

Chapter 15: The Difference Between "Competency" and "Insanity"

Can you be competent but insane? Insane but competent?

In movies and books, the phrases “not competent to stand trial” and “not guilty by reason of insanity” are thrown around quite frequently. But what are the differences between competency and sanity? Are they interchangeable?

The answer is no—the two concepts play significantly different roles in court. Competency determines whether a defendant will be able to appear at trial and understand the proceedings; sanity determines whether a defendant will be held responsible for his criminal actions. Therefore, a defendant who is competent to stand trial may nonetheless be found “not guilty by reason of insanity.” However, if a defendant is found not competent to stand trial, he will never be found guilty (or not guilty, for that matter) because no trial would be held in the first place. **In other words, you can be declared legally competent *and* also legally insane. However, you cannot be declared legally insane unless you are also legally competent.**

Here are the most basic differences between the two concepts:

Definition.

Competency is determined by whether the defendant can understand the nature and consequences of the criminal proceedings against him. Specifically, the Supreme Court has held that the defendant must (1) have the sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding; and (2) he or she must have a rational as well as a factual understanding of the proceeding against him or her.

Meanwhile, the definition of insanity varies between states, and concerns the criminal acts allegedly committed by the defendant. For example, some states determine insanity by whether the defendant understood the nature and quality of his acts or did not know that his acts were wrong. Other states have different definitions. Some states do not have an insanity defense at all.

Decision-Maker. Competency is determined by the judge. Insanity is determined by the jury.

Timing of Determination. Competency is determined before the beginning of trial. Insanity, on the other hand, is determined at the end of the trial with the verdict.

Raising the Issue.

Competency can be raised as an issue by a party, or based on the judge’s observations of the defendant. If there is a reasonable basis to believe competency is at issue, the court has an absolute duty to order an evaluation. Based on the outcome of the evaluation, the judge will determine whether the defendant is competent to stand trial. Insanity, on the other hand, is an affirmative defense that must be pled by the defendant.

Source of Law.

The competency requirement arises from United States federal law, as a guarantee under the due process clause of the Constitution. Meanwhile, the insanity defense is determined by state law, and varies between states. Some states do not have the insanity defense at all, but all states must consider competency because it is a matter of constitutionality.

Timeframe Considered.

When evaluating competency, the judge will consider the defendant's mental state at the time of the legal proceeding and trial. When evaluating insanity, the jury will consider the defendant's mental state at the time the alleged crime was committed.

Consequences.

When a defendant is found incompetent to stand trial, it merely causes a hiatus in the criminal proceedings. In general, the mentally ill defendant is expected to receive treatment until he is deemed "restored to competence," at which point, the trial would proceed. In 1972, the Supreme Court held that a defendant deemed incompetent may not be held for a longer period than is reasonable to determine whether he will be able to attain competence in the foreseeable future.

If a defendant is found insane, he will most likely be committed to a psychiatric hospital. However, commitment procedures vary depending on the state. Some states require a commitment hearing, others do it automatically. The length of time of commitment also varies. Studies show that defendants found "not guilty by reason of insanity" are likely to spend as much or more time confined in a psychiatric hospital as they would have if they had gone to prison instead.

<https://www.psychologytoday.com/blog/so-sue-me/201411/the-difference-between-competency-and-sanity>

From a prior text

Perhaps you have heard the term "insanity" used in a legal context. "The defendant got off on an insanity plea," or "The defense failed to demonstrate insanity." What do these mean? Insanity is a legal determination of the degree to which a person is responsible for his criminal behaviors. Those deemed legally insane are thought to have little or no control over or understanding of their behaviors **at the time they committed their crimes**. Therefore, they are offered psychological treatment rather than criminal punishment, such as imprisonment or the death penalty. In America, 46 states offer a form of the insanity defense; only Idaho, Kansas, Montana, and Utah do not (Lilienfeld & Arkowitz, 2011). Many people believe that the insanity defense is frequently used, when in fact it is utilized in about 1% of cases. Of those cases, just 10-25% of insanity defenses are successful (Torry & Billick, 2010). Among those who avoided prison after entering an insanity plea was John Hinckley Jr., the man who attempted to assassinate President Ronald Reagan in 1981.

The insanity plea did not work so well for serial murderer Jeffrey Dahmer, however; in 1992 he was sentenced to 15 life terms for the horrific murders of 15 young men (PBS, 2013).

In the summer of 2012, James Holmes walked into a movie theater in Aurora, Colorado, and opened fire on the audience, killing 12 people. Holmes's attorneys entered a plea of insanity; they claim he committed the murders in a psychotic state (Ingold, 2013, September 30).

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