Folie à Deux and the Courts

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Folie à deux is a condition that presents distinct challenges in the legal system. The authors searched the LexisNexis database for cases involving *folie à deux* and provide a review of criminal and civil case law involving individuals with the diagnosis. The case surrounding Elizabeth Smart's abduction from her Utah home is highlighted. *Folie à deux* is a formally recognized mental disorder, although it is intrinsically different from most other primary psychiatric conditions. It can cause considerable confusion among mental health experts and legal professionals alike. It is difficult to make a reliable diagnosis of a condition that is, to date, not well validated. The authors discuss possible directions for future research and suggest methods for examining evaluees with suspected *folie à deux*.

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Folie à deux has recently received national attention in the case surrounding Elizabeth Smart's abduction from her Utah home in 2002. Brian Mitchell and his wife, Wanda Barzee, were charged with the abduction. Mitchell was homeless and had worked in the Smarts' home for a half day. He believed himself to be a prophet of God, who was guided by visions and spoke with angels. Barzee shared his beliefs and treated her husband like a holy man, referring to herself as "God Adorneth" (Ref. 1, p 1). Smart was allegedly abducted to become Mitchell's second wife. In his writings, Mitchell encouraged his wife to accept "seven times seven sisters," as part of his objective to attain 50 wives and return polygamy to the Mormon Church (Ref. 1, p 1). Barzee was found incompetent to stand trial on several occasions. In *State v. Barzee,*[2] a 2007 case concerning involuntary administration of antipsychotics to Barzee for competency restoration, several experts diagnosed her with *folie à deux* based on her relationship with Mitchell. There is limited information in the literature about cases involving the diagnosis. In this article, we review the case law involving *folie à deux*.

Lasègue and Falret[3] coined the term *folie à deux* in 1877 to describe the transference of delusional beliefs from a primary individual to one or more secondaries. Despite being a relatively uncommon phenomenon, the disorder garners considerable attention in popular culture due to its unusual nature. It has surfaced in television shows, including *The X-Files*, *Law and Order*, and *Criminal Minds*.[4] The Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR), currently defines *folie à deux*, or shared psychotic disorder, as follows: "a delusion [that] develops in an individual in the context of a close relationship with another person(s), who has an already-established delusion" (Ref. 5, p 332). The delusion must be similar in content.

Gralnick[6] attempted to clarify the diagnosis by proposing subtypes in 1942. The literature reveals little evidence of studies validating the diagnosis over the next several decades. In 1995, Silveira and Seeman[7] reviewed case reports published between 1942 and 1993, to recognize patterns and optimize the diagnostic criteria. The analysis showed no difference in prevalence between males and females, or between younger and older individuals. Married couples, siblings, and parent-child dyads accounted for over 90 percent of cases. More than two-thirds of the dyads were socially isolated.

Arnone and colleagues[8] extended the work of Silveira and Seeman in a review of case reports published between 1993 and 2005. The demographics were consistent with those from the earlier review. The authors asserted that the diagnostic criteria of *folie à deux* are insufficient and do not account for the high rate of psychiatric comorbidity in the secondary individual. They believed the condition to be more common than most suspect and that it may represent

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a "temporal trigger for a psychiatric condition in already susceptible individuals" (Ref. 8, p 5). They concluded that separation, the most commonly advocated treatment, is insufficient in many instances. Some secondaries have been treated with antipsychotic medications in addition to separation.

Folie à deux is difficult to study in a controlled manner. Therefore, little is known about the incidence, prevalence, or optimal treatment. The result is a diagnosis with a paucity of published evidence, despite first appearing in the literature in 1877. One confounding factor is that affected individuals rarely bring themselves to clinical attention because they do not recognize a problem. Another factor is that social isolation often plays an integral role in the development of shared psychotic beliefs. Most of what is known is derived from case reports and anecdotes, including one report involving a dog. In this rather unusual case, an elderly woman's dog displayed behavioral responses conditioned by the owner's delusional beliefs.[9]

Case Descriptions

We searched the LexisNexis database[10] for all reported federal and state cases. The term "*folie à deux*" yielded 15 cases, "shared psychotic disorder" yielded 8, and "shared psychosis" yielded 1. There was some overlap between the searches. For in-depth discussion, we highlight four cases involving *folie à deux* in litigation. Separate custody and criminal sections include brief descriptions of additional cases. We excluded some cases identified during the search for a variety of reasons. Some used the term *folie à deux* out of context, as a figure of speech. Others mentioned the diagnosis in passing, as part of a hypothetical situation. Two cases, unrelated to mental health, involved the financial matters of a winery named *Folie à Deux*.

Custody Case Descriptions

Parents With Folie à Deux*:* In re K.J.

The Iowa custody case, *In re K.J.*,[11] involved parents with mental illness. The father had schizophrenia and experienced auditory hallucinations and delusions that their child was inhabited by voodoo spirits. The mother had mild to moderate mental retardation and shared her husband's belief in voodoo spirits. She was so frightened about staying home alone that she would sit in a car outside his workplace during his overnight shifts.

One night, while waiting in the car in the parking lot, the mother was sexually assaulted. During the attack, she dropped and injured her daughter. The state took custody of the child on the grounds that spending nights in a parked car constituted neglect. The untreated mental illness of both parents, including the mother's diagnosis of *folie à deux*, was cited to justify removing the child from the home. The court affirmed that the state should intervene when "parents' mental capacity results in the child not receiving adequate care" (Ref. 11, p 3). The decision was upheld on appeal.

Children With Folie à Deux*:* Wilbur O. v. Christina P.

The New York custody case, *Wilbur O. v. Christina P.*,[12] involved *folie à deux* in the children. The initial guardianship arrangement awarded full custody to the mother with liberal visitation for the father. The mother later remarried and became a practicing Jehovah's Witness. She and her new husband began throwing away the children's belongings after they returned from their father's home for fear that the belongings were possessed by demons and were causing the children's "misbehavior" (Ref. 12, p 261). The mother entered treatment for "flashback memories" of satanic ritualistic abuse at the hands of her father (Ref. 12, p 261). Her flashbacks eventually included memories of satanic abuse of her children by their father. The children had been receiving therapy; however, the children's therapist did not mention abuse in the records. The mother and stepfather abruptly changed their telephone number and terminated the children's visitation with the father.

The children witnessed their mother's flashbacks on numerous occasions. With encouragement from their mother and stepfather, they began believing that their father was involved in satanic rituals. An excerpt from the ruling describes some of the facts of the case:

> In November 1992, William [son] told his therapist that Christina [mother] had performed a muscle testing technique on him which resulted in the release of "memories" of acts of ritualistic satanic abuse perpetrated upon him by his father. From this time forward, William and then Jessica [daughter] began to detail more elaborate memories of satanic ritualistic abuse perpetrated upon them by Wilbur [father] and others. Both Allan [stepfather] and Christina spoke extensively with the children regarding these memo-

> ries and assisted the children in keeping journals recounting them [Ref. 12, p 261].

The court found the children to have *folie à deux*. In the decision, the court stated, "there is a fair amount of psychotic-like delusion operating on the part of the mother and there is a shared delusion on the part of the children in support of their mother which is known as a *folie à deux*" (Ref. 12, p 262). The father was awarded sole custody, and an order of protection was served on the mother and stepfather, although they were granted supervised visitation.

Other Examples of Folie à Deux *in Custody Cases*

The authors identified two additional cases involving parents with *folie à deux*. The validity of the diagnosis in these cases is not as clear as in those in the two cases just discussed. In *State of Tennessee Department of Children's Services v. D.G.B.*,[13] the state pursued termination of parental rights. The child showed evidence of severe physical and sexual abuse. The father had major depressive disorder with psychotic features and paranoid personality disorder. The mother's only diagnosis was *folie à deux*. The court found them "mentally incompetent to provide the kind of care and supervision that the child needed" (Ref. 13, p 23). The ruling described the mother as having "significant psychological problems" and found "significant potential risk" in returning the child to her custody (Ref. 13, p 6). The court terminated the mother's parental rights. In *Linder v. Linder*,[14] an Arkansas case, an expert testified that his diagnosis in an evaluation of the child's mother was *folie à deux*. The expert opined that the child's mother "adopted the persecutory-delusional psychosis" of the child's grandmother (Ref. 14, p 847). Counsel cited *folie à deux* as the illness rendering the child's mother unable to provide suitable care for the child.

We identified two additional cases involving children with *folie à deux*. In *J.T. v. Arkansas Department of Human Services*,[15] the state pursued termination of parental rights. The mother had physically abused the child. She had frequently moved between states and had failed to keep her daughter enrolled in school. The mother had bipolar disorder but did not comply with treatment. She believed that others were trying to electrocute or kill her. Her daughter eventually adopted the same belief. The court terminated the mother's parental rights, finding that the child's condition worsened in her presence. The findings were similar in the earlier case of *People ex rel. Heller v. Heller*.[16] An expert evaluated both parents and described the child's mother as having "delusional attitudes" (Ref. 16, p 735). He determined that awarding custody to the mother was not in the child's best interest. The expert added, "such visits would prove disturbing to him and [would be] likely to produce a mental disorder of the *folie à deux* type" (Ref. 16, p 735). He did not expound on this declaration. The court found that the potential harm was sufficient to deny custody.

Criminal Case Descriptions

Crimes by Cult Members: State v. Ryan

Defendants facing charges for crimes committed during cult participation can be considered for a diagnosis of *folie à deux*. In *State v. Ryan*,[17] the defendant was accused of torturing and killing a fellow cult member. The group lived on a remote farm in Nebraska and believed their leader could communicate directly with God, or "Yahweh" (Ref. 17, p 583). They used a military rank system to assign status to members, based on the desires of Yahweh. After his first year on the farm, the victim fell out of favor and was demoted to "slave" (Ref. 17, p 581). At first, he was chained and forced to sleep on a porch. The cult leader, who was also the defendant's father, ordered the subordinates to torture and kill the victim because, "He had denied God and had bad thoughts" (Ref. 17, p 583).

The defendant extensively tortured and eventually murdered the victim, a fact not refuted by defense counsel. Specific actions of the defendant included whipping the victim, pushing a shovel handle into his rectum, forcing the victim to have sex with a goat, and shooting him in the cheek. He recounted his participation in the acts in graphic detail during testimony. Another cult member testified that the defendant thought it was "kind of neat that he had helped kill somebody" (Ref. 17, p 584). The witness added that the defendant bragged about the killing and did not show remorse or sorrow. The state admitted several gruesome photographs into evidence to show the condition of the body and the extent of the injuries in order to establish malice.

The defendant argued that he had not possessed intent to kill. Rather, he desired to please Yahweh. A defense expert offered *folie à deux* as an explanation.

He found the defendant to be of average to above-average intelligence although "fairly immature," based on a battery of psychological testing (Ref. 17, p 587). He stated that the defendant admired his father and genuinely believed him to be a leader for Yahweh.

The state's expert did not find the defendant to have a mental illness. He testified that the defendant understood the quality and nature of his acts and knew they were wrong and punishable. He participated simply because "he derived pleasure from sadistic behavior" (Ref. 17, p 601). The jury rejected the defendant's claim that he perpetrated the acts solely because of his involvement in the cult and his having *folie à deux*. Finding that he understood his actions and knowingly participated in the murder, they sentenced him to life in prison.

Guilty but Mentally Ill: State v. Peterson

In *State v. Peterson*,[18] the state of Illinois charged a husband and wife with several counts of intimidation and threatening public officials. The couple had been in a prolonged dispute over the construction of their home. After they failed to meet several terms of their permit, a judge ordered the demolition of their partially built home. They sent threatening letters to several people involved in the demolition of the home, including three judges. The letters spoke on the behalf of "Almighty God" and threatened harm to the individuals and their loved ones (Ref. 18, p 1224).

Investigators obtained a search warrant for the defendants' home and found an empty handgun box, receipts from a gun shop, and silhouette targets with bullet holes. At the time of arrest, the defendants' van contained three firearms, boxes of ammunition, and more silhouette targets. The FBI conducted interviews with the couple, during which they spoke freely about sending the letters. They explained that God communicated directly to Mr. Peterson, who would forward the messages to his wife. She would then type them into letters. She typed over 50 such letters and sent them to family members, friends, religious leaders, attorneys, judges, and reporters. The couple stated that they did not mail the letters until God instructed them to do so.

The defendants continued to speak openly about sending the letters throughout the investigation and were surprised to learn that the police had been looking for them. They did not believe that they had been making threats. Rather, they believed they were doing God's will. Three mental health experts evaluated the defendants and agreed on a diagnosis of *folie à deux*. However, defense and state experts disagreed about whether the couple understood the criminality of their acts. The jury rejected the defendants' insanity defense and convicted them of intimidation, but found them guilty but mentally ill (GBMI).

Other Examples of *Folie à Deux* in Criminal Cases

In *United States v. McRary,*[19] the defendant was charged with kidnapping after he and his wife commandeered a boat and forced the captain at gunpoint to transport them to Cuba. The defendant was ultimately convicted of kidnapping. The court excluded testimony offering *folie à deux* as an element of the insanity defense. The court of appeals reversed and remanded the conviction based on the excluded testimony. It elaborated on the decision, stating that trial courts should be liberal in allowing evidence regarding the insanity defense. Within the ruling, the court of appeals referred to *folie à deux* as an "unusual type of mental illness" (Ref. 19, p 184).

In *State v. La Plant,*[20] the state charged the defendant and his common-law wife with murdering an acquaintance. The victim invited the couple to live with him and then began making sexually suggestive statements to the wife, leading to a conflict that escalated until the defendant stabbed the man repeatedly. He claimed that he did so because his wife "psyched him into it" (Ref. 20, p 803). The couple subsequently stole the victim's car and fled to Wyoming. The defendant claimed *folie à deux* in a request for a joint psychological evaluation. His wife, on advice of counsel, refused to submit to the joint examination. The defendant was convicted of second-degree murder, conspiracy to commit murder, and motor vehicle theft. He appealed on the grounds that the trial court erred in denying the joint examination. The court of appeals ruled that it did not have the authority to force a nonconsenting party to submit to an evaluation.

Dannelly v. State[21] involved a defendant accused of the shotgun murder of his father. *Folie à deux* was one of several psychological infirmities proposed to have compromised his competency during his confession. Counsel's proposed diagnosis was based on the unspecified mental health history of the defendant's mother, despite the defense expert's testimony

that there was, "nothing substantial as to symbiotic attachments between mother-son" (Ref. 21, p 440).

In *United States v. Finley*,[22] the defendant claimed that his mental condition prevented him from forming the intent to defraud. An expert testified that he displayed, "some indications of shared psychotic disorder" (Ref. 22, p 1004). He then described an "atypical belief system, a system which is very rigid," as well as several personality traits (Ref. 22, p 1004). He acknowledged that the belief system is a "personality description, not a DSM-IV diagnosis," though he still considered it delusional (Ref. 22, p 1012).

In *State v. Lairby,*[23] the defendant was accused of raping his daughter. Defense counsel, absent evaluation by an expert, proposed that the victim and her mother had *folie à deux*, in the hope of forcing a psychological evaluation of the victim and further evaluation of the victim's mother. The court denied the requests and the defendant was convicted on both counts.

Discussion

The case of Wanda Barzee, the woman accused in the 2002 abduction of Elizabeth Smart, is the most recent publicized example of *folie à deux* in the courts. She was deemed incompetent to stand trial on several occasions. Her treating physicians petitioned the court for involuntary administration of antipsychotic medications to address her delusions. Barzee and her defense counsel could have pursued an insanity defense based on her diagnosis of *folie à deux.* However, she pleaded guilty in November 2009 to federal charges of kidnapping and unlawful transportation of a minor across state lines to engage in sexual activity. Because of the resolution of Barzee's case, the way the courts view *folie à deux* remains uncertain.

Folie à deux poses several dilemmas for clinicians, mental health experts and legal professionals. Despite being an established psychiatric entity, it is not a well-validated diagnosis. The nature of the condition is also different from that of most other psychiatric disorders. *Folie à deux* involves two persons. By definition, the primary affected individual has a separate psychotic disorder. In this individual, *folie à deux* cannot be relied on solely to determine mental state. The status of the secondary is more difficult to conceptualize. The challenge is in determining whether adopting another person's delusional system is enough to support a diagnosis of mental illness or defect and thus can be used to establish the foundation for an insanity defense.

The secondary individual is typically suggestible and prone to following others. Some may have dependent personality traits that can be, but are not necessarily, based on a diagnosable condition, such as a personality disorder or mental retardation. It is unclear what effect, if any, such a psychiatric profile has in determining the criminal responsibility of the secondary. Mental health experts undoubtedly differ in opinion, depending on their understanding of this condition and individual beliefs about criminal responsibility.

State v. Ryan[17] involved a cult member accused of murder. A cult can be defined as, "a quasi-religious group, often living in a colony, with a charismatic leader who indoctrinates members with unorthodox or extremist views, practices, or beliefs" (Ref. 24, p 352). Modern cults have included the Peoples Temple, Branch Davidians, and Heaven's Gate. Technological advances facilitate cult development by allowing broad access to prospective members. The cult environment can provide a catalyst for developing *folie à deux* because it involves a dominant individual who dictates the beliefs, actions, and behavior of several subservients. Some cults, such as the Branch Davidians, represent subgroups of a mainstream religion. Others, such as Heaven's Gate, are founded on beliefs regarded as clearly delusional. Marshall Applewhite, the Heaven's Gate leader, formed a UFO-based religion centered on boarding the Hale-Bopp Comet to survive the "recycling" of the Earth.[25]

Joshi and colleagues proposed that "a cult may resemble a case of 'mass' shared psychotic disorder" (Ref. 26, p 515). They raised questions to consider when deciding whether cult members have *folie à deux*. Three things must be determined: at what point the teachings of a few become mainstream, at what point false beliefs become delusional, and how many individuals must participate for the group to be considered a cult. Depending on interpretation of the term culture, it may be possible for cults to form cultural norms of their own, which would, by definition, preclude the beliefs from being considered delusional. Mainstream religions themselves are predicated on beliefs that cannot be conclusively proven. The judicial branch decides whether a belief system qualifies as a religion. The Supreme Court has

left the definition of religion somewhat broadly defined.

State v. Peterson[18] is another case in which defendants pursued an insanity defense centered on *folie à deux*. Although the jury rejected the insanity defense, they found the defendants GBMI. There was a report published in *The Journal* of a case in South Carolina in which three sisters received not guilty by reason of insanity (NGRI) verdicts due to shared psychosis involving a *folie à trois*. During involuntary hospitalization, the first sister was found to have schizophrenia and the other two, a shared psychotic disorder.[26] These two cases appear to be the only instances in which *folie à deux* has formed the basis for GBMI or NGRI verdicts. They have helped establish precedents for presenting *folie à deux* as part of an insanity defense.

The use of the diagnosis in the legal community has interesting implications. The term shared psychotic disorder can carry substantial weight with individuals who have limited experience with mental health. The term itself directly indicates the presence of a psychotic illness. Therefore, it can be perceived to be as valid as schizophrenia, bipolar disorder, and psychotic depression. In *Linder v. Linder*,[14] an Arkansas custody case, an expert testified that the child's mother had *folie à deux* because of excessive phone contact with the child's grandmother. The attorney proposed that she was an unfit parent as a result of the psychotic illness. In *Martin v. Almeida*,[27] the court lists "shared psychotic disorder" alongside schizophrenia and schizoaffective disorder as psychotic disorders recognized by the court (Ref. 27, p 24).

Mental health professionals infrequently encounter *folie à deux* in clinical practice. The diagnosis can therefore be easily misunderstood. It is difficult for experts to diagnose reliably a condition that is not well validated. *United States v. Finley*[22] provides an example of misunderstanding on the part of a mental health expert. The expert testified that the defendant displayed, "some indications of shared psychotic disorder" (Ref. 22, p 1004). He then described an "atypical belief system, a system which is very rigid," as well as several personality traits (Ref. 22, p 1004). The expert acknowledged that the belief system is a "personality description, not a DSM-IV diagnosis," but still considered it to be delusional (Ref. 22, p 1012).

Folie à deux is one of many poorly validated psychiatric conditions that the legal system has dealt with over the years. Dissociative identity disorder, formerly known as multiple personality disorder, has been addressed during criminal trials throughout the years. Attorneys and mental health experts have debated the impact of this condition on criminal responsibility. Intermittent explosive disorder is another condition that is formally recognized in the DSM-IV-TR, despite a limited understanding of the condition.

There is also the potential for attorneys to misunderstand the condition. In *Dannelly v. State,*[21] defense counsel asserted that the defendant carried a diagnosis of *folie à deux*. This was despite the defense expert's testimony that he did not recognize an abnormal relationship between the defendant and his mother. In *State v. Lairby,*[23] defense counsel suggested that the victim and her mother had *folie à deux*. This proposed diagnosis was based solely on counsel's unfounded beliefs, in hope of bringing about a psychological evaluation of the victim and further evaluation of the victim's mother.

Mental health experts face several challenges when evaluating a client with possible *folie à deux*. Malingering, which should be ruled out in nearly all forensic evaluations, can be particularly challenging in these situations. *Folie à deux* is diagnosed based on the presence of delusions, an entirely subjective component of the mental status examination. Delusions are difficult to validate and relatively easy to fake. As is the case in any criminal forensic evaluation, the presence of psychotic symptoms does not inherently explain or excuse the actions of the accused. Once an expert diagnoses *folie à deux*, it is important to determine whether the delusion(s) influenced the individual's actions. Forming this opinion involves an extensive interview of the accused, gathering collateral information, and receiving full access to applicable records. The primary and secondary individuals should be evaluated separately by independent examiners. Discussion between the examiners after the interviews may be necessary to confirm the diagnosis.

Folie à deux remains broadly defined and can present in a variety of ways. For this reason, each case must be considered individually. The purpose of this article was to review the case law and discuss the use of the diagnosis in the legal system. One limitation is that it includes only those cases available in the Lexis-

Nexis database. There may be several other unidentified cases, including ongoing cases, sealed cases, and cases not determined to involve novel issues of law. One method of improving this body of knowledge would be to study individuals at forensic hospitals and prisons who have the diagnosis. Continued investigation can also assist in further characterizing and validating the diagnosis and can help guide the development of subsequent diagnostic criteria. An improved understanding of *folie à deux* would benefit experts when dealing with this relatively uncommon condition.

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