facto* rape apologists. It seems to me that disability studies scholars ought to be framing this behavior in terms of the epidemic of rape and sexual violence against disabled people, which has been documented elsewhere (Sherry 2010). We live in a rape culture – the fact that very few disability studies scholars are framing their discussions in terms of rape culture is alarming. One disability scholar, Shelley Tremain, has correctly emphasized the importance of issues of privilege and disadvantage in this case (Tremain 2015). Stubblefield was a well-paid white academic; the victim is a person of color. These dynamics cannot be ignored – imbalances of power underlie most cases of sexual abuse, rape, and other forms of sexual violence. Yet they seem to have been sidelined when disability scholars rallied around their colleague and friend.

The first section of this article suggested that facilitated communication is thoroughly unreliable. While the judge said the case was not about facilitated communication *per se*, many of Stubblefield’s defenders in disability studies stridently defended it, almost as a matter of faith. This was a mistake – facilitated communication is a practice that is demonstrably unscientific and unreliable. Their personal and financial support for Stubblefield must also be called into question. Stubblefield was convicted by a jury of her peers, after a five-week trial, and is now a registered (and incarcerated) sex offender. Given that the courts have found her guilty, it is incumbent upon disability studies scholars to critically examine their support for Stubblefield. Were they inadvertent rape apologists?

**Notes**

1. Facilitated communication should not be confused with augmentative communication (such as the use of picture and symbol communication boards and electronic devices). There are hundreds of reliable, valid forms of augmentative communication, such as those
involving various assistive technologies. They are very different to the practice of facilitated communication.

2. Some critics have demanded the removal of this paper from *Disability Studies Quarterly*, given the court findings that he was incapable of writing it. This is a position I would support, but it is too far removed from the emphasis of this article to discuss in detail here.

**Disclosure statement**

No potential conflict of interest was reported by the author.

**ORCID**

Mark Sherry  [ID](http://orcid.org/0000-0002-5825-0833)

**References**


Behavior Analysis Association of Michigan. **2016. Resolutions and Statements by Scientific, Professional, Medical, Governmental, and Support Organizations against the Use of Facilitated Communication.** [http://www.baam.emich.edu/baamsciencewatch/baamfcresolutions.htm#aaacap](http://www.baam.emich.edu/baamsciencewatch/baamfcresolutions.htm#aaacap)


Jane Roe and Richard Roe o/b/o Rutgers, The State University of New Jersey, Anna Stubblefield and John Does 1–10, Civil Action No. 13-1762 (SDW), (United States District Court for the District of New Jersey 2013).


