

Conflicting Expert Witness Testimony in Insanity Defense

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Supreme Court of Mississippi Upholds *M'Naughten* as Standard for Insanity Defense

In *Ealey v. State*, 158 So. 3d 283 (Miss. 2015), the Supreme Court of Mississippi affirmed a ruling of the Madison County Circuit Court that Sheila Ealey was sane, as established by substantial evidence, and denied her request to abandon *M'Naughten*. Ms. Ealey petitioned the court to replace *M'Naughten* with § 4.01 of the American Law Institute Model Penal Code. In addition to other assertions within her appeal, she proposed that the weight of the evidence did not substantiate a finding of sanity and that *M'Naughten* violated her due process rights. Consistent with past rulings, the court held that the *M'Naughten* Rule was the standard test for determining insanity in Mississippi pursuant to *stare decisis*.

Facts of the Case

Ms. Ealey reported that she had been abducted and raped in September 2009, and, when she found that she was pregnant in January 2010, she initially believed that it was a result of the rape. She kept the pregnancy secret and received no prenatal care. On June 26, 2010, she checked into a hotel, gave birth to a baby boy, and fell asleep. Upon awakening, she wrapped the baby in a comforter and placed it in her suitcase. She drove to her church and left the suitcase in a wooded area nearby. The suitcase was discovered on July 1, 2010, by church members, who notified the police. Ms. Ealey independently presented to the sheriff's department and provided verbal and written statements. Inconsistencies in her statements, specifically whether the baby had cried and the paternity of the child, were noted. She later contacted the investigator to state that her boyfriend could have been the father of the child, and his paternity was ultimately confirmed by DNA testing.

Ms. Ealey was indicted for capital murder with the underlying felony of child abuse to which she pleaded not

guilty and proffered an insanity defense. Upon review of the investigation, a forensic pathologist opined that the manner of death of the baby was homicide. Additional experts were called by both parties, all of whom were asked to evaluate her claim of insanity under *M'Naughten* at the time of the offense. Gerald O'Brien, a forensic psychologist, testified on behalf of the defense that Ms. Ealey most likely had depression and anxiety for at least one year before the event in question. He opined that the evidence was "strongly suggestive" that she "was unable to know the nature and quality of her acts [and] the difference between right and wrong" (*Ealey*, p 287). He could not testify about his finding to a reasonable degree of certainty and opined that no one could.

Criss Lott, a forensic psychologist, provided an assessment in addition to interviewing family and coworkers of Ms. Ealey on behalf of the state. Dr. Lott testified that Ms. Ealey had situational depression at the time of the evaluation and that she could have had depression before the event; however, depression did not preclude her ability to know the difference between right and wrong at the time of the incident. He cited that her remorse was evidence of her knowledge of wrongdoing. His report stated, however, that she did not meet the *M'Naughten* standard for insanity, but that "her depression adversely affected her ability to respond rationally to her situation and to conform her conduct to the requirements of the law" (*Ealey*, pp 288–9). The state also called Reb McMichael, a forensic psychiatrist, who opined that Ms. Ealey had a history of anxiety and depression, including situational symptoms at the time of the evaluation but that she did not have symptoms of a mental disorder and was not insane at the time of the incident. Additional witnesses provided testimony of Ms. Ealey's behavior before and after the offense.

The jury found Ms. Ealey guilty of capital murder, and she was sentenced to life without parole. She appealed. She asserted that the circuit court had incorrectly refused her request for an accident-or-misfortune jury instruction. She raised concerns that the evidence for a capital murder conviction was insufficient and that the conviction was contrary to the weight of the evidence. Ms. Ealey also urged the court to abandon and replace *M'Naughten* with the Model Penal Code.

Ruling and Reasoning

The Supreme Court of Mississippi upheld the rulings by the circuit court regarding Ms. Ealey's conviction of capital murder with the underlying felony of child abuse. Notably, they addressed two key points: whether the weight of the evidence supported the de-

termination of Ms. Ealey's sanity and whether the use of *M'Naughten* violated her due process rights and should be replaced with the Model Penal Code in Mississippi.

With regard to determination of sanity, both the sufficiency of the evidence and the weight of the evidence were considered. The court noted that the evidence provided for the jury to determine Ms. Ealey's sanity was sufficient based upon previous case law. In evaluation of the weight of the evidence, the court relied heavily on the standards set forth in *Woodham v. State*, 779 So. 2d 158 (Miss. 2001). In that case, the jury was given discretion to examine the testimony provided by experts and held that the jury decision regarding sanity would not be overturned if supported by substantial evidence. The court agreed that the expert testimony and evidence suggested that Ms. Ealey had depression; however, they found no merit in her assertion that two of the experts regarded her as insane and further noted that no experts found her insane according to *M'Naughten*.

Ms. Ealey also appealed on the basis that the use of *M'Naughten* violated her due process rights. The court asserted that Ms. Ealey did not elucidate how her due process rights were violated, and as such, it did not find merit to review her allegation. She further requested that the court use § 4.01 of the Model Penal Code rather than *M'Naughten* for the determination of sanity. The court cited multiple cases that rejected this request and cited the rule of *stare decisis* when upholding the use of *M'Naughten* as the standard regarding the insanity defense for Mississippi.

Discussion

The holdings in *Ealey* highlight the various assertions that have been made regarding the use of an insanity defense and the importance of code-specific verbiage by forensic experts. The *M'Naughten* standard for insanity is currently used in 25 states; the District of Columbia and 20 states use the Model Penal Code; and New Hampshire uses the Durham standard. Four states (Kansas, Montana, Idaho, and Utah) do not allow the insanity defense. The burden of proof for the verdict varies by state.

In this case, the experts each conducted evaluations to determine the potential presence of mental illness and insanity based on the *M'Naughten* standard. Although each agreed that Ms. Ealey met the criteria for depression, conflicting testimony was provided regarding her sanity at the time of the offense. In addition, each evaluator's testimony varied slightly regarding the degree to

which her depression affected her judgment. Presumably, insanity would have been found based on Dr. Lott's testimony, if the Model Penal Code had been the standard for insanity.

The opinions contained within previous cases cited by *Ealey v. State* provide insight into the court's rationale to maintain *M'Naughten*. In *Hill v. State*, 339 So. 2d 1382 (Miss. 1976), Justice Broom wrote that the adoption of the Model Penal Code:

... would provide for the acquittal of those who commit criminal acts and assert that they did such act or acts because of so-called uncontrollable urges or irresistible impulses. Though the *M'Naughten* Rule may not be a perfect means to test criminal responsibility, as this Court (including this writer) has said before, it is the safest of the rules proposed. *M'Naughten* better protects society's needs than the American Law Institute's proposed rule, *supra*, which the court has examined in earlier cases and found to be unsatisfactory [*Hill*, p 1385].

In addition, although the court did not merit her claim based on lack of articulation, Ms. Ealey's claim regarding due process violations related to *M'Naughten* is not a novel assertion. In *Clark v. Arizona*, 548 U.S. 735 (2006), the United States Supreme Court upheld that Arizona's use of a modified *M'Naughten* standard does not violate due process and that there is no constitutional minimum required with regard to delineating the verbiage of an insanity standard. The relevance of this decision is important for future cases that may question due process violations in insanity cases.

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Mental Health Concerns and Equitable Tolling

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Mental Health Matters Can Act as an Extraordinary Circumstance for Equitable Tolling Claims

In *Spears v. Warden*, 605 Fed. Appx. 900 (11th Cir. 2015), the Eleventh Circuit Court of Appeals affirmed the denial of *habeas corpus* by the U.S. Dis-