

Seton Hall University

eRepository @ Seton Hall

Student Works

Seton Hall Law

2025

Extremely Wicked, Shockingly Evil, and Vile Minds: Insanity and Competency in Courts

Sarah Elsakhawy

Follow this and additional works at: https://scholarship.shu.edu/student_scholarship



Part of the Law Commons

Introduction

To what extent does society hold individuals accountable for crimes committed while under the effects of mental illness? What does it mean to be culpable? To be competent? These are questions that do not have a clear answer, but nevertheless, must be answered by legal systems when faced with ill criminal defendants. Different legal theories might answer these questions differently, but all must balance the need for justice and the recognition of mental health complexities in their decision-making process.

In attempting to do the ‘just’ thing, the United States uses the insanity defense to protect defendants when, “at the time of the commission of the acts constituting the offence...as a result of a severe mental disease or defect,” they were “unable to appreciate the nature and quality or the wrongfulness” of their actions.¹ By many, the defense is seen as a sort of ‘get out of jail free’ card. Even in pop culture, as seen in movies and books such as *One Flew Over the Cuckoo’s Nest*, where the main character pretends to be insane at trial to avoid hard labour in prison.² The insanity defence is treated as a legal loophole for criminals. For someone to be considered competent to stand trial, a defendant must “understand the charges against them and be able to meaningfully assist in their defense.”³

The fact that there is an affirmative insanity defense and a mental competency test to determine if a defendant can understand the charges before them shows that, within American jurisprudence, there is an understanding that mental illness can negate criminal culpability. Even so, the understanding is still limited one. According to the American Psychiatric Association, “mental illnesses are health conditions involving changes in emotion, thinking or behaviour (or a

¹ 18 U.S.C.S. § 17

² Ken Kesey, *One Flew over the Cuckoo’s Nest* (Penguin Putnam, 1962)

³ *Leading Reform: Competence to Stand Trial Systems*, NCSC (2021), https://www.ncsc.org/_data/assets/pdf_file/0019/66304/Leading_Reform-Competence_to_Stand_Trial.pdf

combination of these). Mental illnesses can be associated with distress and/or problems functioning in social, work or family activities.”⁴ While the definition offers a starting point, its implications within the legal context are not clear. The mere presence of a diagnosed mental disorder does not absolve an individual of responsibility for their actions; rather,

“the criminal law can, but need not, turn to scientific or clinical definitions of mental abnormality as legal criteria when promulgating mental health laws. The Supreme Court has reiterated on numerous occasions that there is substantial dispute within the mental health professions about diagnoses, that psychiatry is not an exact science, and that the law is not bound by extra-legal professional criteria.”⁵

This is only made more complicated by the fact that the field of psychology and psychiatry is ever-changing. As diagnostic categories expand and refine, encompassing a spectrum of conditions ranging from mood to personality disorders, the legal standards for culpability and competence should be continuously reviewed. However, throughout the states, that’s often not the case. Some states have even begun going backwards, abolishing the insanity defence, which the Supreme Court held was legal to do.⁶ Moreover, the subjective nature of psychiatric diagnosis introduces an element of uncertainty, with differing interpretations by mental health professionals opening the door for inconsistent legal outcomes.

This is where the danger lies. At the end of the day, when issues of mental competency arise in court (i.e., competence to stand trial, to plead guilty, to proceed pro se, to be sentenced, and to be executed), they are decided based on the opinions of those who often don’t have any previous mental health training. “Judges have very little to no training in mental illness and mental health....Yet in every department in our court, we have litigants who have suffered

⁴ Ihuoma Njoku, *What is Mental Illness?*, Am. Psychiatric Ass’n (November 2022), <https://www.psychiatry.org/patients-families/what-is-mental-illness>

⁵ Stephen Morse, *Mental Disorder and Criminal Law*, 101 J. CRIM. L. & CRIMINOLOGY 885, 894 (2011), <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7406&context=jclc>

⁶ *Kahler v. Kansas*, 140 S. Ct. 1021, 1024-25 (2020)

trauma or are living with a mental illness,” said Patricia Starr, a Maricopa County Superior Court judge.⁷ However, criminal defendants suffering from mental illness are a particularly vulnerable class of defendants. As laypersons grapple with the complexities of psychiatric diagnoses and the nuances of diseased mental states, the risk of misinterpretation and misapplication looms large.

This problem only grows when discussing some of the most infamous criminal defendants in American culture; serial killers. Serial killers have had an explosive cultural impact, being the subject of numerous articles, documentaries, and podcasts, and the inspiration for countless film antagonists. According to the Protection of Children from Sexual Predators Act of 1998, “the term 'serial killings' means a series of three or more killings, not less than one of which was committed within the United States, having common characteristics such as to suggest the reasonable possibility that the crimes were committed by the same actor or actors.”⁸ This is almost identical to the definition of serial killer that the FBI uses while conducting their investigations; a serial murder is “the unlawful killing of two or more victims by the same offender(s), in separate events.”⁹ For this paper, we will be following the definition used in the Protection of Children from Sexual Predators Act to discuss defendants that killed numerous people in the same event.¹⁰ Ronald Crumpley, a criminal defendant that will be discussed later in the paper, only murdered two people but attempted to kill six more¹¹; while he would not officially be categorised as a serial killer under either of these definitions, he had the *mens rea* to

⁷ Lindsay Walker, *Law, medicine intersect in new mental health training for judges*, ASU News (Oct. 2, 2023) <https://news.asu.edu/20231002-law-and-medicine-intersect-new-mental-health-training-judges>

⁸ *Protection of Children from Sexual Predators Act of 1998*, Pub. L. No. 105-314 (Oct. 30 1998)

⁹ Robert Morton, et al., *Serial Muder: Multi-Disciplinary Perspectives for Investigators*, FBI (2005)

¹⁰ *Protection of Children from Sexual Predators Act of 1998*, Pub. L. No. 105-314 (Oct. 30 1998)

¹¹ *Homosexual-hater kills 2 in New York*, Clarion Ledger, Nov. 21. 1980, <https://www.newspapers.com/article/clarion-ledger/132714286/>

kill more and his successful insanity defence is an important foil to the failed insanity defences of the more notorious serial killers.

While serial killers are understandably the target of much hatred in society, they are still human beings who have legal rights. However, due to the particularly heinous nature of the crimes serial killers often commit, and the scars that they typically leave on their local communities, there is often an immediate push for not just a finding of guilty, but for execution, and rarely is there much concern if the defendant was suffering from a mental disorder at the time of the offense or during the trial.

This paper seeks to critically examine the legal histories of six serial killers; Theodore Bundy, Edward Gein, Jeffrey Dahmer, Ronald Crumpley, Richard Ramirez, and Andrea Yates. Gein¹², Yates¹³, and Crumpley¹⁴ were each granted the insanity defense; this paper will examine the reasons why the court granted them this defense, and contrast it with how the other defendants' mental diagnoses were treated in the courts, whether on a pleading of competency of insanity, respectively. To accurately analyse these six cases, this paper will first examine the history of the insanity defense and mental competency standards, before highlighting the issues in the current understanding of mental illness within the American legal system. The current understanding of mental health is too limited, and the standards for the insanity defense and mental competency must be modernised to prevent abuses of the justice system and disparate outcomes.

¹² *Gein Judged Insane After Murder Verdict*, Manitowoc Herald-Times, Nov. 15, 1968, <https://www.newspapers.com/article/manitowoc-herald-times-gein-judged-insa/24095961/>

¹³ Phillip Resnick, *The Andrea Yates Case: Insanity on Trial*, 55 CLEV. ST. L. REV. 147, 153 <https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1174&context=clevstlrev>

¹⁴ *Crumpley v. Wack*, 212 A.D.2d 299, 301 (App. Div. 1995)

The examination of serial killers, the most extreme cases involving mental illness, serves as a lense through which to scrutinise these complexities. While the argument that will be made in this paper is undoubtedly controversial, with some of the serial killers that will be discussed still being alive today or having taken the lives of victims whose families are still grieving today, this argument is made in the hopes of promoting a more just and equitable legal system for those with severe mental illnesses. Nothing said throughout this paper is intended to defend or justify the actions of any serial killer.

I. **The Histories of Competency and Legal Insanity**

To understand the reasons why the system in place today came to be, an explanation of how is needed. While the focus here is primarily on the evolution of the insanity defense, the history of competency will be touched on, as it also shapes the current understandings and treatment of mental health within the legal system. Both aspects are integral to understanding the shortcomings in current legal standards.

A. A Brief Overview of Competency

Understanding the deficiencies in the current federal law regarding competence to stand trial, as well as the necessity for reform, requires an exploration of its historical development and implications. Early common law principles, dating back to the seventeenth century, recognized the need to refrain from trying individuals who became mentally incapacitated after committing a serious offense until they were deemed mentally fit. “If a man in his sound memory commits a capital offense and before his arraignment he becomes absolutely mad, he ought not by law to be

arraigned during such his phrenzy, but be remitted to prison until that incapacity be removed. The reason is, because he cannot advisedly plead to the indictment.”¹⁵ This principle is rooted in the concept of Natural Law, which asserts that laws should align with universal moral principles derived from nature or divine authority. As explained by Thomas Aquinas, “...Every human law has just so much of the nature of law, as it is derived from the law of nature. But if in any point it deflects from the law of nature, it is no longer a law but a perversion of law.”¹⁶ These foundational ideas prioritise ethical considerations over strict adherence to legal procedures, noting that laws that are not morally correct are a “perversion” of law.¹⁷ Under that logic, individuals should not be held accountable for actions committed while mentally incapacitated. It wouldn’t be ‘right’ to punish someone if they don’t understand what is happening to them, regardless of what the law would otherwise proscribe for their punishment.

This principle was exemplified in cases involving defendants who were deaf and mute, where juries were tasked with determining their capacity to comprehend trial proceedings. In the case of *R v Dyson*, the defendant, a deaf-mute, stood accused of the murder of her illegitimate child.¹⁸ Judge Parke, in his instructions to the jury, emphasized that if they concluded “the prisoner had not then, from the defects of her faculties, intelligence enough to understand the nature of the proceedings against her, they ought to find her not sane.”¹⁹ The jury after deliberation determined that Dyson lacked this understanding, leading to her declaration as insane.²⁰

¹⁵ *Youtsey v. United States*, 97 F. 937, 940 (6th Cir. 1899)

¹⁶ Thomas Aquinas, *Question 95: Human Law*, in *The Summa Theologica* (Fathers of the English Dominican Province trans., 2d ed. 1920)

¹⁷ *Id.*

¹⁸ *R v Dyson*, 173 ER 135 (1831)

¹⁹ *Id.*

²⁰ *Id.*

Similarly, in the case of *R v Pritchard*, the defendant, also deaf and mute, faced charges of bestiality.²¹ Despite his inability to speak, Pritchard demonstrated his ability to read and write, having received education at the Deaf and Dumb Asylum in London.²² When presented with the indictment, Pritchard unmistakably signaled his plea of not guilty.²³ Baron Alderson, referencing the precedent set in *R v Dyson*, reiterated the importance of assessing the defendant's comprehension of the legal proceedings.²⁴ This case underscores the nuanced considerations involved when evaluating the competency of individuals with disabilities within the legal system, although at this time in history, there were no legal concerns with the ability of the accused to communicate with their legal counsel.²⁵ This created the Pritchard test;²⁶ the idea that a criminal defendant, to be competent, needed to have the intellectual abilities to support a 'rational defense,' which was adopted in American jurisprudence in the 1800s in *Youtsey v. United States*.²⁷ In that case, a man with severe epilepsy was granted a retrial by the Sixth Circuit Court of Appeals because he was "unable to advise his counsel as to his defense."²⁸

In 1949, Congress passed the 'Hospitalization of a Convicted Person Suffering from a Mental Disease or Defect.'²⁹ This came about after a committee of federal judges and the Attorney General, who were studying "the treatment accorded by the federal courts to insane

²¹ *R v Pritchard*, 7 Car. & P. 303 (1836)

²² Russ Scott, *Fitness for Trial and the Self-Represented Defendant*, 24 PSYCHIATRY, PSYCH., L. 163 (Mar. 1, 2017) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6818441/>

²³ *R v Pritchard*, 7 Car. & P. 303 (1836)

²⁴ *Id.* at 304

²⁵ Russ Scott, *Fitness for Trial and the Self-Represented Defendant*, 24 PSYCHIATRY, PSYCH., L. 163 (Mar. 1, 2017) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6818441/>

²⁶ See *Freeman v. People*, 4 Denio 9 (N.Y. 1847)

²⁷ 97 F. 937 (6th Cir. 1899)

²⁸ *Id.* at 942

²⁹ 18 USCS § 4244

persons charged with crime,” passed a draft bill.³⁰ § 4244 allowed defendants to raise the issue of competence from the time they were arrested, required a psychiatric or psychological report before a competence hearing took place.³¹

The landmark case of *Dusky v. United States* in 1958 emphasized the necessity for defendants to possess both factual and rational comprehension of the trial process, setting a precedent for assessing competence to stand trial in subsequent cases.³² Dusky faced charges of kidnapping a 15-year-old girl in Kansas.³³ During the ensuing legal proceedings, he underwent a mental health evaluation.³⁴ He was diagnosed with schizophrenia and was assessed as unable to "properly assist" his trial counsel due to an inability to "properly interpret the meaning of the things that had happened."³⁵ Despite these concerns, a federal district court deemed Dusky competent to stand trial because he knew when and where he was and could provide some information to his attorney about the kidnapping incident.³⁶ However, the Supreme Court intervened, returning the case to the district court for a fresh assessment of his competence to stand trial.³⁷

The subsequent legal discourse around the Dusky test reflects differing interpretations, it being unclear what the Supreme Court’s rule on this was. Some commentators believed Dusky outlined a two-pronged approach (that “the defendant’s capacity to understand the criminal process as it applies...and the defendant’s ability to function in that process, primarily through

³⁰ Harlan F. Stone et al., *Report of the Judicial Conference of the U.S.*, 18–19 (Sept. 1942) https://www.uscourts.gov/sites/default/files/1942-09_0.pdf; *Greenwood v. United States*, 219 F.2d 376, 380–85 (8th Cir. 1955)

³¹ 18 USCS § 4244

³² 362 U.S. 402 (1960)

³³ *Dusky v. United States*, 271 F.2d 385, 387 (8th Cir. 1959)

³⁴ *Id.*

³⁵ *Id.* at 389

³⁶ *Id.* at 390

³⁷ *Dusky v. United States*, 362 U.S. 402, 403 (1960)

consulting with counsel in the preparation of defense”).³⁸ Others believe it combined with another Supreme Court case, *Drope v. Missouri*, that a defendant should be able to “assist in preparing his defense.”³⁹

In the Comprehensive Crime Control Act of 1984, Congress amended § 4244 and codified the changes as 18 U.S.C. § 4241.⁴⁰ In this standard, which is still in place today, competence can only be raised after prosecution has started, and it leaves it up to the court to decide whether a psychiatric or a psychological report is necessary.⁴¹ However, despite these developments, concerns persist regarding the precise requirements and application of the competence to stand trial criteria. There remains ambiguity surrounding the specific elements of the *Dusky* test. Continuously the evolution of competence law reflects a natural perspective, in its commitment to ensuring that legal proceedings are conducted in a manner consistent with moral principles and human dignity. As explained by modern natural law theorist Robert George, “human rights exist if it is the case that there are principles of practical reason directing us to act or abstain from acting in certain ways out of respect for the well-being and the dignity of persons whose legitimate interests may be affected by what we do...They cannot be overridden by considerations of utility.”⁴² Presently, thirty-three states have competency provisions similar to § 4241, and twelve states have competency standards similar to the *Dusky* test.⁴³

B. A Look Into the Insanity Defense

³⁸ Alan R. Felthous, *Competence to Stand Trial Should Require Rational Understanding*, 39 J. AM. ACAD. PSYCHIATRY & L. 19 (2011), <https://pubmed.ncbi.nlm.nih.gov/21389162/>

³⁹ 420 U.S. 162, 171, (1975)

⁴⁰ The Comprehensive Crime Control Act of 1984, Pub. L. No. 94-473 (1984)

⁴¹ *Id.*

⁴² Robert George, *Natural Law, God, and Human Dignity*, 1 THE CHAUTAUQUA J. 1, 2 (2016), <https://encompass.eku.edu/cgi/viewcontent.cgi?article=1004&context=tcj>

⁴³ David Collins, *Re-Evaluating Competence to Stand Trial*, (2019) (M.J.S. thesis, Duke Law School) (on file with Duke Law), <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4912&context=lcp>

The insanity defence that is present in today's jurisprudence has roots beginning thousands of years ago. In ancient Jewish codes, such as the Talmud, efforts were made to relate criminal responsibility to one's mental state.⁴⁴ The Talmud, a compilation of Jewish legal writings dating to Biblical times, makes distinctions between those deemed of sound mind, who are held legally responsible for their actions, and those with lower mental capacities, who are not; "With regard to a deaf-mute, an imbecile, or a minor, an encounter with them is disadvantageous...One who injures them is liable. But if they were the ones who injured others, they are exempt. This is because they lack awareness and are not responsible for their actions."⁴⁵ Those who can't control themselves were not held liable. Ancient legal codes, including Justinian's Digest from sixth-century Rome, similarly addressed the issue of mental illness in criminal cases.⁴⁶ Modestinus, a Roman lawyer, wrote that "If a madman commit homicide he is not covered by the Cornelian Law [the law of punishment] because he is excused by the misfortune of his fate."⁴⁷

The development of the insanity defence continued to evolve within Anglo-Saxon law, with it being acknowledged as a complete defense in the fourteenth century.⁴⁸ In 1505, a defendant was acquitted on the grounds of insanity, with the court explaining that "A man was accused of the murder of an infant. It was found that at the time of the murder the felon was of unsound mind [de non saine memoire]. Wherefore it was decided that he should go free [qu'il ira quite]."⁴⁹ By the late sixteenth century, the insanity defence had become firmly entrenched in

⁴⁴ *Mishnah Bava Kamma* 8:4

⁴⁵ *Id.*

⁴⁶ Emperor Justinian, *The Digest of Justinian*, 821.11 (circa 533)

⁴⁷ Herennius Modestinus, quoted by Nigel Walker, *The Insanity Defense before 1800*, 477 *ANNALS AM. ACAD. POL. & SOC. SCI.*, (1985), <https://www.jstor.org/stable/1045999>

⁴⁸ Rita J. Simon & David E. Aaronson, *The Insanity Defense: A Critical Assessment of Law and Policy in the Post-Hinckley Era*, 10 (1988)

⁴⁹ Y.B. Mich. 21 Hen. 7, pl. 16

English common law.⁵⁰ Legal scholars of the time pointed out principles that underscored the lack of criminal accountability for individuals deemed incapable of forming an understanding will, such as those suffering from mental illness.⁵¹

In tracing the historical development of the insanity defense, it becomes evident that Natural Law jurisprudence has played a significant role in shaping contemporary legal practices surrounding mental health and criminal responsibility.

“...According to natural law theories there is no specific notion of legal validity. The only concept of validity is validity according to natural law, i.e., moral validity. Natural lawyers can only judge a law as morally valid, that is, just or morally invalid, i.e., wrong. They cannot say of a law that it is legally valid but morally wrong. If it is wrong and unjust, it is also invalid in the only sense of validity they recognise.”⁵²

Rooted in the idea that justice is derived from universal moral principles inherent in nature or divine authority, Natural Law emphasizes the importance of aligning legal systems with ethical considerations.

“Natural law theorists also affirm that many moral truths, including some that are revealed, can also be grasped by ethical reflection apart from revelation... We do not need agreement on the answer [of if natural law is revealed by revelation], so long as we agree... that human beings, possessing the God-like (literally awesome) powers of reason and freedom, are bearers of a profound dignity that is protected by certain basic rights.”⁵³

By exempting individuals with mental illness from criminal liability, these early legal systems upheld principles of fairness and compassion, reflecting a commitment to justice grounded in moral values.

⁵⁰ Rita J. Simon & David E. Aaronson, *The Insanity Defense: A Critical Assessment of Law and Policy in the Post-Hinckley Era*, 10 (1988)

⁵¹ *Id.*

⁵² Joseph Raz, *Kelsen's Theory of the Basic Norm*, 19 AM. J. JURIS. 94 at 100 (1974)

⁵³ Robert George, *Natural Law, God, and Human Dignity*, 1 THE CHAUTAUQUA J. 1, 2 (2016), <https://encompass.eku.edu/cgi/viewcontent.cgi?article=1004&context=tcj>

In 1723, the English court introduced the "wild beast test," which required an insane defendant to demonstrate a total deprivation of understanding and memory akin to that of an infant, brute, or 'wild beast.'⁵⁴ This stringent standard remained the prevailing insanity defense criterion for a century, reflecting the prevailing attitudes towards mental illness and criminal responsibility at the time. However, as legal and societal attitudes towards mental illness evolved, so too did the standards for the insanity defense. In 1812, an English judge presiding over a murder case emphasized the importance of evidence demonstrating the defendant's inability to distinguish between right and wrong.⁵⁵ Despite attempts to shift the focus towards moral culpability, the "right and wrong" test proved challenging to apply in cases involving mentally insane defendants.⁵⁶ Over time, the inconsistencies in the various insanity defense standards led to their falling out of use. However, one landmark case, *Queen v. M'Naghten*, left a lasting impact on the insanity defense.⁵⁷

The M'Naghten case marked a pivotal moment in the evolution of the insanity defense. The defendant, Daniel M'Naghten, a paranoid schizophrenic, stood trial for the murder of Edward Drummond, whom he mistakenly believed to be the Prime Minister of England, Sir Robert Peel.⁵⁸ M'Naghten's delusions, stemming from his mental illness, led him to perceive Drummond as a threat and subsequently murder him.⁵⁹ The trial grappled with the issue of M'Naghten's criminal responsibility in light of his mental state.⁶⁰ Drawing upon elements of both

⁵⁴ *Rex v. Arnold*, 16 How. St. Tr. 765 (1724)

⁵⁵ Homer Crotty, *The History of Insanity as a Defence to Crime in English Law*, 12 CAL. L. REV. 105, 115 (1924), <https://lawcat.berkeley.edu/record/1108808?ln=en&v=pdf>

⁵⁶ *Id.* at 115-117

⁵⁷ *Queen v. M'Naghten*, 10 Clark & F. 200 (H.L. 1843)

⁵⁸ Jenny Williams, *Reduction in the Protection for Mentally Ill Criminal Defendants: Kansas Upholds the Replacement of the M'Naughten Approach with the Mens Rea Approach, Effectively Eliminating the Insanity Defense*, 44 WASHBURN L. J. 213, 218 (2004)

⁵⁹ *Id.*

⁶⁰ *Id.*

the "wild beast test" and the "right and wrong" test, the House of Lords articulated a standard that emphasized the defendant's capacity to understand the nature and quality of their actions and to distinguish between right and wrong.⁶¹ Under the M'Naghten test, defendants could be found not guilty by reason of insanity if they either did not comprehend the nature and quality of their actions or were unaware of the wrongfulness of their conduct.⁶² Unlike the stringent requirements of the "wild beast test," the M'Naghten rule acknowledged that a defendant need not experience a total departure from sanity to be deemed legally insane.⁶³

The M'Naghten test also marks a shift in jurisprudential thought. Natural law generally emphasises morality and notes ideas like justice and human rights are "intrinsically valuable," regardless of what legal standards may say.⁶⁴ However, legal realism, an opposing jurisprudential theory, argues that law makers and decision makers are not motivated by deep moral universal truths, but by their personality, "social environment, economic conditions, business interest, current ideas, and popular emotion."⁶⁵ A judge's reasoning and rational can be influenced by any sort of biases; in legal realism, "law is what the judge had for breakfast."⁶⁶ Legal realism notes the idea of 'judicial innovation,' in which judges take the law into their own hands, creating "spasmodic growth" of the law through unprecedented legal decision.⁶⁷ Here, judges took matters into their own hands to create a more comprehensive insanity standard, possibly because of the changing social attitudes towards mental health and a deeper

⁶¹ *Id.*

⁶² *Id.*

⁶³ Judith A. Morse & Gregory K. Thoreson, *Criminal Law – United States v. Lyons: Abolishing the Volitional Prong of the Insanity Defence*, 60 NOTRE DAME L. REV. 177, 179 (1984)

⁶⁴ Robert George, *Natural Law, God, and Human Dignity*, 1 THE CHAUTAUQUA J. 1, 2 (2016), <https://encompass.eku.edu/cgi/viewcontent.cgi?article=1004&context=taj>

⁶⁵ Myres McDougal, *Jurisprudence for a Free Society*, 1 GA. L. REV. 1 (1966), https://openyls.law.yale.edu/bitstream/handle/20.500.13051/1912/Jurisprudence_for_a_Free_Society.pdf;jsessionid=472ABD85DB2F9CF29C2CD75BD2596693?sequence=2

⁶⁶ H. J. M. Boukema, *Legal Realism and Legal Certainty*, 66 ARCHIVES PHIL. L. SOC. PHIL. 469, 474 (1980)

⁶⁷ *Id.* at 473

psychological understanding of insanity. Being compelled to act by societal interests to create a more articulated rule is a deviation from the general natural law standard that was simply concerned about the moral implications of holding an insane person accountable.

Following the M'Naghten ruling, courts across the United States adopted the M'Naghten rule as the prevailing standard for the insanity defense.⁶⁸ This standard served as an affirmative defense to the crime charged, providing a framework for assessing the mental state of defendants accused of criminal offenses.⁶⁹ For over a century, the M'Naghten rule remained the predominant approach in exonerating mentally insane criminal defendants, with only New Hampshire departing from this standard.⁷⁰ Today, the M'Naghten Rule is still used in the majority of states, reflecting its historical significance and enduring influence within the legal system. States that adhere to the M'Naghten Rule, or variations thereof, include Alabama, Alaska, Arizona, California, Colorado, Florida, Georgia, Iowa, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Virginia, and Washington.⁷¹

In 1954, the Court of Appeals for the District of Columbia modified the longstanding M'Naghten rule, giving rise to what became known as the Durham rule.⁷² In the landmark case of *Durham v. United States*, the Court articulated a significant departure from the traditional

⁶⁸ Rita J. Simon & David E. Aaronson, *The Insanity Defense: A Critical Assessment of Law and Policy in the Post-Hinckley Era*, 10 (1988)

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Ala. Code § 13A-3-1; Alaska Stat. § 12.47.010 ; Ariz. Rev. Stat. § 13-502 ; Cal. Penal Code § 25 ; Colo. Rev. Stat. § 16-8-103 ; Fla. Stat. Ann. § 775.027 ; Ga. Code Ann. § 16-3-2 ; Iowa Code § 701.4 ; La. Rev. Stat. Ann. § 14:14 ; Minn. R. Crim. P. 20.02 ; Miss. Code Ann. § 99-13-7 ; Mo. Rev. Stat. § 552.030 ; Neb. Rev. Stat. Ann § 29-2203 ; Nev. Rev. Stat. Ann. § 174.035 ; N.J. Stat. § 2C:4-1 ; N.M. Unif. Jury Instructions-Crim. 14-5101 to -5103 (1986) ; *See State v. Mancuso*, 321 N.C. 464, 466 (1988) ; Ohio Rev. Code Ann. § 2901.01 ; Okla. Stat. tit. 21, § 152 ; 18 Pa. Cons. Stat. Ann. § 315 ; S.C. Code Ann. § 17-24-20 ; S.D. Codified Laws § 22-1-2 ; Tex. Penal Code § 8.01 ; *See Brown v. Commonwealth*, 68 Va. App. 746, 757 (S.E.2d 2018) ; Wash. Rev. Code Ann. § 9A.12.010

⁷² *Durham v. United States*, 214 F.2d 862, 874–75 (D.C. Cir. 1954)

standards of criminal responsibility.⁷³ Here, the court asserted that an individual could not be held criminally responsible “if his unlawful act was the product of mental disease or mental defect.”⁷⁴ This shifted away from the idea of right versus wrong in the M'Naghten standard. Instead, the Durham rule embraced a more scientific approach, recognizing mental illness as a mitigating factor in criminal behaviour. By attributing criminal acts to underlying mental disorders, the rule sought to provide a framework that aligned with advancements in psychiatric understanding.⁷⁵ Once again, this is an expansion to the insanity defense through legal realism, as judges take the law into their own hands.⁷⁶ The field of psychology had a large expansion from the 1800s to the 1900s;⁷⁷ this likely influenced the judges when making this dramatic shift.

However, the Durham rule faced significant scepticism and opposition.⁷⁸ Critics raised concerns about its potential for misuse, fearing that its broad application could lead to unwarranted acquittals and undermine accountability in the justice system.⁷⁹ The rule's expansive scope, which allowed defendants with various mental conditions to plead insanity, sparked debates over its effectiveness in delivering just outcomes.⁸⁰ While it diverged from traditional and historical legal standards, the Durham rule reflected an evolving understanding of mental health within the criminal justice system. Today, New Hampshire is the only state that currently recognises this standard.⁸¹

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *From Daniel M'Naughten to John Hinckley: A Brief History of the Insanity Defense*, PBS Frontline, <http://www.pbs.org/wgbh/pages/frontline/shows/crime/trial/history.html> (last visited Apr. 22, 2024)

⁷⁶ H. J. M. Boukema, *Legal Realism and Legal Certainty*, 66 *ARCHIVES PHIL. L. SOC. PHIL.* 469, 473 (1980)

⁷⁷ Kendra Cherry, *The Origins of Psychology: From Philosophic Beginnings to Modern Day*, Very Well Mind, <https://www.verywellmind.com/a-brief-history-of-psychology-through-the-years-2795245> (last visited Apr. 22, 2024)

⁷⁸ *From Daniel M'Naughten to John Hinckley: A Brief History of the Insanity Defense*, PBS Frontline, <http://www.pbs.org/wgbh/pages/frontline/shows/crime/trial/history.html> (last visited Apr. 22, 2024)

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *See State v. Fichera*, 153 N.H. 588, 590 (2006)

Just eight years after Durham, the American Law Institute (ALI) created a model insanity test.⁸² This development in Model Penal Code § 4.01, set forth a comprehensive evaluation framework; "A person is not responsible for criminal conduct if, at the time of such conduct as a result of mental disease or defect, he lacks substantial capacity either to appreciate the criminality [wrongfulness] of his conduct or to conform his conduct to the requirements of the law."⁸³

Much like the Durham test, the Model Penal Code test integrates scientific insights into its criteria for determining the culpability of an alleged mentally insane criminal defendant. However, it diverges from the Durham test by excluding individuals whose mental illness or defect solely manifests in criminal or antisocial conduct. Unlike the *Durham* approach, the Model Penal Code test requires the exhibition of mentally insane symptoms across various aspects of the defendants' lives, not confined to criminal behaviour alone.⁸⁴ This restriction serves to limit the scope of the insanity defence, applying only to cases where mental illness substantially impairs an individual's mental capacity.

Here, there is a divergence from the trend of legal realism and natural law, either because of the natural dignity inherent in people or because of judicial pressures,⁸⁵ that both seemed to protect the criminally-insane defendant. Instead, the laws governing insanity seemed to take a step backward, focusing more on statute. This is reminiscent of the jurisprudential theory of legal formalism. Legal formalism argues that a judge should follow the written laws and not engage in

⁸² Model Penal Code § 4.01 (2013)

⁸³ *Id.*

⁸⁴ See, e.g., *Jackson v. United States*, 76 A.3d 920, 924 (D.C. 2013) (noting that the defendant had suffered from hallucinations for many years).

⁸⁵ Robert George, *Natural Law, God, and Human Dignity*, 1 THE CHAUTAUQUA J. 1, 2 (2016), <https://encompass.eku.edu/cgi/viewcontent.cgi?article=1004&context=tcj>; H. J. M. Boukema, *Legal Realism and Legal Certainty*, 66 ARCHIVES PHIL. L. SOC. PHIL. 469, 473 (1980)

the judicial innovation seen in legal realism, or be concerned about whether a secular law conforms with the natural law.⁸⁶ For a legal formalist, “the rationality of law lies in a moral order immanent to legal material.”⁸⁷ To promote law and order, it’s best for the judge to simply follow the written law.⁸⁸ By restricting the types of mental illnesses that a court could consider, it is limiting how much judicial innovation a court can have, irregardless of potentially new psychologic insights into a defendant’s psyche.

In 1972, courts began implementing the Model Penal Code test for future trials by overturning the Durham ruling.⁸⁹ Deeming the Durham insanity defence impractical and fraught with implementation challenges, the Cour of Appeals for the District Columbia, in *United States v. Brawner*, created a nuanced approach.⁹⁰ Drawing from prior jurisprudence, such as *McDonald v. United States* from 1962, which defined mental disease or defect as "any abnormal condition of the mind which substantially affects mental or emotional processes and substantially impairs behaviour controls," Brawner laid the groundwork for a hybrid rule.⁹¹ Integrating this definition and using the Model Penal Code insanity defense legal standard, Brawner created a new rule, aimed for a narrower application compared to the *Durham* standard.⁹² Today, the Model Penal Code Rule has been adopted by a significant number of states across the country. States that follow the Model Penal Code and variations thereof include Arkansas, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Indiana, Kentucky, Maine, Massachusetts, Maryland, Michigan, New York, North Dakota, Oregon, Rhode Island, Tennessee, Vermont, West Virginia,

⁸⁶ *Id.* ; Ernest J. Weinrib, *Legal Formalism: On the Immanent Rationality of Law*, 97 Yale L. J. 949, 954-955 (1988)

⁸⁷ Ernest J. Weinrib, *Legal Formalism: On the Immanent Rationality of Law*, 97 Yale L. J. 949, 955 (1988)

⁸⁸ *Id.*

⁸⁹ *United States v. Brawner*, 471 F.2d 969, 981 (D.C. Cir. 1972).

⁹⁰ *Id.* at 991

⁹¹ *McDonald v. United States*, 312 F.2d 847, 851 (D.C. Cir. 1962).

⁹² Charles E. Trant, *The American Military Insanity Defense: A Moral, Philosophical, and Legal Dilemma*, 99 MIL. L. REV. 1, 50 (1983)

Wisconsin, and Wyoming.⁹³ In these states, defendants may invoke the MPC Rule as a defense against criminal charges, provided they can demonstrate that their mental illness substantially impaired their capacity to appreciate the criminality of their conduct or to conform their conduct to the requirements of the law.⁹⁴

In 1982, the landscape of insanity defense jurisprudence shifted dramatically following the trial of John W. Hinckley Jr. Hinckley's attempt to assassinate President Ronald Reagan, purportedly driven by a desire to impress actress Jodi Foster, brought the Brawner test under scrutiny.⁹⁵ During the trial, the prosecution bore the burden of proving, beyond a reasonable doubt, Hinckley's sanity.⁹⁶ However, the evidence presented indicated that Hinckley suffered from schizophrenia, leaving the prosecution unable to refute the insanity claim with evidence of his sanity.⁹⁷ Consequently, the jury found the prosecution failed to meet its burden of proof, resulting in Hinckley's acquittal on all counts by reason of insanity.⁹⁸

The verdict elicited widespread outrage across America.⁹⁹ This sentiment ignited debates on the need for reform or even the abolition of the insanity defense.¹⁰⁰ Before the trial, all fifty states and the federal government had some form of an insanity defense in place.¹⁰¹ However, in

⁹³ Ark. Code Ann. § 5-2-312 ; Conn. Gen. Stat. § 53a-13 ; Del. Code Ann. tit. 11, § 401 ; D.C. Code § 24-301 ; Haw. Rev. Stat. Ann. § 701-115 ; 730 Ill. Comp. Stat. Ann. 5/5-1-11 ; Ind. Code Ann. § 35-41-3-6 ; Ky. Rev. Stat. § 504.060 ; Me. Rev. Stat. tit. 17-A, § 39 ; Mass. Ann. Laws ch. 123, § 15 ; Md. Code Ann., Crim. Proc. § 3-109 ; Mich. Comp. Laws Serv. § 768.21a ; N.Y. Penal Law § 25.00 ; N.D.R. Crim. P. Rule 12.2 ; Or. Rev. Stat. Ann. § 161.295 ; *State v. Johnson*, 121 R.I. 254, 267 (1979) ; Tenn. Code Ann. § 39-11-501 ; Vt. Stat. Ann. tit. 13, § 4801 ; *State v. Grimm*, 165 W. Va. 547, 548, 270 S.E.2d 173, 174 (1980) ; Wis. Stat. Ann. § 971.15 ; Wyo. Stat. Ann. § 7-11-304

⁹⁴ *Id.*

⁹⁵ Vincent J. Fuller, *United States v. John W. Hinckley Jr. (1982)*, 33 LOY. L.A. L. REV. 699, 699 (2000), <https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=2207&context=llr>

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.* at 703

¹⁰⁰ Jeffrey Janofsky et. al., *Practice Guideline for Forensic Psychiatric Evaluation of Defendants Raising the Insanity Defense*, 42 AAPL S3, at S6 (2014)

¹⁰¹ *From Daniel M'Naughten to John Hinckley: A Brief History of the Insanity Defense*, PBS Frontline, <http://www.pbs.org/wgbh/pages/frontline/shows/crime/trial/history.html> (last visited Apr. 22, 2024)

the aftermath of Hinckley's trial, thirty-six states revamped their insanity defense laws.¹⁰² Idaho, notably, removed its insanity defense statute in 1982, repealing it rapidly after the Hinckley verdict, with Utah following suit in 1983.¹⁰³ Kansas and Montana abolished their insanity defenses in 1995 and 1979, respectively.¹⁰⁴ In states where the insanity defense is abolished, evidence of mental disease or defect is admissible solely to rebut and negate the mental element (intent) of the offense charged.¹⁰⁵ Instead of an insanity defense, these states adopted a "Mens Rea Model evidentiary rule," allowing evidence of mental insanity only concerning the required intent of the offence.¹⁰⁶ However, such evidence is otherwise prohibited, and no affirmative defense regarding mental insanity exists.¹⁰⁷ This is a complete abandonment of any natural law principles concerned about the morality of punishing an insane defendant, as well as a disregard for the legal realist's concerns about societal attitudes and developments in psychology.¹⁰⁸

In response to the aftermath of Hinckley's trial, the federal government sought to strike a compromise between those advocating for abolition and those advocating for modification of the insanity defense.¹⁰⁹ The Insanity Defense Reform Act of 1984 abandoned the Model Penal Code insanity defense standard, introducing stringent qualifications to limit the scope of insanity acquittals under federal law.¹¹⁰ Under the Act, defendants must demonstrate that their mental disease or defect is severe and that they were unable to appreciate the nature and quality of the

¹⁰² *Id.*

¹⁰³ *Id.*; Marc W. Pearce & Lori J. Butts, *Insanity in the State of Idaho*, 44 *Monitor on Psychol.* 28, 28 (2013)

¹⁰⁴ *Id.*

¹⁰⁵ Jean K. Gilles Phillips & Rebecca E. Woodman, *The Insanity of the Mens Rea Model: Due Process and the Abolition of the Insanity Defense*, 28 *PACE L. REV.* 455, 460–61 (2008)

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Robert George, *Natural Law, God, and Human Dignity*, 1 *THE CHAUTAUQUA J.* 1, 2 (2016), <https://encompass.eku.edu/cgi/viewcontent.cgi?article=1004&context=tcj>; H. J. M. Boukema, *Legal Realism and Legal Certainty*, 66 *ARCHIVES PHIL. L. SOC. PHIL.* 469, 473 (1980)

¹⁰⁹ *From Daniel M'Naughten to John Hinckley: A Brief History of the Insanity Defense*, PBS Frontline, <http://www.pbs.org/wgbh/pages/frontline/shows/crime/trial/history.html> (last visited Apr. 22, 2024)

¹¹⁰ *The Insanity Defense Reform Act of 1984*, 18 U.S.C. § 17(a) (2014)

criminality or wrongfulness of their acts due to this severe condition.¹¹¹ The burden of proof shifted from the prosecutor to the defendant, who must establish, by clear and convincing evidence, their legal insanity at the time of the crime.¹¹² By combining elements of previous insanity defense tests, Congress fashioned a revised framework, akin to the historic "right and wrong" test.¹¹³ If defendants successfully establish the affirmative defense, the Act allows for a "special verdict" of "not guilty by reason of insanity."¹¹⁴ However, obtaining such a verdict is challenging, as the burden rests squarely on the defendant.¹¹⁵

This is another advancement of legal formalism, as it introduces rigid criteria for determining legal insanity and emphasises objective standards. In legal formalism, judges should be making their decisions "like mathematics."¹¹⁶ Legal formalism serves to "'freeze' legal doctrine and to conceive of law not as a malleable instrument..., but as a fixed and inexorable system of logically deducible rules."¹¹⁷ Creating more rigid standards in the insanity defense by overruling the Durham standard did effectively limit how malleable the doctrine could be for criminal defendants, meaning that this could hinder defendants with high-functioning advanced mental health disorders to avail themselves of this defense.

II. Case Studies for Competency and Insanity in the Legal System

Many criminal defendants that go before a court make little if any, impression on the public. However, certain individuals stand out for the extreme and incomprehensible nature of

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *From Daniel M'Naughten to John Hinckley: A Brief History of the Insanity Defense*, PBS Frontline, <http://www.pbs.org/wgbh/pages/frontline/shows/crime/trial/history.html> (last visited Apr. 22, 2024)

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ Morton Horwitz, *The Rise of Legal Formalism*, 19 AM. J. LEGAL HIST. 251, 252 (Oct. 1975), <https://www.jstor.org/stable/845052>

¹¹⁷ *Id.* at 256

their acts and go down in infamy. Among these are serial killers, whose heinous crimes evoke both fear and fascination in equal measure.

To appropriately examine the six serial killers identified for this paper, direct comparisons will be made between Richard Ramirez and Ronald Crumpley, and Ed Gein and Jeffrey Dahmer. Ted Bundy and Andrea Yates will be discussed independently. These comparisons will be discussed later in the paper. For now, their legal histories will be introduced and explained. By examining how these individuals' mental illnesses were handled as they went through the legal system, the inconsistencies in their treatment will hopefully become clear.

A. Theodore Robert Bundy - The Campus Killer

The case of Ted Bundy stands as one of the most notorious and legally complex in modern American history. Bundy's heinous crimes captured the nation's attention, but equally fascinating were the legal proceedings surrounding his arrests, trials, and subsequent appeals. Questions regarding his mental state persisted throughout the proceedings. Even today, the sanity of Ted Bundy is still being discussed. The University of Kentucky recently conducted a study, inviting psychologists to diagnose Bundy.¹¹⁸ Out of the 73 certified psychologists who took part in the study, 96% diagnosed him with antisocial personality disorder, and 80% of them believed he was a “prototypical example” of the illness.¹¹⁹

While his multiple court cases could be discussed extensively, the focus will be on *Bundy v. Dugger*, a latter case which used the Dusky standard in assessing Bundy's

¹¹⁸ Douglas Samuel & Thomas Widiger, *Describing Ted Bundy's Personality and Working Towards DSM-V*, 27 INDEP. PRACTITIONER 20 (2007), [http://sampl.psych.purdue.edu/~dbsamuel/Samuel%20&%20Widiger%20\(2007\)%20DIV42.pdf](http://sampl.psych.purdue.edu/~dbsamuel/Samuel%20&%20Widiger%20(2007)%20DIV42.pdf)

¹¹⁹ *Id.*

competency.¹²⁰ "The legal test for mental competency is whether, at the time of trial and sentencing, the petitioner had 'sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding' and whether he had a rational as well as factual understanding of the proceedings against him."¹²¹

The court identified a two-pronged approach to evaluate mental competency: first, whether the defendant suffers from a clinically recognized disorder, and second, if such a disorder exists, whether it rendered the defendant incompetent under the *Dusky* standard.¹²² For Bundy, despite assertions of him suffering from bipolar mood disorder, the district court concluded that this disorder did not manifest in a manner that affected his competence to stand trial.¹²³

In this case, the Eleventh Circuit Court of Appeals undertook a thorough examination of Ted Bundy's mental competency to stand trial, drawing from expert testimony, observations of Bundy's behaviour, and assessments of legal representation.¹²⁴ Psychiatrists Dr. Dorothy Lewis and Dr. Emanuel Tanay for the defense provided testimony asserting that Bundy was incompetent to stand trial due to a clinically recognised disorder, specifically bipolar mood disorder.¹²⁵ "Bipolar mood disorders are characterized by wide changes in mood or mood swings. During the manic phase, the person can be loud, angry, violent. or grandiose. At the other extreme, the person would experience periods of extreme depression."¹²⁶ Dr. Lewis stated that, as a three-year-old, Bundy would place knives in the beds of his family members, which

¹²⁰ 850 F.2d 1402, 1406 (11th Cir. 1988)

¹²¹ *Id.* at 1407, quoting *Dusky v. United States*, 362 U.S. 402 (1960)

¹²² *Id.* at 1408

¹²³ *Id.* at 1409

¹²⁴ *Id.* at 1406

¹²⁵ *Bundy v. Dugger*, 675 F. Supp. 622, 624-25 (M.D. Fla. 1987)

¹²⁶ *Id.*

was indicative of major childhood trauma.¹²⁷ Bundy's grandfather was known to be a violent man, and multiple members of the Bundy family had signs of mental illness.¹²⁸ Dr Lewis concluded that, during the Kimberly Leach¹²⁹ trial, "Petitioner acted in a grandiose manner throughout the trial and was incapable of communicating with his attorneys or aiding his defence in a meaningful manner. In addition...Petitioner was unable to appreciate the jeopardy he was facing."¹³⁰

Dr. Tanay acknowledged Bundy's intelligence and knowledgeability but diagnosed him with a life-long personality disorder or psychopathic personality, characterized by manipulative and destructive behaviour.¹³¹ Dr. Tanay noted Bundy's impaired impulse control and described his behaviour during the Chi Omega murder trial and pretrial proceedings as "self-destructive gamesmanship."¹³² Despite Bundy's rejection of a plea agreement and desire to represent himself, Dr. Tanay viewed these actions as irrational and driven by pathological needs and showmanship typical of a psychopath.¹³³

However, the testimony of Drs. Lewis and Tanay were contested by psychiatrists Dr. Charles Mutter and Dr. Umesh Mhatre, who testified on behalf of the state.¹³⁴ These experts countered the claim of incompetency, asserting that Bundy's disorder did not render him incompetent under the Dusky standard.¹³⁵ They presented evidence suggesting that Bundy

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ Less than 6 months after Bundy was sentenced to death during the 'Chi Omega Trial' on two counts of first degree murder and three counts of attempted murder, he was put on trial for the murder of twelve year old Kimberly Leach. He was found guilty, and was sentenced again to the electric chair. *See Bundy v. State*, 455 So. 2d 330 (Fla. 1984); *See also Bundy v. State*, 471 So. 2d 9 (Fla. 1985).

¹³⁰ *Bundy v. Dugger*, 675 F. Supp. 622, 624-25 (M.D. Fla. 1987)

¹³¹ *Id.* at 626

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.* at 628

¹³⁵ *Id.* at 627, 629

exhibited behaviours inconsistent with manifestations of bipolar mood disorder and was capable of rational thought and understanding during trial proceedings.¹³⁶

Dr. Mutter's assessment concluded that Bundy was not incompetent to stand trial, despite experiencing situational anger, stress, and depression, which Dr. Mutter deemed normal reactions given the severity of the charges against him.¹³⁷ Dr. Mutter highlighted Bundy's rational behaviour, such as his decision to dismiss an attorney who lacked belief in him, as evidence of his ability to comprehend the charges and make logical choices.¹³⁸ Dr Mutter pointed to Bundy's active involvement in his defence, including taking depositions and presenting coherent arguments during trial proceedings, as indicators of his competency.¹³⁹ Bundy's decision to represent himself was viewed by Dr. Mutter as a rational choice made after careful consideration of available options.¹⁴⁰ Dr. Mutter's assessment disregarded Bundy's marriage during the trial as a ploy for sympathy, emphasizing Bundy's superior ability to process information and make decisions.¹⁴¹ It's important to note that Dr. Mutter admitted during testimony that he never actually spoke directly to Bundy, but instead relied on other accounts and records of Bundy's behaviour when making his judgement.¹⁴²

Like Dr. Mutter, Dr. Mhapre did not personally interview Bundy but relied on records and interviews with individuals associated with Bundy during the trial proceedings.¹⁴³ Dr Mhapre concluded that Bundy demonstrated an understanding of the charges against him and

¹³⁶ *Bundy v. Dugger*, 850 F.2d 1402, 1409 (11th Cir. 1988)

¹³⁷ *Bundy v. Dugger*, 675 F. Supp. 622, 626-27 (M.D. Fla. 1987)

¹³⁸ *Id.* at 627

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.* at 628

actively assisted his attorneys in the pretrial and trial phases, indicating his competency.¹⁴⁴ Dr Mhapre highlighted Bundy's strategic skills, such as identifying legal motions during trial proceedings, “on occasion... before his attorneys” as evidence of rational behaviour.¹⁴⁵ Although acknowledging signs of depression, anxiety, and anger, Dr. Mhapre found them to be normal and not indicative of bipolar mood disorder.¹⁴⁶ Dr. Mhapre attributed Bundy's lapses in judgment to human fallibility rather than mental illness, citing Bundy’s previous academic achievements as evidence of competency.¹⁴⁷ Regarding Bundy's marriage during the trial and rejection of a plea agreement, Dr. Mhapre saw them as potential strategic moves rather than indicators of mental illness.¹⁴⁸ Despite acknowledging the possibility of personality disorders, Dr. Mhapre concluded that they did not render Bundy incompetent to stand trial.¹⁴⁹

The court ultimately sided with the testimony of Drs. Mutter and Mhatre, indicated that Bundy's disorder did not impair his ability to understand the legal proceedings or to assist in his defense.¹⁵⁰ In addition to expert testimony, the court also considered Bundy's behaviour and demeanour during trial proceedings. Testimony from Judge Wallace Jopling and prosecutors George Dekle and Jerry Blair depicted Bundy as articulate, composed, and strategic in his defense.¹⁵¹ Deckle believed that Bundy’s “performance during pretrial proceedings was excellent for a layman,” and pretrial motion composed by Bundy was “well written and well thought out.”¹⁵² Judge Jopling stated that Bundy “actively pursued his case and presented very cogent

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Bundy v. Dugger*, 850 F.2d 1402, 1409 (11th Cir. 1988)

¹⁵¹ *Bundy v. Dugger*, 675 F. Supp. 622, 625 (M.D. Fla. 1987)

¹⁵² *Id.* at 630

arguments with citations to relevant case authority” and “understood the adversarial nature of the proceedings.”¹⁵³ He even went as far as to say Bundy was “one of the most intelligent defendants who had ever appeared” before him.¹⁵⁴ However, he did admit that there had been an incident where Bundy had an “inappropriate outburst” when a juror was selected to serve on a panel.¹⁵⁵

Members of Bundy’s previous legal defense teams, when called to testify, told a different story. Michael J. Minerva was the first public defender assigned to Bundy’s case during the Chi Omega murder trial.¹⁵⁶ Minerva testified that Bundy refused to consider a mental health defense, disregarded advice against speaking with police investigators, and rejected a plea deal involving three consecutive life sentences.¹⁵⁷ Bundy’s insistence on representing himself after the trial judge denied his request for a different attorney further raised concerns about his competency.¹⁵⁸ Edward Harvey, assigned as stand-by counsel, stated that Bundy didn’t think the prosecution’s evidence in the Chi Omega trial was significant and Mr. Harvey himself challenged Bundy’s abilities to act as a lawyer.¹⁵⁹ Other members of the Chi Omega defense team also questioned Bundy’s actual lawyering skills.¹⁶⁰ During the Kimberly Leach trial, Joseph M. Nursey, Don R. Kennedy, Lynn Thompson, and Michael Corin all worked as part of Bundy’s defense team, but

¹⁵³ *Id.* at 631

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ Raychel Lean, *Where Are They Now? Florida Lawyers Featured in Netflix’s Ted Bundy Documentary*, Florida Business Review (2019), https://www.law.com/2019/01/29/where-are-they-now-florida-lawyers-featured-in-netflixs-ted-bundy-documentary/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+law%2Fflaw-com-newsire+%28Law.com+-+Newswire%29

¹⁵⁷ *Bundy v. Dugger*, 675 F. Supp. 622, 629 (M.D. Fla. 1987)

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

all of them reported that Bundy, while articulate, had communication issues and would sometimes simply refuse to speak to them at all.¹⁶¹

However, the court decided that Bundy's behaviours were inconsistent with the behaviours typically associated with individuals suffering from severe mental disorders.¹⁶² The court interpreted Bundy's demeanour as indicative of his rational understanding of the legal proceedings and his ability to assist in his defense.¹⁶³ Bundy's assertion of ineffective assistance of counsel regarding the penalty phase of the trial was also briefly addressed by the court.¹⁶⁴ He contended that his counsel failed to present evidence of his mental disorder during this phase.¹⁶⁵ In addressing Bundy's claim of ineffective assistance of counsel, the court noted that an insanity defence had been investigated but was rejected by Bundy himself.¹⁶⁶ Thus, the court found no merit in Bundy's contention of being denied effective assistance of counsel in this regard.¹⁶⁷

B. Ronald K. Crumpley

Ronald K. Crumpley, a former NYC transit officer, is a convicted killer who was granted the insanity defense.¹⁶⁸ On November 17, 1980, Crumpley picked up the phone to call his father, a minister.¹⁶⁹ In a panic, he told his father that he was being chased by “hundreds of gay men.”¹⁷⁰

¹⁶¹ *Id.* at 630

¹⁶² *Id.* at 635

¹⁶³ *Id.*

¹⁶⁴ *Bundy v. Dugger*, 850 F.2d 1402, 1412 (11th Cir. 1988)

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ David W. Dunlap, *New York's Own Anti-Gay Massacre, Now Barely Remembered*, N.Y. Times, June 15, 2016, <https://www.nytimes.com/2016/06/16/nyregion/new-yorks-own-anti-gay-massacre-now-barely-remembered-orlando.html>

¹⁶⁹ Susan Saulny, *Man Who Killed 2 Outside Gay Bar Remains Mentally Ill, Jury Finds*, N.Y. Times, June 14, 2001, <https://www.nytimes.com/2001/06/14/nyregion/man-who-killed-2-outside-gay-bar-remains-mentally-ill-a-jury-finds.html>

¹⁷⁰ *Id.*

On November 18, Crumpley stole his father's car and drove from New York City to Virginia to rob a gun store.¹⁷¹ On November 19, at approximately 11:00 pm, Crumpley committed what has become known as the West Street Massacre.¹⁷² He first opened fire on a deli, shooting at two men.¹⁷³ He continued walking until he reached Ramrod, a leather bar, and began shooting indiscriminately.¹⁷⁴

“Blood splattered against the wall and door as bullets ripped into one man's shoulder and another man's arm. In barely the time it takes to light a cigarette, 40 rounds tore into the crowd. As bullets sprayed the front window of the bar, panic swept the crowd inside. Customers dropped to the floor. Several crawled to a stairway at the back of the building in a desperate attempt to survive.”¹⁷⁵

By the time Crumpley was apprehended, he had taken the lives of two men (Vernon Kroening, 32, and Jorg Wenz, 24) and injured six.¹⁷⁶ At the time of his trial in 1981, Crumpley was acquitted by virtue of his insanity.¹⁷⁷ New York, at this time and up to present day, used the Model Penal Code version of the insanity defense.¹⁷⁸ The court had found that Crumpley believed his victims were homosexuals and were trying to corrupt his soul.¹⁷⁹ Crumpley himself adamantly denied that he was mentally ill and continuously attempted to have himself transferred

¹⁷¹ *Id.*

¹⁷² David W. Dunlap, *New York's Own Anti-Gay Massacre, Now Barely Remembered*, N.Y. Times, June 15, 2016, <https://www.nytimes.com/2016/06/16/nyregion/new-yorks-own-anti-gay-massacre-now-barely-remembered-orlando.html>

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Crumpley v. Wack*, 212 A.D.2d 299, 301 (App. Div. 1995)

¹⁷⁸ Robert Carter, *History of the Insanity Defense in New York State* (New York State Library) (1982), [https://www.ojp.gov/ncjrs/virtual-library/abstracts/history-insanity-defense-new-york-state#:~:text=Kleim%20\(1845\);%20however%2C%20it,M'Naghten%20word%20'know.](https://www.ojp.gov/ncjrs/virtual-library/abstracts/history-insanity-defense-new-york-state#:~:text=Kleim%20(1845);%20however%2C%20it,M'Naghten%20word%20'know.)

¹⁷⁹ *Crumpley v. Wack*, 212 A.D.2d 299, 301 (App. Div. 1995)

out of the mental hospital and into a prison.¹⁸⁰ However, when his case was reexamined by the courts, they found that, after his 14 year hospitalization, “defendant is less overtly vituperative in what he says about gay men and, therefore, appears to be less patently irrational,” but “his record is nonetheless punctuated with incidents, conduct, and statements which, in our view, can only lead to one conclusion--defendant currently suffers from a mental illness and, while arguably not presenting a danger to himself, he would clearly constitute a danger to others if released.”¹⁸¹ Crumpley passed away while hospitalised in 2015 at the age of 73.¹⁸²

C. Ricardo Leyva Muñoz Ramirez - *The Nightstalker*

“‘Big Deal. Death always went with the territory. See you in Disneyland.’”¹⁸³ Ricardo ‘Richard’ Ramirez said this in 1989 as he was taken away to prison after being sentenced to death in California, having been convicted of 43 charges; thirteen counts of murder, five attempted murders, eleven sexual assaults, and fourteen burglaries.¹⁸⁴ These words by Ramirez were characteristic of the ‘devil-may-care’ attitude that he expressed throughout the court proceedings, seemingly showing no remorse. However, his childhood revealed a stark contrast to

¹⁸⁰ Susan Saulny, *Man Who Killed 2 Outside Gay Bar Remains Mentally Ill, Jury Finds*, N.Y. Times, June 14, 2001, <https://www.nytimes.com/2001/06/14/nyregion/man-who-killed-2-outside-gay-bar-remains-mentally-ill-a-jury-finds.html>

¹⁸¹ *Crumpley v. Wack*, 212 A.D.2d 299, 305 (App. Div. 1995)

¹⁸² Ronald K. Crumpley, *Legacy*, <https://www.legacy.com/us/obituaries/lohud/name/ronald-crumpley-obituary?id=44167855> (last visited Apr. 23, 2024)

¹⁸³ “*Hey, big deal. Death always went with...*”, L.A. Times, Oct. 5, 1989, <https://www.latimes.com/archives/la-xpm-1989-10-05-me-740-story.html#:~:text=12%20AM%20PT-,%E2%80%9CHey%2C%20big%20deal.,chamber%20for%20his%20savage%20crimes.>

¹⁸⁴ Edwin Chen, *Ramirez Guilty on All Night Stalker Murder Charges*, L.A. Times, Sep. 21, 1989, <https://documents.latimes.com/richard-ramirez-guilty-all-night-stalker-charges/>

the demeanour he exhibited in court, which was exposed by Philip Carlo, a journalist that spent over 100 hours interviewing Ramirez on death row.¹⁸⁵

Ramirez was born in El Paso, Texas, as the youngest among five siblings in a household of Mexican immigrants.¹⁸⁶ His mother, Mercedes, worked at a boot factory during her pregnancy with him, where she endured exposure to chemical fumes.¹⁸⁷ Consequently, all of his siblings were afflicted with birth defects, spanning from respiratory issues to skeletal deformities.¹⁸⁸ When Richard was merely two years old, a dresser toppled onto his head.¹⁸⁹ By the age of five, a swing-induced accident rendered him unconscious, triggering the onset of epileptic seizures.¹⁹⁰ Ramirez's temporal lobe epilepsy was never treated.¹⁹¹ Life in the Ramirez family was marked by repeated abuse, with Ricardo's father, Julian, beating all of his children.¹⁹² This led to two of Ramirez's brothers developing drug addictions.¹⁹³

At the age of 12, he encountered a disturbing influence when his cousin Miguel, a Vietnam War veteran, exposed him to grisly photographs depicting the atrocities he committed against Vietnamese women, including raping and torturing them.¹⁹⁴ Miguel also introduced Ramirez to marijuana, beginning his history of drug abuse.¹⁹⁵ The trauma intensified the

¹⁸⁵ Stav Dimitropoulos, *Was a Bad Childhood to Blame for 'Night Stalker' Richard Ramirez Becoming a Serial Killer?*, A&E: True Crime Blog: Stories and News, <https://www.aetv.com/real-crime/was-a-bad-childhood-to-blame-for-night-stalker-richard-ramirez-becoming-a-serial-killer> (Jan. 20, 2022)

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ Erika Maldonado & J. Silva, *A Biopsychosocial Analysis of the Serial Sexual Crimes of Serial Killer Richard Ramirez*, Am. Acad. of Forensic Sci. (2003), <https://www.aafs.org/sites/default/files/media/documents/AAFS-2003-I11.pdf>

¹⁹² Lucy Woodham, *Night Stalker: What was Richard Ramirez's childhood like?*, The Tab (2021), <https://thetab.com/uk/2021/01/18/night-stalker-childhood-what-was-richard-ramirez-upbringing-like-190374>

¹⁹³ *Id.*

¹⁹⁴ *Richard Ramirez*, Britannica, <https://www.britannica.com/biography/Richard-Ramirez> (Apr. 19, 2024)

¹⁹⁵ Tyler Piccotti, *Richard Ramirez*, Biography, <https://www.biography.com/crime/richard-ramirez> (May 17, 2023)

following year when Ramirez witnessed his cousin fatally shoot his own wife in the face.¹⁹⁶

These harrowing experiences marked a significant turning point for Ramirez, coinciding with the onset of his delinquent behavior which initially manifested in shop lifting and home invasions.¹⁹⁷

By ninth grade, he dropped out of high school and fled the state, ending up in Los Angeles.¹⁹⁸ At

this time, Ramirez began developing a cocaine addiction, and became fascinated with

Satanism.¹⁹⁹ His personal hygiene turned sharply down, developing several cavities as he lived primarily off of stolen junk food.²⁰⁰

These are the challenges that Richard Ramirez faced in his life before committing his first murder in 1984, killing a nine-year old girl.²⁰¹ Most of his crimes were incredibly violent with no clear demographic, his victims ranging from young children to senior citizens. However, seemingly randomly, Ramirez would allow some of his victims to live, one of which was six-year old Anastasia Hronas.²⁰² Anastasia was kidnapped from her home in the middle of the night and brought to Ramirez's home, where she was repeatedly assaulted.²⁰³ However, Ramirez later drove her out of his neighbourhood, saying "'There's a gas station over there. I want you to go in there and I want you to tell them to call 911 and have them get your family to come get you.'"²⁰⁴

¹⁹⁶ *Richard Ramirez*, Britannica, <https://www.britannica.com/biography/Richard-Ramirez> (Apr. 19, 2024)

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ Tyler Piccotti, *Richard Ramirez*, Biography, <https://www.biography.com/crime/richard-ramirez> (May 17, 2023)

²⁰⁰ Stav Dimitropoulos, *Was a Bad Childhood to Blame for 'Night Stalker' Richard Ramirez Becoming a Serial Killer?*, A&E: True Crime Blog: Stories and News, <https://www.aetv.com/real-crime/was-a-bad-childhood-to-blame-for-night-stalker-richard-ramirez-becoming-a-serial-killer> (Jan. 20, 2022)

²⁰¹ Carey Vanderborg, *Richard Ramirez Dies: Complete List and Timeline Of 'Night Stalker' Victims*, Int'l Bus. Times, June 7, 2013, <https://www.ibtimes.com/richard-ramirez-dies-complete-list-timeline-night-stalker-victims-photo-1296861>

²⁰² Jessica Kingston, *In 1985, Anastasia Hronas narrowly escaped a serial killer. This is her life now.*, Mamamia, Jan. 28, 2021, <https://www.mamamia.com.au/anastasia-hronas/>

²⁰³ *Id.*

²⁰⁴ *Id.*

To this day, Anastasia says it seemed like Ramirez was remorseful of his actions, even while they were happening.²⁰⁵

During Richard Ramirez's trial, which took place in 1989, questions were raised about his sanity.²⁰⁶ At the time in California, competence law stated that “A person cannot be tried or adjudged to punishment while that person is mentally incompetent. A defendant is mentally incompetent for purposes of this chapter if, as a result of mental disorder or developmental disability, the defendant is unable to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner.”²⁰⁷ When Ramirez was arrested, “defendant spontaneously confessed: ‘I want the electric chair. They should have shot me on the street. I did it, you know. You guys got me, the Stalker. Hey, I want a gun to play Russian Roulette... You think I’m crazy, but you don’t know Satan... Shoot me, I deserve to die. You can see Satan on my arm.’”²⁰⁸

Throughout the trial, Ramirez exhibited erratic behavior, such as cutting himself and using his blood to draw pentagrams and write ‘666’ on the floor.²⁰⁹ He also frequently disrupted proceedings with outbursts, such as drawing pentagrams on his hands and flashing a devil's sign to photographers.²¹⁰ Dr. Lillian Imperi, a psychiatrist who had been following the trial, expressed doubts regarding Richard Ramirez's competence to stand trial.²¹¹ She suggested that Ramirez's

²⁰⁵ *Id.*

²⁰⁶ *See People v. Ramirez*, No. S012944 (Cal. Aug. 7, 2006), <https://caselaw.findlaw.com/court/ca-supreme-court/1098993.html> (this edition of the case includes no numbering throughout, and a numbered version of the case was unable to be located)

²⁰⁷ Cal. Penal Code § 1367

²⁰⁸ *See People v. Ramirez*, No. S012944 (Cal. Aug. 7, 2006), <https://caselaw.findlaw.com/court/ca-supreme-court/1098993.html>

²⁰⁹ *Id.*

²¹⁰ Edwin Chen, *Ramirez Guilty on All Night Stalker Murder Charges*, L.A. Times, Sep. 21, 1989, <https://documents.latimes.com/richard-ramirez-guilty-all-night-stalker-charges/>

²¹¹ Michael Harris, *Psychiatrist thinks ‘Night Stalker’ incompetent for trial*, UPI, Oct. 28, 1985, <https://www.upi.com/Archives/1985/10/28/Psychiatrist-thinks-Night-Stalker-incompetent-for-trial/4439499323600/>

behavior in court, characterized by vacant gazes and inappropriate actions, indicated incompetence.²¹² Imperi observed that during court proceedings, Ramirez appeared disengaged and would shout "Hail Satan" upon leaving the courtroom.²¹³ He would also draw pentagrams on himself and curse at members of the court, and was more preoccupied with spreading the word about Satanism than the trial.²¹⁴ Imperi theorized that Ramirez's reported affiliation with Satanic beliefs was linked to psychotic states.²¹⁵ However, despite multiple changes in legal representation, Ramirez's mental competency wasn't questioned in court.²¹⁶

This was due to Ramirez's actions himself, refusing to consider the insanity defense and stopping attempts at him being declared mentally incompetent.²¹⁷ The court granted the defense counsel's first attempt at a court-ordered psychiatrist speaking with Ramirez, but after a few minutes, he seemingly shut down and "refused to speak with him anymore."²¹⁸ While defense counsel continued to push for Ramirez to be declared incompetent, the court refused to grant any further psychiatric evaluations.²¹⁹ On appeal, it was determined that the trial court didn't abuse their discretion in denying these requests.²²⁰

Ramirez repeatedly insisted he was sane, even when he wasn't being asked such a question.²²¹ On one occasion, when the court asked him how many years of school he attended,

²¹² *Id.*

²¹³ *Id.*

²¹⁴ Edwin Chen, *Ramirez Guilty on All Night Stalker Murder Charges*, L.A. Times, Sep. 21, 1989, <https://documents.latimes.com/richard-ramirez-guilty-all-night-stalker-charges/>

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ Edwin Chen, *Ramirez Won't Make Insanity Plea*, L.A. Times, July 15, 1988, <https://www.latimes.com/archives/la-xpm-1988-07-15-me-7145-story.html#:~:text=With%20the%20start%20of%20his,in%20Los%20Angeles%20Superior%20Court>

²¹⁸ See *People v. Ramirez*, No. S012944 (Cal. Aug. 7, 2006), <https://caselaw.findlaw.com/court/ca-supreme-court/1098993.html>

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

he said “I have had 11 years of high school and one year of technical in electric trades, and I have a psychologist in Los Angeles who has qualified me as sane.”²²² The court attempted to repeat that they were only asking about his education, but Ramirez cut them off mid-sentence, saying “I don’t want to go to no hospital, ma’am.”²²³ At a different time, when the court was saying they didn’t believe Ramirez was incompetent because he could remember what had happened during the trial and could answer questions, Ramirez again interrupted to declare “I am sane.”²²⁴

In the end, the jury found Richard Ramirez guilty on all charges.²²⁵ At his sentencing, Ramirez “praised Lucifer” and announced to the courtroom, “You don’t understand me. You are not expected to. You are not capable of it. I am beyond your experience.”²²⁶ Superior Court Judge Michael Tynan agreed, saying that the crimes were “beyond any human understanding.”²²⁷ For his crimes, the court sentenced him to death, although he passed away from cancer in 2013 before his execution.²²⁸

D. Edward Theodore Gein - The Butcher of Plainfield

Ed Gein, the inspiration for disturbed serial killers for decades ranging from Texas Chainsaw Massacre to American Horror Story, gained notoriety for his crimes and the discoveries made at his rural Wisconsin farmhouse in 1957.²²⁹ Gein's troubled mental state was

²²² *Id.*

²²³ *Id.*

²²⁴ *Id.*

²²⁵ Edwin Chen, *Ramirez Guilty on All Night Stalker Murder Charges*, L.A. Times, Sep. 21, 1989, <https://documents.latimes.com/richard-ramirez-guilty-all-night-stalker-charges/>

²²⁶ Rong-Gong Lin II et al., *For some of Richard Ramirez’s victims, a bitter look back*, L.A. Times, June 7, 2013, <https://www.latimes.com/local/la-xpm-2013-jun-07-la-me-0608-nightstalker-memories-20130608-story.html>

²²⁷ *Id.*

²²⁸ Crystal Ponti, *Richard Ramirez’s Death: What Were the Final Days of the ‘Night Stalker’ Like?*, A&E: True Crime Blog: Stories and News, <https://www.aetv.com/real-crime/richard-ramirez-death> (Aug. 14, 2023)

²²⁹ Tyler Piccotti, *Ed Gein*, Biography, <https://www.biography.com/crime/ed-gein> (Nov. 27, 2023)

evident long before his arrest, marked by bizarre behaviours and disturbed thoughts since childhood. Born in 1906, Gein's upbringing was shaped by his domineering mother, Augusta, and his dysfunctional family dynamics.²³⁰ Gein's father, George, was an alcoholic, and his mother was "fanatically religious," and told him that sex and women were sinful.²³¹ In 1915, the Gein family moved, and Ed rarely left the family farm unless to attend school.²³² Following George's death in 1940, Ed and his brother Henry took on jobs to sustain the family.²³³ A tragic event occurred in 1944 when the brothers were burning brush on their property, resulting in Henry's death.²³⁴ Initially attributed to the fire, suspicions arose about Ed's involvement due to subsequent peculiar behaviours.²³⁵ Ed, deeply attached to his mother, never showed any interest in women and never left home.²³⁶ However, his mental state deteriorated after her passing in late 1945.²³⁷ Living alone, he maintained his mother's room meticulously while allowing the rest of the house to decay, alongside developing a fascination with anatomy books.²³⁸

On the opening day of deer season in 1957, Bernice Worden vanished while the town was out hunting.²³⁹ During this quiet time, Gein visited Worden's hardware store to purchase an anti-freeze for his car and a new .22 gun.²⁴⁰ He arrived prepared, carrying a .22 shell in his pocket, loaded the gun when shown by Worden, and then fatally shot her.²⁴¹ When Worden's son discovered her absence hours later, only a blood trail and a sales slip for anti-freeze remained as

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Sheboygan pathologist helped in Ed Gein Case*, Sheboygan Cnty. Hist. Rch. Ctr (2019), <https://www.schrc.org/wp-content/uploads/2019/07/SP-Ed-Gein.pdf>

²⁴⁰ *Id.*

²⁴¹ *Id.*

clues.²⁴² The son informed investigators that Gein had visited the store the previous evening, stating he would return the next morning for a gallon of anti-freeze.²⁴³

On November 16th, 1957, police authorities found the decapitated and disembowelled body of Bernice Worden at Gein's farmhouse.²⁴⁴ However, they weren't expecting to find a collection of human skulls, alongside furniture and attire crafted from human skin and body parts.²⁴⁵ Worden's decapitated body was hanging from the ceiling, and alongside her remains, they discovered Mary Hogan's head, the sole remaining piece of a woman who had disappeared three years earlier.²⁴⁶ "Some of the notable and vile discoveries they uncovered were; bowls made out of skulls, face masks made out of real human flesh, a human vest with breasts attached, chair seats made with leg bones and dried fat, and a shoebox containing nine vulvas."²⁴⁷ There was also a vest made from the torso of a middle-aged woman and several pairs of pants made from skin, which Gein said he would wear on moonlit nights.²⁴⁸ Gein confessed to exhuming recently buried women who resembled his mother.²⁴⁹ While investigators found a total of 10 remains of women in his residence, he was officially connected to only two murders: those of Worden and Hogan.²⁵⁰

In November of 1957, Gein's trial began, with his defense attorneys entering a plea of not guilty by reason of insanity, before requesting psychological evaluation to determine Gein's

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Infamous serial killer Ed Gein dies*, History (Sept. 29, 2020), <https://www.history.com/this-day-in-history/real-life-psycho-ed-gein-dies>

²⁴⁷ *Psychological Analysis of Ed Gein*, UK ESSAYS (Nov. 2018), <https://us.ukessays.com/essays/psychology/psychological-analysis-of-ed-gein.php#citethis>

²⁴⁸ Scott Hassett, *Our Psycho: Remembering one of Wisconsin's most twisted criminals*, Isthmus (Nov. 30, 2007, 4:00PM), <https://isthmus.com/news/cover-story/our-psycho/>

²⁴⁹ *Infamous serial killer Ed Gein dies*, History (Sept. 29, 2020), <https://www.history.com/this-day-in-history/real-life-psycho-ed-gein-dies>

²⁵⁰ *Id.*

competency.²⁵¹ His defense lawyer said that “I don’t see how there could be any other conclusion but that man is insane,” and he was right.²⁵² Two psychiatrists convinced the judge that Gein was legally insane “without equivocation,” and even though the third didn’t believe he was legally insane because he knew the difference between right and wrong, he was still found medically insane.²⁵³ At this time, Wisconsin was using the American Law Institute’s definition of insanity.²⁵⁴ They told the court that Gein would “substitute human parts for the companionship of human beings” and that he believed he was “ordained by God,” and he was found to suffer from schizophrenia.²⁵⁵ At trial, Gein testified that he couldn’t remember shooting Worden.²⁵⁶ The judge found Gein to be incompetent to stand trial and had him institutionalised.²⁵⁷

In 1968, Central State Hospital where Gein was staying stated he was fit to stand trial, believing that he had “mellowed over the years” and could now coherently discuss the case

²⁵¹ Tyler Piccotti, *Ed Gein*, Biography, <https://www.biography.com/crime/ed-gein> (Nov. 27, 2023) ; *Gein Pleads Innocent by Reason of Insanity*, Stevens Point Daily J., Nov. 21, 1957, https://www.newspapers.com/image/250496355/?fcfToken=eyJhbGciOiJIUzI1NiIsInR5cCI6IkpXVCJ9.eyJmcmVlLXZpZXctaWQiOiJlMDQ5NjM1NSwiaWF0IjoxNzEzOTU4NTAxLCJleHAiOiJlE3MTQwNDQ5MDY5Lj0BG_bmf3FXNrtXVQ1EBjAyPwVohi_XNqakbLl2AhKEE

²⁵² *Lawyer Urges Early Sanity Test for Gein*, The Daily Tel., Nov. 21, 1957, https://www.newspapers.com/image/299073824/?fcfToken=eyJhbGciOiJIUzI1NiIsInR5cCI6IkpXVCJ9.eyJmcmVlLXZpZXctaWQiOiJlOTA3MzgyNCwiaWF0IjoxNzEzOTU4Nzg2LCJleHAiOiJlE3MTQwNDUxODZ9.TyhpqNE00yI_sQAusSA0sp5E4uSyyZLwAsA8RGGp0HI

²⁵³ *Gein Competent, Able to be Tried*, Daily Nw., Jan. 16, 1968, https://www.newspapers.com/image/37178306/?clipping_id=24095767&fcfToken=eyJhbGciOiJIUzI1NiIsInR5cCI6IkpXVCJ9.eyJmcmVlLXZpZXctaWQiOiJlM3MtYXZpZXctaWQiOiJlMDQ5NjM1NSwiaWF0IjoxNzEzOTU4NTAxLCJleHAiOiJlE3MTQwNDUxODZ9.TyhpqNE00yI_sQAusSA0sp5E4uSyyZLwAsA8RGGp0HI ; *Goodbye, Gein! Mad Butcher to Criminally Insane Prison*, Twin City News-Rec., Jan. 7, 1958,

https://www.newspapers.com/image/445068786/?clipping_id=24095694&fcfToken=eyJhbGciOiJIUzI1NiIsInR5cCI6IkpXVCJ9.eyJmcmVlLXZpZXctaWQiOiJlMDQ5NjM1NSwiaWF0IjoxNzEzOTU4NTAxLCJleHAiOiJlE3MTQwNDUxODZ9.TyhpqNE00yI_sQAusSA0sp5E4uSyyZLwAsA8RGGp0HI

²⁵⁴ James Water, *Criminal Law - Insanity - The Wisconsin “Experiment” With the ALI Test*, 16 Buffalo L. Rev. 420, 421 (1967), <https://digitalcommons.law.buffalo.edu/cgi/viewcontent.cgi?article=2556&context=buffalolawreview>

²⁵⁵ Tyler Piccotti, *Ed Gein*, Biography, <https://www.biography.com/crime/ed-gein> (Nov. 27, 2023)

²⁵⁶ *Gein Judged Insane After Murder Verdict*, Manitowoc Herald-Times, Nov. 15, 1968, <https://www.newspapers.com/article/manitowoc-herald-times-gein-judged-insa/24095961/>

²⁵⁷ *Goodbye, Gein! Mad Butcher to Criminally Insane Prison*, Twin City News-Rec., Jan. 7, 1958, https://www.newspapers.com/image/445068786/?clipping_id=24095694&fcfToken=eyJhbGciOiJIUzI1NiIsInR5cCI6IkpXVCJ9.eyJmcmVlLXZpZXctaWQiOiJlMDQ5NjM1NSwiaWF0IjoxNzEzOTU4NTAxLCJleHAiOiJlE3MTQwNDUxODZ9.TyhpqNE00yI_sQAusSA0sp5E4uSyyZLwAsA8RGGp0HI

without any paranoid psychosis.²⁵⁸ However, the judge found that Gein was not guilty by reason of insanity, saying that he “lived in such a fantasy world that he was unable to appreciate the criminality of his acts.”²⁵⁹ Gein was sent to the state mental hospital and remained there until his passing in 1984 at age 78.²⁶⁰

E. Jeffrey Dahmer - The Milwaukee Cannibal

Shortly after Jeffrey Dahmer’s arrest on July 22, 1991, he was charged with fifteen counts of homicide of young men and boys.²⁶¹ Six months later, he received 15 consecutive lifetime sentences.²⁶² However, on January 13, 1992, Dahmer pled guilty to all counts, leaving the only question for the court to decide is whether or not he could qualify for the insanity defense.²⁶³ At this time, Wisconsin was still using the Model Penal Code/American Law Institute definition for the insanity defense, as it used in the trial of Ed Gein.²⁶⁴ Dahmer had to be convinced by his legal team to plead the insanity defense, wanting to simply be executed for his crimes.²⁶⁵ He explained, “I’m not going to get up on the bench and say anything, that’s for sure, no way. As far as I’m concerned, there is no defence. I see no hope. It’s just completely hopeless

²⁵⁸ *Gein Competent, Able to be Tried*, Daily Nw., Jan. 16, 1968, https://www.newspapers.com/image/37178306/?clipping_id=24095767&fcfToken=eyJhbGciOiJIUzI1NiIsInR5cCI6IkpXVCJ9.eyJmcmVILXZpZXctaWQiOjM3MTc4MzA2LCJpYXQiOjE3MTMwNDMxMTAsImV4cCI6MTcxMzEyOTUxMH0.rfZsGV21jbhLyxDNyvGSefgnok6FP0SyOE8A6_wii1A

²⁵⁹ *Gein Judged Insane After Murder Verdict*, Manitowoc Herald-Times, Nov. 15, 1968, <https://www.newspapers.com/article/manitowoc-herald-times-gein-judged-insa/24095961/>

²⁶⁰ *Id.*

²⁶¹ Samuel Gross, *The Romance of Revenge: An Alternative History of Jeffrey Dahmer’s Trial*, Univ. Mich. L. Sch. 44 (1995), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1637&context=articles>

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ Brian Masters, *The Shrine of Jeffrey Dahmer*, 198 (Coronet Books, Hodder and Stoughton, 1993), <https://pdfcoffee.com/the-shrine-of-jeffrey-dahmer-brian-masters-pdf-free.html>

²⁶⁵ *Id.* at 200

from my standpoint. I'm not going to sit up in front of all those people and try to answer questions."²⁶⁶

To establish his insanity, a minimum of ten jurors had to concur that he suffered from a mental disorder impairing his ability to discern right from wrong or to govern his conduct.²⁶⁷ Both the prosecution and the defense generally concurred that Jeffrey Dahmer exhibited psychological issues, indicating a personality disorder.²⁶⁸ The prosecution contended, however, that these issues did not constitute a mental illness and did not negate his capacity for free will.²⁶⁹ The defense asserted that Dahmer suffered from a diagnosable disorder, which effectively rendered him an automaton devoid of choice.²⁷⁰ To put it differently, the prosecution aimed to demonstrate that Dahmer actively chose not to resist his impulses, while the defense argued that he was incapable of doing so.²⁷¹

The defence psychiatrists, including Drs. Berlin, Becker, and Wahlstrom, agreed on Dahmer's mental illness but differed on the degree of his behavioural control.²⁷² Dr. Becker testified that Dahmer understood right from wrong but was consumed by necrophilic compulsions, to the point where he couldn't help but kill.²⁷³ However, Dr. Wahlstrom argued Dahmer was delusional, citing his construction of a shrine and attempts to create zombies as evidence of distorted thinking.²⁷⁴

²⁶⁶ *Id.*

²⁶⁷ *Id.* at 199

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² *Id.* at 218-219

²⁷³ *Id.*

²⁷⁴ *Id.* at 228-230

Dr. Palermo, a court-appointed psychiatrist, described Dahmer as an organized, non-social lust murderer, attributing his obsessions to fear of rejection from men he was attracted to.²⁷⁵ Unlike other psychiatrists, Palermo doubted Dahmer's claims and dismissed them, suggesting Dahmer's actions were driven by lust rather than companionship.²⁷⁶ Dr. Friedman, another court-appointed psychiatrist, disagreed with the notion that Dahmer's murders were against his homosexuality, proposing they were to prolong relationships.²⁷⁷

Dr. Fosdal, testifying for the prosecution, characterised Dahmer's behaviour as stemming from a sexual disorder but maintained it did not absolve him of knowing right from wrong.²⁷⁸ Dr. Dietz, the final psychiatrist to testify, suggested Dahmer's actions were calculated and driven by paraphilic tendencies rather than insanity.²⁷⁹ In the closing argument, the prosecutor said that Dahmer “seeks to escape responsibility for crimes to which he already plead guilty.”²⁸⁰ “Please, please, don’t let this murderous killer fool you.”²⁸¹ The court found him to be sane and sentenced him to 15 life sentences in prison, but Dahmer was beaten to death less than two years later.²⁸²

F. Andrea Yates

²⁷⁵ Willem Martens & George Palermo, *Loneliness and associated violent antisocial behaviour: Analysis of the case reports of Jeffrey Dahmer and Dennis Nilsen*, 49 *Int. J. Offender Therp. Comp. Criminology* 298 (2005)

²⁷⁶ *Id.*

²⁷⁷ Brian Masters, *The Shrine of Jeffrey Dahmer*, 233-234 (Coronet Books, Hodder and Stoughton, 1993), <https://pdfcoffee.com/the-shrine-of-jeffrey-dahmer-brian-masters-pdf-free.html>

²⁷⁸ *Id.* at 235-237

²⁷⁹ *Id.* at 242

²⁸⁰ *Id.* at 249

²⁸¹ *Id.* at 250

²⁸² *Id.* ; Jim Stingl, *Christopher Scarver, who killed Jeffrey Dahmer in prison, said in 2015 that he did it because Dahmer taunted inmates with food*, *Milwaukee J. Sentinel* (Sept. 28, 2022, 10:24 AM), <https://www.jsonline.com/story/news/2022/09/28/jeffrey-dahmer-killer-christopher-scarver-said-dahmer-taunted-inmates-food-body-parts/10449375002/>

Andrea Yates was the mother of five children and the wife to Russell Yates, an employee of NASA.²⁸³ Her first three children were born in the span of three years, and during this time, the family moved twice, travelling from Texas to Florida and back again, with their last move occurring in 1998.²⁸⁴ The children were homeschooled, Andrea being the full-time caretaker and educator while her husband was at work.²⁸⁵ However, this was something that Andrea confessed to her husband caused her a great deal of stress.²⁸⁶

In February of 1999, the Yates' fourth child, Luke, was born.²⁸⁷ Shortly after, Andrea began fearing that Satan would want her to kill her children.²⁸⁸ Only four months later, Yates entered a severe depressive episode and attempted to commit suicide by overdosing on antidepressants that were for her father.²⁸⁹ This led to her hospitalisation at Methodist Hospital's psychiatric unit and later began outpatient treatment with psychiatrist Dr. Eileen Starbranch.²⁹⁰ Not long after, on July 20, 1999, Andrea was found in the bathroom holding a knife to her neck, prompting Dr. Starbranch to recommend her admission to Spring Shadows Glen Hospital.²⁹¹ Despite her reluctance, she was admitted the following day.²⁹² During her stay, she disclosed to psychologist Dr. James Thompson that she had been experiencing visions and auditory

²⁸³ *Yateskids: a site dedicated to the memory of my children*, <http://rusyat.squarespace.com/family/?jsessionid=75808E339DE082118E087334C0B8B093.v5-web004> (last visited Apr. 24, 2024) (After Andrea Yates' conviction, Russell Yates created a webpage as a memorial for his children)

²⁸⁴ *Yates v. State*, 171 S.W.3d 215, 216 (Tex. App. 2005)

²⁸⁵ *Yateskids: a site dedicated to the memory of my children*, <http://rusyat.squarespace.com/family/?jsessionid=75808E339DE082118E087334C0B8B093.v5-web004> (last visited Apr. 24, 2024)

²⁸⁶ *Yates v. State*, 171 S.W.3d 215, 216 (Tex. App. 2005)

²⁸⁷ *Yateskids: a site dedicated to the memory of my children*, <http://rusyat.squarespace.com/family/?jsessionid=75808E339DE082118E087334C0B8B093.v5-web004> (last visited Apr. 24, 2024)

²⁸⁸ Phillip Resnick, *The Andrea Yates Case: Insanity on Trial*, 55 CLEV. ST. L. REV. 147, 149 <https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1174&context=clevstlrev>

²⁸⁹ *Yates v. State*, 171 S.W.3d 215, 216 (Tex. App. 2005)

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

hallucinations since the birth of her first child.²⁹³ Dr. Starbranch, upon her admission, considered her one of the most severely ill patients she had encountered.²⁹⁴ Before her discharge, Dr. Starbranch warned Andrea and her husband about the high risk of another psychotic episode if she had another child.²⁹⁵

Also at this time, Mrs. Yates began developing a fear that she was being monitored to determine if she was a good mother, believing that television cameras had been placed throughout her home and that she was “bugged,” including cars outside watching her.²⁹⁶ She believed that her mother-in-law was part of this monitoring, and there was even a camera in her mother-in-law’s glasses to record her.²⁹⁷ She also had a genuine belief that Satan himself was living inside of her.²⁹⁸ However, Mrs. Yates didn’t reveal her psychotic delusions at the time.²⁹⁹

In³⁰⁰ August 1999, the Yates family relocated to a house, and in the following months, Andrea began homeschooling her son Noah. Her last consultation with Dr. Starbranch occurred in January 2000, where she admitted to discontinuing her medication. Over time, her mental state deteriorated, exacerbated by the birth of her fifth daughter in November 2000 and her father's death in March 2001. Contacted by Yates about Andrea's declining condition, Dr. Starbranch sought immediate evaluation, but Andrea was not brought in until the following Monday. Eventually, she was admitted to Devereux Hospital in League City on March 31, 2001, showing signs of catatonia, delusions, and suicidal tendencies. Andrea was discharged at her request and

²⁹³ *Id.*

²⁹⁴ *Id.*

²⁹⁵ Phillip Resnick, *The Andrea Yates Case: Insanity on Trial*, 55 CLEV. ST. L. REV. 147, 148

<https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1174&context=clevstlrev>

²⁹⁶ *Id.*

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ *Yates v. State*, 171 S.W.3d 215, 216 (Tex. App. 2005)

the request of her husband. While she continued outpatient treatment, the treating doctor Dr. Mohammed Saeed recommended constant supervision and caution when alone with her children.

On April 19, Yates' mother came to visit, but extended her visit upon learning of Andrea's depression, staying in a nearby hotel to provide support.³⁰¹ She visited Andrea daily, noticing her withdrawn state, lack of response, trembling, and self-harming behaviour like scratching her head.³⁰² On May 3, Andrea filled a bathtub with water but couldn't explain why, simply saying "I might need it."³⁰³ She was readmitted to Devereux on May 4, discharged on May 14, and resumed medication prescribed by Dr. Saeed, though she declined electroconvulsive therapy.³⁰⁴ After her second discharge, Andrea's ability to care for her children improved, but she remained seemingly emotionless.³⁰⁵ Dr. Saeed adjusted her medication during follow-up appointments, with Andrea denying any suicidal or psychotic thoughts on June 18.³⁰⁶

However, Mrs. Yates' mental health by this time had already taken a sharp turn for the worse.³⁰⁷ She began believing that she was such a bad mother, her children would "never be right" because she "ruined them."³⁰⁸ According to the primary forensic psychiatrist for the defence, Dr. Phillip Resnick, "She thought that her son Luke would become a 'mute homosexual prostitute' and her son John would become a 'serial murderer.' She foresaw that her son Noah would die a tragic death and that her son Paul would be hit by a truck. She was convinced all of

³⁰¹ *Id.* at 217

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ *Id.*

³⁰⁷ Phillip Resnick, *The Andrea Yates Case: Insanity on Trial*, 55 CLEV. ST. L. REV. 147, 149
<https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1174&context=clevstlrev>

³⁰⁸ *Id.*

her children would be punished and ‘burn in hell.’”³⁰⁹ These fears haunted Mrs. Yates for approximately one to two months.³¹⁰

On June 20 at approximately 10 am, Andrea called the police to come to her home.³¹¹ She also called her husband to insist that he came home, but wouldn’t say why.³¹² Yates asked her if anyone was hurt, and when she said yes, asked which ones.³¹³ Andrea simply responded “All of them.”³¹⁴ Upon arriving at the scene, police found four of the children laying on Andrea’s bed, all wet and covered with a sheet.³¹⁵ The fifth child, her second youngest, was still floating facedown in the bathtub.³¹⁶ Their ages were from seven to six months old.³¹⁷

During the trial, ten psychiatrists and two psychologists testified about her mental state, with the M’Naghten standard being the test for legal insanity.³¹⁸ Four psychiatrists and one psychologist had treated her before June 20, 2001, either in a medical facility or privately.³¹⁹ They discussed her symptoms, severity, and treatment, and agreed that Andrea either lacked awareness of right and wrong, couldn't understand the wrongfulness of her actions, or believed her actions were justified.³²⁰

Psychiatrist Dr. Park Dietz examined the appellant and served as the State's only mental health expert.³²¹ He testified that although the appellant was psychotic on June 20, she

³⁰⁹ *Id.*

³¹⁰ *Id.*

³¹¹ *Yates v. State*, 171 S.W.3d 215, 218 (Tex. App. 2005)

³¹² *Id.*

³¹³ *Id.*

³¹⁴ *Id.*

³¹⁵ *Id.*

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ *Id.* ; Tex. Penal Code § 8.01

³¹⁹ *Yates v. State*, 171 S.W.3d 215, 218 (Tex. App. 2005)

³²⁰ *Id.*

³²¹ *Id.*

understood that her actions were wrong.³²² Dr. Dietz argued that since the appellant attributed her thoughts to Satan, she must have recognized their wrongful nature.³²³ He also noted that if she truly believed she was saving the children, she would have shared her plan instead of concealing it.³²⁴ Furthermore, he reasoned that if she genuinely feared Satan's harm, she would have sought help from the authorities or a religious figure, or removed the children from danger.³²⁵ Additionally, Dr. Dietz suggested that her actions of concealing the bodies indicated feelings of guilt or shame.³²⁶

Dietz's impact on the trial was far greater than anyone could have initially predicted. Under cross-examination, he stated that there was a Law and Order episode that was almost identical to the crime committed.³²⁷ In this episode, a mother drowned her children in the bathtub before being found not guilty by reason of insanity.³²⁸ According to Dr. Dietz, this aired not long before the crime, and the State used this information to argue during their closing that Yates saw this episode and saw “a way out” of her living situation with her husband and was inspired to then commit the crime.³²⁹

When it became time to decide, ten of the jurors believed Yates was guilty, with only 2 stating that she wasn't guilty by reason of insanity.³³⁰ However, it was then revealed by one of the producers of Law and Order that no such episode ever actually existed.³³¹ This resulted in

³²² *Id.*

³²³ *Id.*

³²⁴ *Id.*

³²⁵ *Id.*

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ *Id.*

³³⁰ Phillip Resnick, *The Andrea Yates Case: Insanity on Trial*, 55 CLEV. ST. L. REV. 147, 152
<https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1174&context=clevstlrev>

³³¹ *Yates v. State*, 171 S.W.3d 215, 219 (Tex. App. 2005)

Yates' first trial being declared a mistrial.³³² Similar testimony was used again in her second trial in 2006.³³³ This time, only four of the jurors believed Yates to be guilty, while 8 found her not guilty by reason of insanity.³³⁴ She was sent to Kerrville State Hospital in January of 2007.³³⁵ Still residing there to this day, Mrs. Yates has turned down her annual right to a hearing to determine if she's eligible to leave a mental health facility every year since 2007, turning down her right to a hearing in 2024 at the end of February.³³⁶

IV. The Indeterminacy of Legal Insanity and Competence

Each of these cases had a mentally-ill criminal defendant, but not all of the defendants were found to be insane or incompetent. The American legal system, with differing standards between each state, makes it difficult to render consistent judgements and standards to protect the mentally ill. This lack of uniformity underscores the challenges in safeguarding the rights and ensuring the appropriate treatment of individuals grappling with severe mental health disorders within the criminal justice system. Legal realism theories that judicial decisions are influenced by various factors beyond legal principles, including judges' personal biases, societal norms, and pragmatic considerations; as mentioned previously, the idea of 'judicial innovation.'³³⁷ These factors may contribute to the inconsistent application of legal standards, particularly in notorious, widely-publicised cases involving heinous crimes and mental illness.

³³² *Id.*

³³³ Phillip Resnick, *The Andrea Yates Case: Insanity on Trial*, 55 CLEV. ST. L. REV. 147, 153
<https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1174&context=clevstrev>

³³⁴ *Id.*

³³⁵ Kait Hanson, *Andrea Yates, who drowned her 5 kids, declines release hearing, will stay in mental hospital*, Aol.,
<https://www.aol.com/andrea-yates-drowned-her-5-203410157.html> (last visited Apr. 24, 2024)

³³⁶ *Id.*

³³⁷ H. J. M. Boukema, *Legal Realism and Legal Certainty*, 66 ARCHIVES PHIL. L. SOC. PHIL. 469, 473 (1980)

The cases of Ronald Crumpley and Richard Ramirez are a compelling foil. Despite both individuals exhibiting signs of severe mental illness, their divergent outcomes underscore the inherent challenges in assessing mental health within the context of criminal proceedings. Crumpley's conviction for the West Street Massacre, characterized by his belief that he was being pursued by "hundreds of gay men" whom he saw as agents of corruption, reflects a case where religious fanaticism met mental illness, understandably leading to a finding of legal insanity.³³⁸ His delusional belief system, rooted in religious fervor and paranoia, culminated in violent actions driven by a distorted perception of reality.³³⁹

In contrast, Ramirez's case presents a stark departure from Crumpley's, despite both individuals exhibiting religiously-motivated violence stemming from their delusions. Ramirez's crimes, committed in the belief of serving Satan, exemplify the extreme manifestations of religious fanaticism when combined with severe mental illness.³⁴⁰ However, because of his usually-coherent communication, notwithstanding his outbursts about his sanity and love for Satan in court, and refusal to plead the insanity defense, Ramirez's insistence on his sanity led to his conviction as a fully competent individual, despite his defense counsel's protests.³⁴¹ The court's decision to uphold Ramirez's competence despite clear indications of severe mental illness underscores the challenges posed by individuals who may present as rational despite underlying mental health issues, raising questions about the adequacy of the current legal framework.

³³⁸ Susan Saulny, *Man Who Killed 2 Outside Gay Bar Remains Mentally Ill, Jury Finds*, N.Y. Times, June 14, 2001, <https://www.nytimes.com/2001/06/14/nyregion/man-who-killed-2-outside-gay-bar-remains-mentally-ill-a-jury-finds.html>

³³⁹ *Crumpley v. Wack*, 212 A.D.2d 299, 301 (App. Div. 1995)

³⁴⁰ Edwin Chen, *Ramirez Guilty on All Night Stalker Murder Charges*, L.A. Times, Sep. 21, 1989, <https://documents.latimes.com/richard-ramirez-guilty-all-night-stalker-charges/>

³⁴¹ See *People v. Ramirez*, No. S012944 (Cal. Aug. 7, 2006), <https://caselaw.findlaw.com/court/ca-supreme-court/1098993.html>

To explain these differences, legal realism might suggest that a Christian man who fears Satan is more sympathetic to a judge than a self-proclaimed Satanist who's out of control. A judge's bias may subconsciously favor defendants whose beliefs align more closely with societal norms, and likely their own belief.³⁴² Additionally, legal realism emphasises the influence of pragmatic considerations, such as maintaining public confidence in the justice system, which may lead judges to prioritize convictions over considerations of mental illness.³⁴³

Andrea Yates also was religiously motivated; as a woman of God, she felt she had to take action when she believed that Satan had cursed her children.³⁴⁴ However, Yates had the advantage of having been able to access psychological services for years before she killed her children, which was able to serve as evidence for her insanity at her trial.³⁴⁵ Ramirez, as a runaway teen from an abusive home, didn't have these records of mental illness from psychiatrists who could testify on his behalf.³⁴⁶ Instead, after he shut down after a few minutes in his first conversation with a court-appointed psychiatrist (possibly his first ever conversation with a mental health professional), he was not allowed to access those services again during his trial.³⁴⁷

The cases of Ed Gein and Jeffrey Dahmer once again offer a striking comparison, highlighting the complexities and inconsistencies in the legal system's response to individuals

³⁴² Myres McDougal, *Jurisprudence for a Free Society*, 1 GA. L. REV. 1 (1966), https://openyls.law.yale.edu/bitstream/handle/20.500.13051/1912/Jurisprudence_for_a_Free_Society.pdf;jsessionid=472ABD85DB2F9CF29C2CD75BD2596693?sequence=2

³⁴³ *Id.*

³⁴⁴ Phillip Resnick, *The Andrea Yates Case: Insanity on Trial*, 55 CLEV. ST. L. REV. 147, 149 <https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1174&context=clevstlrev>

³⁴⁵ *Yates v. State*, 171 S.W.3d 215, 218 (Tex. App. 2005)

³⁴⁶ Tyler Piccotti, *Richard Ramirez*, Biography, <https://www.biography.com/crime/richard-ramirez> (May 17, 2023)

³⁴⁷ See *People v. Ramirez*, No. S012944 (Cal. Aug. 7, 2006), <https://caselaw.findlaw.com/court/ca-supreme-court/1098993.html>

grappling with severe mental illness. Despite similarities in their crimes, their divergent legal outcomes showcase the challenges in assessing mental health within the criminal justice system.

Both Gein and Dahmer exhibited an obsession with human companionship, albeit manifested in distinct ways. Gein's fixation on his mother and his attempt to pay homage by creating furniture and clothing out of deceased women's body parts that resembled his mother reflected a deeply disturbed psyche and a distorted perception of reality.³⁴⁸ Similarly, Dahmer's attempts to create a 'zombie' partner and his plans for a construction of an altar demonstrated a profound disconnect from societal norms and a desperate desire for human connection.³⁴⁹

The fact that these both occurred in the same state just a few decades apart is another layer of comparison. Despite the similarities in their crimes and circumstances, the legal outcomes for Gein and Dahmer were markedly different. Gein was found to be legally insane, while Dahmer was not.³⁵⁰ When thinking in the terms of legal realism, a judge may have concerns they're thinking of, more so than what is just in the case in front of them.³⁵¹ This could include things such as the threat to public safety posed by the defendant; Dahmer did take the lives of more victims over a longer period of time, while Gein seemed more focused on obtaining human parts through grave-robbing.³⁵² Factors like these and the public outcry, with

³⁴⁸ *Infamous serial killer Ed Gein dies*, History (Sept. 29, 2020), <https://www.history.com/this-day-in-history/real-life-psycho-ed-gein-dies>

³⁴⁹ Brian Masters, *The Shrine of Jeffrey Dahmer*, 228-230 (Coronet Books, Hodder and Stoughton, 1993), <https://pdfcoffee.com/the-shrine-of-jeffrey-dahmer-brian-masters-pdf-free.html>

³⁵⁰ *Gein Judged Insane After Murder Verdict*, Manitowoc Herald-Times, Nov. 15, 1968, <https://www.newspapers.com/article/manitowoc-herald-times-gein-judged-insa/24095961/>; Brian Masters, *The Shrine of Jeffrey Dahmer*, 250 (Coronet Books, Hodder and Stoughton, 1993), <https://pdfcoffee.com/the-shrine-of-jeffrey-dahmer-brian-masters-pdf-free.html>

³⁵¹ H. J. M. Boukema, *Legal Realism and Legal Certainty*, 66 ARCHIVES PHIL. L. SOC. PHIL. 469, 474 (1980)

³⁵² Samuel Gross, *The Romance of Revenge: An Alternative History of Jeffrey Dahmer's Trial*, Univ. Mich. L. Sch. 44 (1995), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1637&context=articles>; *Infamous serial killer Ed Gein dies*, History (Sept. 29, 2020), <https://www.history.com/this-day-in-history/real-life-psycho-ed-gein-dies>

family members of victims attempting to assault Dahmer during the trial, could influence decisions despite both of their mental illnesses.³⁵³

In examining the case of Ted Bundy through a lens of legal realism, it becomes apparent that the court's determination of his mental competency were influenced by several factors beyond a purely clinical assessment of his mental state. The court heavily relied on expert witnesses who didn't directly interact with him;³⁵⁴ critically, this raises concerns about the validity of their assessments. Without first hand evaluation and dialogue with the defendant, psychiatrists may overlook nuanced aspects of the defendant's mental state, leading to potentially flawed conclusions.

Testimony from the sentencing judge and prosecutors depicted Bundy as well-dressed, articulate, and strategically engaged in his defence, characteristics deemed inconsistent with manifestations of bipolar mood disorder.³⁵⁵ However, attributing mental competency solely to outward appearances and courtroom conduct oversimplifies the interplay between mental illness and functional impairment. Bundy's ability to present himself coherently does not negate the possibility of an underlying mental disorder affecting his judgement and behaviour. Legal realism emphasises a judge's bias in making decisions;³⁵⁶ listening to a fellow judge and colleague could be more persuasive than listening to Bundy's own defense testify he was incompetent, regardless of the fact that the defense team had more exposure to him.³⁵⁷

The current legal system seems to have forgotten that insanity is not independent of intelligence. They are looking for a 'model' case of insanity; take, for instance, the case of

³⁵³ HLN, *Video rewind: Victim's kin erupts at Dahmer trial*, YOUTUBE (Dec. 4, 2012), <https://www.youtube.com/watch?v=utjjH7vDpi8>

³⁵⁴ *Bundy v. Dugger*, 675 F. Supp. 622, 627-628 (M.D. Fla. 1987)

³⁵⁵ *Id.* at 631

³⁵⁶ H. J. M. Boukema, *Legal Realism and Legal Certainty*, 66 ARCHIVES PHIL. L. SOC. PHIL. 469, 474 (1980)

³⁵⁷ *Bundy v. Dugger*, 675 F. Supp. 622, 629 (M.D. Fla. 1987)

Andrea Yates. A woman who was convinced that Satan had, in essence, damned her children, and she was forced to take their lives.³⁵⁸ This is a criminal defendant that is easily sympathetic, but is no more nor less sane than a man such as Ted Bundy, whom many psychiatrists have argued was extremely mentally ill.³⁵⁹

The complexities and inconsistencies within the legal system's response to individuals grappling with severe mental illness underscore the need for a more holistic and contextually informed approach to assessing mental health within the criminal justice system. Legal realism offers insights into the ways in which societal perceptions, cultural biases, and extralegal considerations can influence judicial decision-making, but doesn't readily provide a solution to these problems.³⁶⁰ However, under a natural law theory, there is an idea that, because these laws were administered by a higher power than secular forces, natural laws should be applied universally.³⁶¹ This ideal is something that should be considered to be implemented in American mental health jurisprudence. Someone is no more nor less sane depending on the judge they stand before or the state in which they are tried. Therefore, it is imperative for legal frameworks to evolve towards a more equitable and just approach that ensures the protection of the rights and well-being of individuals grappling with severe mental illness, while upholding the principles of fairness, justice, and equality under the law. Only through such reforms can the criminal justice system fulfill its duty to safeguard the rights and dignity of all individuals, including those most vulnerable among us.

³⁵⁸ Phillip Resnick, *The Andrea Yates Case: Insanity on Trial*, 55 Clev. St. L. Rev. 147, 149
<https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1174&context=clevstlrev>

³⁵⁹ Douglas Samuel & Thomas Widiger, *Describing Ted Bundy's Personality and Working Towards DSM-V*, 27 Independent Practitioner 20 (2007)

³⁶⁰ H. J. M. Boukema, *Legal Realism and Legal Certainty*, 66 Archives for PHIL. L. SOC. PHIL. 469, 474 (1980)

³⁶¹ Bruce L. Gordon, *In Defense of Uniformitarianism*, 65 Perspectives on Science and Christian Faith 79 (2013),
<https://www.asa3.org/ASA/PSCF/2013/PSCF6-13Gordon.pdf>