

Jurors fear danger in ruling for insanity

BOSTON (AP) — If Kenneth Seguin wasn't mad, what other explanation could there be?

This computer executive — home in the suburbs, no apparent problems — suddenly killed his wife and two children. But a jury refused to find him innocent by reason of insanity, and convicted him of second-degree murder.

The presiding judge, Robert Barton, was unsurprised. "I've sat on four highly publicized cases over the years where the defense in front of a jury was not guilty by reason of insanity, and never has one of them prevailed," he said.

Jurors everywhere, fearful of rising crime and worried that dangerous criminals will go free, are reluctant to find defendants not guilty because of insanity — even when the most bizarre crimes have been committed, experts say.

"Finding someone not guilty because of their mental state is being seen as akin to getting off scot-free," said Abbe Smith, deputy director of the Criminal Justice Institute at Harvard University Law School. "It's tied directly to the fear of crime."

Some say a backlash against leniency intensified when John Hinckley was acquitted after pleading insanity in the 1981 shooting of President Reagan.

A study of 49 counties in eight states — California, Georgia, Montana, New Jersey, New York, Ohio, Washington and Wisconsin — showed that between 1976 and 1987, 1 percent of the pleas in felony cases were insanity defenses, according to the American Academy of Psychiatry and the Law.

Of those nearly 9,000 cases, 26 percent of the defendants who entered such pleas were acquitted, and only 7 percent of those acquittals were by a jury, the study found.

"It's a defense of desperation," said William Moffitt, an attorney in Alexandria, Va., known for his use of the insanity defense. "It's not the defense of first resort ... even if you have a person who you really think is out of their mind."

The insanity defense dates to 1843 in England, when Daniel M'Naghten was accused of fatally shooting Edward Drummond, the private secretary to Prime Minister Robert Peel.

M'Naghten testified that he believed Peel was the head of a conspiracy to kill him, and that this delusion prompted him to shoot Drummond. M'Naghten pleaded not guilty by reason of insanity, and, in an unpopular verdict, was acquitted.

The so-called M'Naghten rule, or variations on it, is still the legal definition of insanity in many courts. It says a defendant is legally insane if, because of a severe mental disease or defect, he cannot appreciate the consequences of his acts or tell right from wrong.

But after Hinckley was found not guilty by reason of insanity in the assassination attempt on Reagan, Congress responded in 1984 by passing the Insanity Defense Reform Act, which placed the burden of proving insanity on the defense rather than making the prosecution prove sanity.

It also banned expert witnesses, such as psychiatrists, from offering conclusions about the sanity or insanity of the defendant, allowing them to only describe a condition and let jurors decide.

The act applied only to federal courts, but many states followed suit and adopted similar measures.

Some states created review boards, much like parole boards, that take custody of people committed to institutions after a successful insanity plea. The boards oversee treatment provided and can set conditions that must be met if a person is to be released.

Now, attorneys say, the insanity defense is less effective than ever. They cite the Wisconsin case of Jeffrey Dahmer, who was convicted of killing and dismembering 15 young men and boys, and even eating their body parts — but found sane by a jury.

"If there ever was a mentally ill person on the planet, Dahmer had to be it," Moffitt said.

Diane Wiley, president of the National Jury Project in Minneapolis, said jurors in such cases must sort out the often conflicting testimony of medical experts, while worrying about the consequences of their verdict.

"It's not that they don't think Dahmer is insane — they just don't want him back out on the street," Wiley said.

Actually, defendants acquitted on insanity pleas spend about as long in mental institutions as they would have spent in prison had they been convicted, according to Henry J. Steadman, president of Policy Research Associates, which conducted the eight-state study on insanity pleas.

Steadman found that the median length of confinement for defendants acquitted by reason of insanity in murder cases was 1,737 days, or 4.7 years. The median length of confinement for defendants found guilty of murder was 1,828 days, or five years.

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