

TESTIMONY

before the

HOUSE JUDICIARY COMMITTEE
Thomas P. Gannon, Chairman

o n

House Bill 2389 pertaining to the
Not Guilty by Reason of Insanity Defense

Presented By

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for the

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Good morning/afternoon. My name is Charles Pisano, I am the Forensic Project Director for the Alliance for the Mentally Ill of Pennsylvania and the parent of a son who is mentally ill. The Alliance for the Mentally Ill of Pennsylvania is a statewide self help organization of families of persons of all ages with a serious mental illness .

On June 19, 1989 my wife Jean was killed at home by my mentally ill son Fred. At the time Jean worked for Representative Tom Tigue. Jean labored for ten years to help my son Fred, to help other families and to try to improve the mental health system. In every tragedy you hope that some good would come out of it. In this case it would be a greater awareness of the disease and the devastating effects it can have on the ill person and the family. Today my son is in prison as a result of a Guilty But Mentally Ill plea which I will touch on later in my testimony.

The obvious intent of House Bill 2389 is to severely limit if not eliminate the Not Guilty By Reason of Insanity (NGRI) defense and we should be clear with the people of this commonwealth of that intent. This bill not only chips away at the moral legal principle that we only punish people who are bad and did something intentionally, it chips away at the very fabric of on which this country was built. That is the search for a just and humane society.

Section 314(d) of Title 18 of the Pennsylvania Consolidated Statutes, which makes reference to the common law M'Naghten Rule of Insanity, is being repealed. This section was put in the statutes when the legislature passed the Guilty But Mentally Ill legislation. It was put in to specifically indicate that the Guilty But Mentally Ill legislation was not intended to do away with the NGRI defense. Repealing this section is a clear indication that the attempt is to do away with the NGRI plea as a viable defense.

Section 315 of Title 18, which determines if a NGRI defense can be used, is also being amended. This amendment will make the NGRI defense virtually impossible to prove. In essence it limits the application of the defense to only those cases where the person was ill to the extent that they did not know they were committing a crime regardless of the bizarre reason. Normally a mentally ill person in a psychotic state knows the results of their action but their thinking is flawed as to the reason for committing the criminal act and as to the consequences of their actions.

There is no hard data which suggests that the NGRI defense is overused or abused. If anything the number of NGRI pleas has decreased since the introduction of the Guilty but Mentally Ill defense. For example my son, who had a long history of schizophrenia, pleaded GBMI because his lawyer feared he would not be successful even though Fred gave some bizarre explanation for killing his mother.

In those cases where it is used it has been successful in only a limited number of cases. Most borderline cases are lost because juries are apt to rule in the favor of caution in these cases. Conversely, the more insane the crime, the less likely it will succeed. The John Salvi and the Jeffrey Dahmer incidents are two highly publicized cases which demonstrate this fact.

Yes, there probably have been some isolated cases where the insanity plea has been used successfully by guilty people who were not truly mentally ill. But by changing the law, people with a serious mental illness who did not know what they were doing at the time that they committed the criminal act or that they did not know it was wrong, will be hurt most. It will do nothing to prevent those who abuse it to use it. The obvious consequences of this bill will be to punish people because of their illness. Mental illness is not a choice. They did not do anything to make it happen. Something awful happened to them and it is usually because of neglect or inappropriate treatment that they commit a criminal act.

The House Bill summary correctly states that individuals found not guilty by reason of insanity of the most serious crimes can only be involuntarily committed for treatment by a court for a period of one year. What the summary does not say is that the commitment may be renewed year after year without a great burden on the committing authority. John Hinkley and Richard Greist are two prime examples of this. Hinkley has been hospitalized over ten years and Greist has been hospitalized since 1978. It is doubtful if either of these individuals will ever be released. The important thing here is that they are being treated for their illness and not punished for it.

We should focus on improving the delivery of mental health services rather than punishment. There have been improvements made in the delivery of services but much more needs to be done. The further stigmatization of people with mental illness will only make this task more difficult.

The dismantling of the NGRI defense should not be based on any one case. Our whole judicial system would be in question if we are going to listen to district attorneys who are upset with verdicts they did not like. A comprehensive study of the NGRI and GBMI pleas and a better understanding of mental illness is necessary before we "rush to judgment" about eliminating this defense.

My wife and I had a child who we raised with the same aspirations of any of you who are parents. He grew up as normal as any child. He played sports and had a deep desire to complete college. He was in his freshman year of college when he began to manifest symptoms of his illness. I do not hate my son for what he did, I hate his illness. I understand that it was this terrible disease that was responsible for what he did. I dare say that it would be very difficult to find anyone who has experienced mental illness who would support this bill. Yet it is the family members who are mostly likely to be the victims of the violence.

There have been dramatic advances in drugs used to treat mental illness and there is promise for new drugs in the next couple of years. These drugs are not cures but they do provide for better symptomatic treatment. Much research is being conducted to find a cure. Until then we ask that you keep the door open for those who may benefit from better treatment and services.

On behalf of the families and friends of the Alliance for the Mentally Ill and their mentally ill relatives, thank you for giving me the opportunity to testify in opposition to House Bill 2389.