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Criminal Law—Insanity

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Insanity

An appeal from a conviction of First Degree Murder presented to the Court[67] a question of the sufficiency of the explanation given to the jury by the trial court of section 1120 of the New York Penal Law.[68] The eighteen year old defendant, an unstable homosexual, murdered his father, who evidently had made his life miserable. There was no question of premeditation, since the murder had been well planned. After hearing a lengthly parade of psychiatrists, the jury chose to believe the prosecution's experts and found defendant guilty. Defendant unsuccessfully sought a new trial on numerous grounds, one of which elicited a dissent by Judge Van Voorhis.

A defense psychiatrist had testified on direct examination that defendant, due to his delusional motivation, was incapable of distinguishing right from wrong. On cross examination the psychiatrist was not allowed to qualify his answers to indicate that defendant's delusions made him incapable of understanding that his act was "morally" wrong.[69] Coupled with this was the court's failure when charging the jury clearly to instruct that defendant should be found insane if intellectually *or* morally he did not know that his act was wrong.[70] The defense contended that the combination of the court's ruling on cross examination and the inadequate charge left the jury with the impression that they were not to consider defendant's alleged moral blindness.[71]

67. *People v. Horton*, 308 N. Y. 1, 123 N. E. 2d 609 (1954).

68. N. Y. PENAL LAW §1120: "A person is . . . excused from criminal liability as an ... insanse person ... upon proof that ... he was laboring under such a defect of reason as: (1) Not to know the nature and quality of the act he was doing; or, (2) Not to know that the act was wrong."

69. "Q. Doctor, did he know what he was doing when he committed those acts? A. The answer is no. He was psychotic at the time and did not know the nature and quality of his acts." In response to a similar question, "No, he was in a schizophrenic state.", and to the next question the doctor said that he was still responding to his delusional idea. Then followed this exchange: "Q. You concede, then, Doctor, that this series of connected activities seemed to be rational? A. Seemed to be rational just as the case of paranoid praecox. They are a whole series of connected activities, yet they are a most serious and most malignant form of schizophrenia. Just the ability to rationalize doesn't make it rational." In all these answers all qualifications were stricken and the jury was instructed to disregard all but the "yes" or "no" part of the answer. 308 N. Y. At 20, 123 N. E. 2d. at 614.

70. That such is the law in New York, see *People v. Schmidt*, 216 N. Y. 324, 333-334, 110 N. E. 945, 947 (1915), where Judge Cardozo referred to *M'Naghten's Case*, 10 Cl. & F. 200 (1843), as follows: "The judges expressly held that a defendant who knew nothing of the law would none the less be responsible if he knew that the act was wrong, by which, therefore, they must have meant, if he knew that it was morally wrong . . . There is nothing to justify the belief that the words right and wrong, when they became limited by *M'Naghten's* case to the right and wrong of the particular act, cast off their meaning as terms of morals, and became terms of pure legality."

71. *People v. Taylor*, 138 N. Y. 398, 34 N. E. 275 (1893); *People v. Ferraro*, 161 N. Y. 365, 55 N. E. 931 (1900); *People v. Sherwood*, 271 N. Y. 427, 3 N. E. 2d 581 (1936).

The majority thought that the extensive psychiatric testimony elicited in the case clearly presented the question, and had been weighed and rejected by the jury. The dissent opined that forcing the defense psychiatrist to give categorical answers created the impression that defendant's alleged delusions, though they convinced him that his act was not morally wrong, were still not wthin the definition of section 1120.

The dissent stated that the court's charge on the insanity question was a bare reading of the applicable section of the Penal Law.[72] In such case the judge's failure to explain the proper interpretation of "wrong" should in itself be valid ground for reversal.

Public Trial

The cynosure of the tabloids, *People v. Jelke*,[73] presented the question of whether a trial judge can exclude, over defendant's objection, the press and idle spectators from a compulsory prostitution trial.[74] The court held the right of "public trial"[75] to be such a basic privilege that a trial judge has discretion to exclude only in those instances enumerated in section four of the Judiciary Law,[76] and anticipation of filthy and indecent testimony is not sufficient. A persuasive dissent by Judges Desmond and Conway refused to concede that tradition compels allowing the public admittance to "sex trials."[77] They argued that the public trial requirement has always been subject to the inherent power of the trial court to exclude in order to facilitate the testimony of emotionally disturbed witnesses,[78] or to limit their number to prevent overcrowding or disorder.[79] Therefore, this right

72. That the charge should be illuminated by reference to the evidence in the case, so that the jury can properly apply the law to the facts, see *People v. Fanning*, 131 N. Y. 659, 30 N. E. 569 (1892); *People v. Becker*, 210 N. Y. 274, 104 N. E. 396 (1914).

73. 308 N. Y. 56, 123 N. E. 2d 769 (1954).

74. N. Y. PENAL LAW §2460.

75. N. Y. JUDICIARY LAW §4, provides: "The sittings of every court within this state shall be public, and every citizen may freely attend the same, except that in all proceedings and trials in cases for divorce, seduction, bastardy or filiation, the court may, in its discretion, exclude therefrom all persons who are not directly interested therein, excepting jurors, witnesses, and officers of the court."
N. Y. CIVIL RIGHTS LAW §12, provides: "In all criminal prosecutions, the accused has a right to a speedy and public trial . . ."
N. Y. CODE CRIM. PROC. §8, provides: "In a criminal action the defendant is entitled (1) To a speedy and public trial . . ."

76. *Supra*, note .75.

77. COOLEY, CONSTITUTIONAL LIMITATIONS, 379 (6th ed. 1890); ABBOTT, TRIAL BRIEF, CRIMINAL CAUSES, §157 (1st ed. 1889); 6 WIGMORE, EVIDENCE, 338 (3d ed. 1940). See *People v. Hall*, 51 App. Div. 57, 64 N. Y. Supp. 433 (4th Dep't 1900).

78. *Hogan v. State*, 191 Ark. 437, 86 S. W. 2d 931 (1935); *Moore v. State*, 151 Ga. 648, 108 S. E. 47 (1921); *State v. Damm*, 62 S. D. 123, 252 N. W. 7 (1933); *State ex rel. Baker v. Utecht*, 22 Minn. 145, 149, 21 N. W. 2d 328, 331 (1946).

79. *People v. Miller*, 257 N. Y. 54, 60, 177 N. E. 306, 308 (1931); *Reagan v. United States*, 202 Fed. 488, 489-490 (9th Cir. 1913).