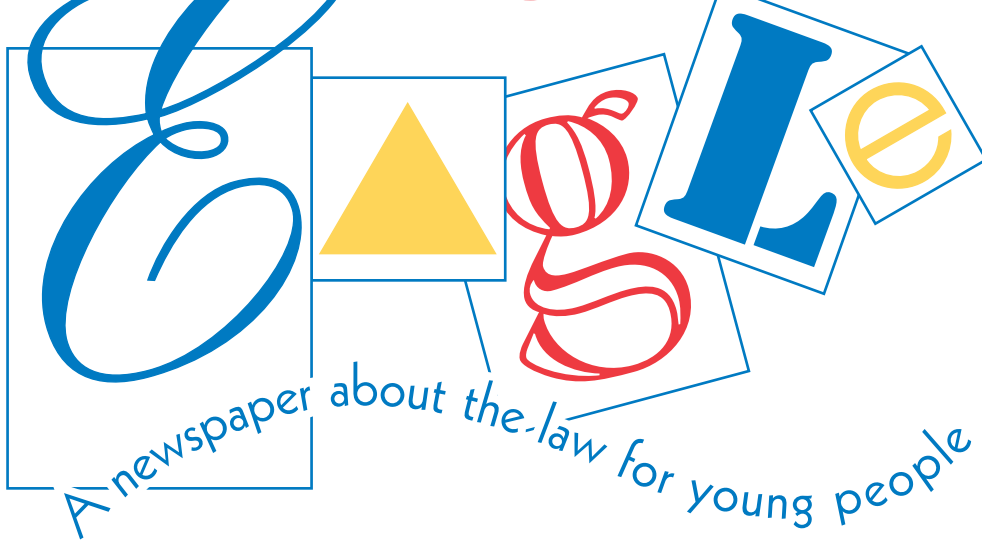


# THE LEGAL



## Objectionable Content v. Freedom of Expression: Battles of School Censorship

by Phyllis Raybin Emert

What do *The Adventures of Huckleberry Finn*, *To Kill a Mockingbird*, *Catcher in the Rye* and *Harry Potter and the Goblet of Fire* have in common? At one time or another, all four books have been banned from school libraries throughout the country, falling victim to censorship.

Censorship is the process of suppressing something (i.e., manuscripts, books, newspaper



FALL 2003

## Cameras Take the Stand

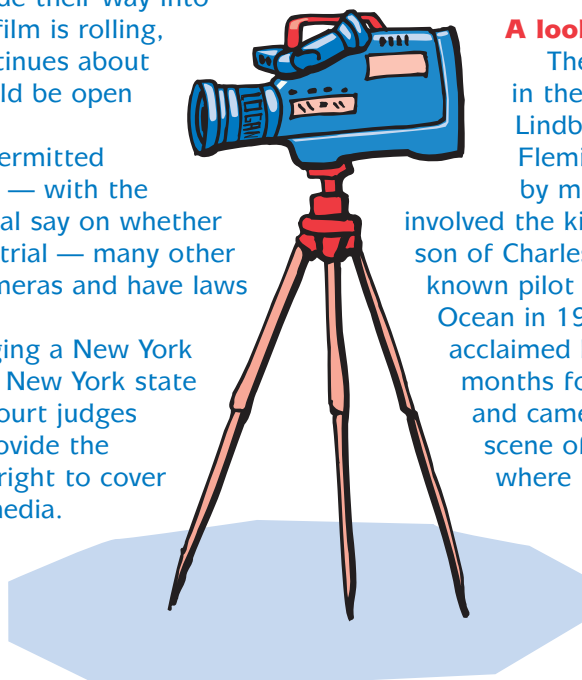
by Barbara Sheehan

These days, when you flip through the channels on the television, you're likely to see film of a real life courtroom. Whether it's an entire case being aired on Court TV, or a clip from a high-profile trial on the evening news, cameras have made their way into our justice system. Even as the film is rolling, however, an age-old debate continues about whether court proceedings should be open to the media spotlight.

While cameras are typically permitted today in New Jersey courtrooms — with the judiciary generally having the final say on whether to allow cameras in a particular trial — many other states are less welcoming to cameras and have laws to keep them out.

Court TV is currently challenging a New York state law prohibiting cameras in New York state trial courts, arguing that state court judges should have the discretion to provide the electronic media with the same right to cover trials in New York as the print media. According to Court TV Online, New York is one of 11 states that do not allow cameras in trial courts.

As the parties await a court decision in that case, longstanding questions loom over whether cameras in court are an intrusive distraction that threatens the right of citizens to a fair trial, or shine a light on our justice system, educating the public and enhancing the justice process by exposing it to higher scrutiny.



### A look back

These questions first came into focus in the U.S. with the infamous 1935 Lindbergh trial, which took place in Flemington, N.J. That case, dubbed by many as "The Trial of the Century," involved the kidnapping and killing of the infant son of Charles A. Lindbergh, who was the first known pilot to fly alone across the Atlantic Ocean in 1927 and was one of the most acclaimed heroes of his time. In the days and months following the kidnapping, reporters and cameramen allegedly swarmed the scene of the crime and later the courtroom where the case was tried.

According to the Constitutional Rights Foundation (CRF), a non-profit, non-partisan community-based organization, five newsreel

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articles, etc.) that is considered objectionable or offensive. Certain students, parents, community groups, and some political and religious organizations found the above books objectionable due to foul language, racism, sexual content, violence and witchcraft.

The most significant instance of book censorship occurred in 1982 with the case of *Board of Education v. Pico*. The case began in 1976 when the Island Trees Union Free School District School Board on Long Island, New York removed 11 books from the junior and senior high school libraries. The books were considered unsuitable because of vulgar language, discussions of sex, and other objectionable material. The books included two Pulitzer Prize winners, *The Fixer* by Bernard Malamud and *Laughing Boy* by Oliver LaFarge, as well as *Black Boy* by Richard Wright, *Go Ask Alice* by anonymous, and *A Hero Ain't Nothing but a Sandwich* by Alice Childress.

In 1977, the parents of five students filed a lawsuit on behalf of their children against the school board. The lawsuit claimed the student's First Amendment rights had been violated and that the book removal was unconstitutional. The case eventually went before the U.S. Supreme Court, and in a 5-4 decision, the Court ruled in favor of the students. Some 30 years ago, U.S. Supreme Court Justice William Brennan wrote in his majority opinion, "...we hold that local school boards may not remove books from school library shelves simply because they dislike the ideas contained in

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## Call Me Crazy... Insanity and the Law

by Roberta K. Glassner, Esq.

Under the U.S. legal system, the general rule is that criminals are held accountable and punished for their criminal acts. So, how can a jury find a person who admits to committing a crime not guilty?

Every rule has its exception. The exception to this rule is that it is possible in rare instances for a person who commits a crime to be found not guilty "by reason of insanity."

### The M'Naughton rule

In New Jersey, as well as in almost half the states in the country, the legal standard for insanity is known as the M'Naughton rule. The rule states that although a person is guilty of committing a crime, he or she

cannot be held criminally responsible if, at the time the crime is committed, he or she suffered from a disease of the mind that prevented him or her from knowing right from wrong.

The rule arose from a 160-year-old British case and is named after Daniel M'Naughton. In 1843, M'Naughton shot and killed the secretary to the British prime minister because he believed that the prime minister was plotting against him. M'Naughton was the first defendant to be found not guilty of a crime "by reason of insanity." Instead of being sent to prison, M'Naughton was sentenced to a mental institution for the rest of his life.



### A rare defense

An eight-state study (which included New Jersey) conducted by the National Institute of Public Health, found the insanity plea was entered in less than one percent of criminal cases.

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## Cameras CONTINUED FROM PAGE 1

companies covered the trial, and a microphone was secretly strung behind the jury box without the knowledge of Judge Thomas Trenchard, who presided over the trial. CRF notes "the judge angrily closed down the operation two-thirds of the way through the trial when newsreels of testimony were shown in most of the country's first-run movie theaters."

This was only one of a number of press disturbances that reportedly turned the Lindbergh trial into a media circus and changed the way court cases would be covered for years to come. The trial would result in the conviction of Bronx carpenter Bruno Richard Hauptmann, who was sentenced to death for the crime.

In the eyes of many, the press was also found guilty of overstepping its privileges. According to CRF, cameras were banned in all federal and most state courts as a result of the Lindbergh trial. It wasn't until the early 1970s that state courts began to allow more camera coverage of civil and criminal trials.

### New Jersey opens doors to cameras

Today, in contrast with New York trial courts, "there is a



presumption of openness" to cameras in New Jersey courtrooms, according to Winnie Comfort, director of the Office of Communications for the New Jersey Judiciary. This dates back to the late 1970s and early 1980s, when electronic coverage was allowed on an experimental basis before being established permanently in New Jersey courts.

Still, judges maintain discretion to keep cameras out as they see fit, and New Jersey Supreme Court guidelines exist to govern how cameras may be used in the courtroom. These guidelines, for example, limit the number of portable videotape electronic television cameras to no more than two, and set similar limits on still photographers. If multiple media members wish to "pool," or share, their equipment, they must make their own arrangements, according to the guidelines.

The guidelines also, among other things, dictate where media equipment may be located in the courtroom and how media representatives may seek court approval to use cameras. Comfort notes that there is no courtroom in New Jersey where a cameraperson can show up unannounced at the door and expect to be let in. Permission must always be granted in advance. Also, she notes that cameras may be allowed only for the media and not for the general public.

The New Jersey Supreme Court guidelines for camera coverage of court proceedings are in the process of being revised, with

few, if any, significant changes expected, according to Comfort. For example, the existing guidelines provide for a specific list of camera equipment permitted. With technological advancements changing so rapidly today, that list is expected to be removed, Comfort noted. One of the more significant changes suggested was to permit cameras in divorce proceedings, which the existing guidelines currently prohibit, she said.

While Comfort could not say exactly when the New Jersey Supreme Court would approve the updated guidelines and how they would rule on the proposed changes, she said that the overall spirit of openness would continue.

### What does the Constitution say?

The differing perspectives of neighboring states like New York and New Jersey on the topic of cameras in the courtroom reflect the unsettled views on this issue nationwide. In search of a more definitive answer, many look to the U.S. Constitution.

Somerville lawyer Brian M. Cige, who litigates and speaks on constitutional issues, says that while there's nothing constitutionally that provides for cameras and live recordings in a courtroom, there's also nothing that prohibits them, except in cases dealing with a confidential matter, such as a juvenile situation.

Juvenile cases are generally closed to the public, Cige says, unless one of the parties files an application, which the court must approve, to waive confidentiality. This might be more likely, Cige notes, in a case involving a 17-year-old charged with murder, as opposed to an eight-year-old accused of stealing a comic book.

Judges also might evaluate other factors when considering cameras, including whether the case will turn into a media circus. Many believe the 1995 criminal trial of O.J. Simpson for the murders of Nicole Brown Simpson and Ronald Goldman was not a positive reflection of televised court proceedings. Ultimately, Cige notes, it comes down to a balance between freedom of the press and a citizen's right to a fair trial.

"There is tension there, which is expected," Cige said. "That's the way the constitution is set up," he said.

### Do cameras affect the trial?

While each state makes its own rules about cameras in the courtroom, federal courts consistently prohibit cameras in civil and criminal proceedings.

The Judicial Conference of the United States, the policy-making body of the federal judiciary, stated in a press release issued by the Administrative Office of the U.S. Courts that cameras in courtrooms "can do irreparable harm to a citizen's right to a fair and impartial trial."

The Judicial Conference based its statement on data compiled from a Federal Judicial Center study of a three-year Judicial Conference pilot program allowing electronic media coverage

of civil proceedings in six district and two appellate courts. Sixty-four percent of the participating judges reportedly indicated that, at least to some extent, cameras make witnesses more nervous than they would otherwise be. In addition, 46 percent of the judges reportedly believed that cameras make witnesses less willing to appear in court and 41 percent found that cameras distract witnesses.

New Brunswick criminal defense lawyer Allan Marain, who has defended clients in numerous criminal indictments and appeals, said that he has never objected to camera coverage of proceedings in which he was involved and has never seen anyone else object either. Marain said that when cameras are present, they are "pretty much in the background." He does not feel strongly about the presence of cameras one way or the other but does take issue with media coverage and sound bites that serve to "sensationalize" trials.

### Press as a "surrogate" for the public

Clearly, as evidenced most notoriously by the Simpson trial, media coverage of courtroom proceedings is not always perfect or, in the opinion of many, appropriate. Still, John O'Brien, executive director of the New Jersey Press Association, rejects the idea of blanket bans on cameras in courtroom proceedings.

"I think times have changed," O'Brien says, noting the widespread prevalence of video cameras today in virtually every aspect of life. He questioned whether the alleged intimidation by cameras in the courtroom poses a real threat. "I think people are more attuned and used to being in front of a camera."

In an opinion piece he wrote on the topic of cameras in the courtroom, O'Brien further argued there should be no distinction between media access and public access to courtroom trials.

"When the Constitution was written, America was a much smaller country," O'Brien wrote. "Life was simpler and there were fewer demands on our time. It was commonplace for the citizenry to attend trials on a regular basis. It was even expected."

Given the busy and complicated nature of most people's lives today, O'Brien says that the press now acts as a "surrogate" for the public and should be permitted access to judicial proceedings.

"Public access to the courts is essential because a trial is a public event," O'Brien said. "Public access also promotes free discussion, which, in turn, creates a more complete understanding of the judicial system by citizens. Access provides the assurance that the court proceedings were conducted fairly to all concerned."

### Mixed feelings preside

Given the mixed feelings about this issue, an end to the ongoing debate concerning cameras in the courtroom seems unlikely. Through cases such as the one brought by Court TV, both sides on this issue can voice their beliefs and strive to bring it into sharper focus for all.

# Censorship CONTINUED FROM PAGE 1

those books.” He added, “The Constitution protects the right to receive information and ideas through the First Amendment.”

## Harry Potter and the Battle of Censorship

Since 1999 the books in the *Harry Potter* series have been the most challenged in America because the content deals with witchcraft and the occult. In the summer of 2002, the Cedarville, Arkansas school board banned open displays of *Harry Potter* books from school libraries for most of the school year and required students to have written permission from parents to read them. A library committee member, on behalf of his daughter, sued the school district for violating her First Amendment rights. The judge ruled against the school board allowing *Harry Potter* books to be displayed openly and read by all.

Some supporters of censorship have gone to the extreme to show their displeasure with certain books. In one New Mexico town, according to *Library Journal*, a pastor and his wife as well as their congregants, burned *Harry Potter* books because they can “teach children how they can get into witchcraft.” One of the participants at the book burning also threw *The Complete Works of William Shakespeare* into the fire. In a 2002 burning of what was called “ungodly books” in rural Pennsylvania, Rev. George Bender burned a *Harry Potter* book, CDs and a Disney video.

According to *American Libraries*, after a five-year battle over gay-positive picture books like *One Dad, Two Dads*, in a kindergarten classroom in British Columbia, Canada, the Canadian Supreme Court finally ruled, “no age is too young to learn tolerance.” Canadian Chief Justice Beverley McLachlin said, “children cannot learn unless they are exposed to views that differ from those they are taught at home.”

## Libraries and censorship

Where do libraries stand on the issue of censorship? Beth Egan, Chair of the Intellectual Freedom Committee of the New Jersey Library Association and Director of the Gloucester City Library, claims that censors “want to decide what other children have access to.” She explained that librarians “don’t believe that one citizen should be telling another citizen what they cannot read.”

The American Library Association’s position states that libraries are “forums for information and ideas.” The Library Bill of Rights, which applies to school libraries as well as public and research libraries states, “Libraries should provide materials and information presenting all points of view on current and historical issues.

Materials should not be proscribed or removed because of **partisan** or doctrinal disapproval” and “a person’s right to use a library should not be denied or abridged because of origin, age, background, or views.”

## Censorship and the First Amendment

Censorship in schools has had a long history and the court system has weighed in on the issue many times. In the 1969 case of *Tinker v. Des Moines Independent Community School District*, the U.S. Supreme Court ruled that students and teachers do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”

According to David B. Rubin, an attorney who specializes in school law, one of the main criteria in dealing with school censorship cases relates to what is called the “*Tinker* disruption standard,” that the Court outlined in the case’s ruling.

“Students do have First Amendment rights to express themselves as long as it doesn’t interfere with the order of the school day,” Rubin explained. “The question is, does the student expression cause disruption in the school,” he stated. “Censorship issues depend on what is being said or expressed to whom, and in what context.”

Rubin noted that what is called the “forum issue” is the second criteria in deciding school censorship cases, namely whether student expression is part of a school function regulated by the school district, or whether it is entirely initiated by students.

“If it’s a school-sponsored function or forum, then school authorities have the right to set their own standards,” Rubin said. “The school districts have a certain leeway as to how vigorously they exercise their legal powers.”

Rubin clarified that schools must have “legitimate pedagogical [educational] concerns” when dealing with censorship issues.

## Freedom of the press and school newspapers

Censorship in the schools doesn’t just affect the books available in the school library or the use of certain textbooks in the classroom. Student newspapers can also be subjected to acts of censorship. Today’s student press deals with serious issues like drugs, alcohol, pregnancy, sexually transmitted diseases, and school shootings. Depending upon the administration and the district school board, some school papers

can write about these issues while others are restricted.

The most significant legal decision dealing with censorship and school newspapers is the 1988 case of *Hazelwood School District v. Kuhlmeier*. The town of Hazelwood is a suburb of St. Louis, Missouri. In May 1983 the Hazelwood East High School *Spectrum* included articles on teenage pregnancy, teen marriages and the impact of divorce. The articles included the personal experiences of several Hazelwood East students. After the principal, supported by the school board, censored the articles, the students contacted the ACLU, which filed a lawsuit, declaring the students’ First Amendment rights of freedom of the press and freedom of speech had been violated.

The case went to the U.S. Supreme Court, which handed down its decision in January 1988. The Court ruled against the students and upheld the right of the high school’s administrators and school board to censor the articles in the student newspaper.

In a 5–3 decision, the majority of the Court found that the students’ First Amendment rights had not been violated. The Court decided that *Spectrum* was part of the school curriculum and school administrators could control its content. The newspaper was not a “public forum” and school officials could impose “reasonable restrictions.”

Disagreeing with the majority of his colleagues, Justice William Brennan wrote in his **dissenting opinion**, “The principal broke more than just a promise. He violated the First Amendment’s prohibitions against censorship of any student expression that neither disrupts class work, nor invades the rights of others.”

The ruling in the *Hazelwood* case expanded the authority of school officials to censor a student publication so long as they can show the censorship is reasonably related to educational purposes.

The Student Press Law Center (SPLC) in Arlington, Virginia, a source of legal advice and assistance for student journalists dealing with censorship issues, reported a sharp increase in censorship cases involving school newspapers since the *Hazelwood* decision. Some states have passed specific laws protecting a student’s right to free expression through their school newspaper.

While some censorship cases make their way to our nation’s highest court, most are resolved at the local level, involving the school administration and the district school board. Communities often differ on censorship questions, reflecting the social, economic and political make-up of their populations. In other words, what may be challenged in an Arkansas town may not be an issue in a New Jersey town. ⚡

## Censorship: Focus on New Jersey

According to the latest statistics, there are approximately 500 school newspapers in New Jersey. Policies regarding censorship of student newspapers in New Jersey are similar to those in schools around the country.

Michael Rubright, Assistant Principal at Ramsey High School stated, “Students can express opinions, even against the administration. It’s only unacceptable if it results in disruptive behavior, or it impedes other students’ right to an education.”

Most New Jersey schools have a journalism or newspaper advisor who edits articles for content, grammar, and appropriateness. At Passaic Valley Regional High School, Principal John Wallace explained that for his school and, he believes, for other schools as well, more responsibility is being given to the newspaper advisor.

“Our administration views the newspaper as a learning experience and trusts the judgment of the person teaching the course. Controversial issues are allowed because we know kids have a particular point of view,” said Wallace.

Diane Wass, Vice Principal of Curriculum at Central High School in Trenton, said the challenge at her school is getting a more diverse perspective in the student newspaper.

“The students need to broaden their scope and see beyond the local community,” Wass said.

At East Camden Middle School (grades 5 to 8), Principal Patricia Kenny maintained that the most controversial articles in the school newspaper were a survey criticizing

the cafeteria food and a piece admonishing the Board of Education dress code as being too strict.

“I believe children should have the opportunity to express themselves, but often they need to learn how,” Kenny said. “Teens can be critical, but they should not be crude,” she said.

## Wear it well

The written word is not the only thing subject to censorship. Tom Sypniewski, a student at Warren Hills Regional High School was suspended from classes in March 2001 for not removing what the school superintendent called an “offensive T-shirt.” The T-shirt quoted comedian Jeff Foxworthy listing “10 Reasons Why You Might Be a Redneck Sports Fan.”

Sypniewski was suspended for three days after the school board denied his appeal. The board claimed the T-shirt inflamed racial tension and prejudice on campus. Sypniewski sued the school district stating the suspension was “an infringement of his First Amendment right of free speech.” A federal district court supported the school board’s decision but the U.S. Third Circuit Court of Appeals ruled “Warren Hills Regional High School went too far in applying its racial harassment policy. The shirt did not genuinely threaten to disrupt the school,” the court ruled.

In May 2003, the school district appealed to the U.S. Supreme Court but the Justices declined to hear the case. Therefore, the Third Circuit’s decision stands in favor of Sypniewski.

— Phyllis Raybin Emert



## Call Me Crazy... CONTINUED FROM PAGE 1

"It is not surprising that the insanity defense is so rarely used," said Middlesex County First Deputy Assistant Prosecutor Julia L. McClure. "First, there simply are not that many in our society who qualify as legally insane. Secondly, juries are reluctant to **exonerate** criminals who commit serious crimes."

According to Assistant Middlesex County Prosecutor Simon Rosenbach, the first step in the procedure for New Jersey cases involving insanity pleas is for the prosecutor's office to engage a psychiatrist to evaluate the defendant. If, after an intensive examination, the psychiatrist finds the defendant suffered from "a disease of the mind" so that he or she could not tell the difference between right and wrong at the time the crime was committed, notes Rosenbach, the defendant is not tried as a criminal. Instead, the case is heard by a judge, who can order that the defendant be confined to a mental institution for his or her own protection and the protection of the public.

On the other hand, Rosenbach says, if the prosecution's psychiatrist finds the defendant *was able* to distinguish right from wrong, the case is tried in court and decided by a jury. The jury's verdict is based on the evidence presented at trial, the defendant's medical history and psychiatric testimony from both the prosecution and the defense.

If the jury finds the defendant was so mentally ill at the time the crime was committed and had no concept of the wrong being done — or even that he or she was doing something wrong — that defendant is not simply released. Under the law, a defendant found "not guilty by reason of insanity" can be sent to a mental institution until, and if, he or she is "restored to reason."



According to the law, a defendant who claims to have been "restored to reason" after a period of treatment may apply to the court for release from the institution. It is up to the court, not the hospital, to determine if the defendant has been "restored to reason" sufficiently for release. A judge must be convinced that the defendant no longer poses a danger to him or herself or to society.

### A New Jersey case and "temporary insanity"

One New Jersey case in 1969 involved a college student who killed his friend by stabbing him 66 times with a hunting knife. The student turned himself over to the police, reported the murder and confessed he had committed it. He stated he believed his friend wanted to die and that the murder was committed out of love for his friend.

The student's mother had a serious mental illness and his brother suffered from psychiatric problems. The student himself had been given psychiatric care and diagnosed as psychotic, which is a severe mental disorder resulting in a loss of reality. In the two months before he stabbed his friend, the student had also taken mind-altering drugs.

Charged with first-degree murder, the student's defense was temporary insanity. Under New Jersey law, an intoxicated or drugged criminal cannot claim temporary insanity as a defense, but may enter a plea of "diminished capacity." However, if a person has an underlying mental illness that is exacerbated by taking drugs, he or she may make a defense claim of insanity. If a jury is convinced the defendant was so strongly affected by the drugs or alcohol that he or she could not form the **intent** to

commit the crime, his or her sentence may be reduced.

At this particular student's trial, all the psychiatrists agreed that he had suffered a true mental breakdown, caused either by the lasting effects of the drugs or a stressful event he could not handle at the time. The psychiatrists also agreed that after the murder, the student's mental symptoms gradually disappeared. But the doctors could not say that the student no longer suffered from mental disease or that another breakdown might not occur.

The jury rejected the student's defense of insanity and found him guilty of second-degree murder based on his voluntary use of drugs, and he was sent to prison. The student's attorney **appealed** the **verdict** to the Appellate Court, which **reversed** the verdict of the lower court. The prosecution in the case appealed the reversal to the New Jersey Supreme Court.

The highest court in New Jersey **upheld** the Appellate Court's decision but, at the same time, sent the case back to the trial court to be tried before a new jury. The New Jersey Supreme Court ruled that the original jury had been misled to believe that a defendant could not be found legally insane if his mental illness had been triggered by the voluntary use of drugs. The Court ordered the second jury to decide if the drugs caused the student's mental illness to flare up so that he lost the ability to distinguish right from wrong. If the jury found that it was the mental illness that caused him to murder his friend, even if it was triggered by the use of drugs, then the crime is chargeable to the illness and not to the use of the drugs that set it off. If the crime was the result of his mental illness, the student would have to be sent to a mental institution, not prison.

### Protecting the public

The purpose of sending criminals to prison is both



**appealed** — to take a complaint to a higher court after receiving an unfavorable decision from a lower court.

**defendant** — in a trial, the person who is accused of a crime.

**dissenting opinion** — a statement written by a judge that disagrees with the opinion reached by the majority of his or her colleagues.

**exonerate** — to acquit or free from blame.

**intent** — a formed plan for doing something.

**partisan** — someone who supports a party or cause with great devotion.

**persecute** — to cruelly harass a person or group.

**reversed** — to void or change a decision by a lower court.

**surrogate** — a substitute for someone.

**upheld** — supported; kept the same.

**verdict** — the outcome of a trial; ruling handed down by a jury or a judge in a trial.

to make wrongdoers pay for their crimes and to protect the public from harm. The insanity defense was designed as a humane solution to dealing with those few criminals who are genuinely mentally ill and don't understand the nature or severity of their acts.

"It is important for the public to recognize that it is our job to prosecute criminals who are responsible for their crimes, not to **persecute** those who are too ill to know what they are doing is wrong," said Rosenbach. 🗡️

## It's Enough to Make You Go Insane

One of the most famous cases of a successful insanity plea in this country involved the attempted assassination of former President Ronald Reagan. In 1981, John W. Hinckley Jr. shot and seriously wounded the former president in an attempt to kill him. Hinckley had a history of stalking famous people, including the actress Jodie Foster. In his defense, Hinckley stated that he believed by killing the president, he would impress Jodie Foster and cause her to notice him.

Hinckley's defense was that he suffered from mental disease and his criminal act was the result of that disease. After hearing testimony from medical experts at his trial, a jury found Hinckley not guilty by reason of insanity.

Like McNaughton before him, Hinckley was sentenced to confinement in a mental hospital, where he remains today. He has appealed to the court many times for release but has been denied.

### The Twinkie Defense

While not as famous as the Hinckley case, one San Francisco case gave birth to an interesting legal defense. The case centered on Dan White, a former San Francisco official, who committed a double murder in 1978, killing his supervisor and also the mayor of San Francisco. White's defense to the charge of first-degree murder was mental incapacity caused by a long, untreated depression.

White's attorney claimed his client's depression was so severe that it affected his ability to distinguish right from wrong. Further, the attorney argued, White was so mentally ill he was not capable of the **premeditation** required to find him guilty of first-degree murder. As proof of how mentally ill White was, the attorney offered what has come to be known as the "Twinkie defense."

A psychiatrist who testified on White's behalf at his trial pointed out that White was well known for being extremely health conscious. For some time before the shooting, however, White changed from a strict diet of healthy foods to feasts of Twinkies and other junk food. Although the doctor did not claim the Twinkies actually caused White's mental illness, the doctor did state that White's devotion to the snack food was clear evidence that he was a seriously sick man.

The jury apparently accepted that no one in his right mind would eat a steady diet of Twinkies and found White not guilty of first-degree murder due to mental impairment, making the "Twinkie defense" part of legal history.

### New Jersey drives him crazy

Another instance of mental impairment is the Texas case of Thomas Ray Mitchell. The mere mention of "New Jersey" sent him spinning out of control. Mitchell hated hearing the words "New Jersey" so much that when he thought his girlfriend was about to say them, he shot her to stop her from doing so.

At his trial last year, Mitchell's relatives testified that he exploded and became violent whenever he heard someone say the words "New Jersey," "Snickers," "Mars" or "Wisconsin." During his trial Mitchell put his fingers in his ears every time New Jersey was mentioned.

If Mitchell had convinced the jury he was legally insane he would have been confined to a mental institution. Since the insanity defense was never raised, Mitchell was tried for his crime, found guilty of attempted murder and sentenced to 20 years in a Texas prison.

— Roberta K. Glassner, Esq.