

OPINION

M’Naghten Rule needs return



Your Turn
Keri Strahler
Guest columnist

The M’Naghten Rule as an insanity defense was adopted in Kansas in 1884, and it involves a two-prong test.

The first prong determines whether or not the defendant knew what they were doing while the second prong determines if the defendant knew what they were doing was wrong. It was abolished in about half the states in the years after the assassination attempt on Ronald Reagan when John Hinckley Jr. was found not guilty by reason of insanity.

Republicans were in an uproar to do away with the defense and settled on a narrow “mens rea” approach in 1996 in Kansas through determination of a culpable mental state. The defendant could initially imply mental defect or disease, whereas the prosecution breaks down the defense by demonstrating a guilty mind. Mental defect, or disease is otherwise not a defense, per K.S.A. § 21-5209.

For example in *State v. McInn*, a 2018 case where the defendant claimed a DID diagnosis (multiple personalities), the prosecution presented the defendant’s force of knife cuts to Harold Sasko’s neck as relevant to her intention of killing him, (mens rea). A “culpable mental state” requires the defendant either knowingly, intentionally or recklessly committed an offense. She was found guilty and sentenced to the Hard 50.

Of the narrow mens rea approach, it was found in *Kahler v. Kansas* in the U.S. Supreme Court:

“This case is about Kansas’s treatment of a criminal defendant’s insanity claim. In Kansas, a defendant can invoke mental illness to show that he lacked the requisite *mens rea* (intent) for a crime. He can also raise mental illness after conviction to justify either a reduced term of imprisonment or commitment to a mental health facility. But Kansas, unlike many States, will not wholly exonerate a defendant on the ground that his illness prevented him from recognizing his criminal act as morally wrong.

“The issue here is whether the Constitution’s Due Process Clause forces Kansas to do so — otherwise said, whether that Clause compels the acquittal of any defendant who, because of mental illness, could not tell right from wrong when committing his crime. We hold that the Clause imposes no such requirement.

“This narrow *mens rea* approach forbids enshrined ‘moral capacity’ argument for vulnerable minorities. In Kansas, a mentally ill defendant who lacks ‘cognitive capacity’ (who, for example, thinks the person she is killing is a hat) can argue that she lacked *mens rea*, but a defendant who lacks ‘moral capacity’ (who, for example, believes she is justifiably drowning her children to save them from eternal hell) has no “insanity defense.”

The M’Naghten Rule was used in 33 recorded court cases per our Kansas Supreme Court Library, so this defense wasn’t abused until it was abolished in 1996.

From the 2023 FYI Annual KDOC Report, 46% of our adult prison population suffers with mental illness, 9% with severe and persistent mental illness. Restoring the M’Naghten Rule would broaden our insanity defense instead of building a new psych hospital in Wichita to add secure beds.

For my peers with mental illness going through criminal proceedings, it’s time to restore the M’Naghten Rule in Kansas.

Keri is the CEO of Shawnee County Mercy Advocates, a nonprofit with a mission to restore the M’Naghten Rule and help establish a mental health court in the Third Judicial District.

ANOTHER VIEW



MARC MURPHY

What’s your hurry, legislators?



Your Turn
Michael A. Smith
Guest columnist

Underpaid for years, Kansas legislators finally received a substantial pay increase this year. Instead of a paltry per diem (per day) allowance, they now receive \$43,000 per year and remain eligible for KPERS benefits.

Normally, I would argue in favor of this. It takes courage for legislators to raise their own pay and then sit for re-election before collecting it. As per the state constitution, there is no other way to do this — not even to keep up with inflation — and constituents hate it, often believing their representatives (or more accurately, the representatives from other districts) to be undeserving.

Yet political science research has shown for decades that professional legislatures produce better legislation, less likely to cause problems or be overturned in court. During session, legislators work far in excess of 40 hours per week, and it takes years to learn the ins and outs of complicated policies such as the state budget.

That said, with the hefty pay increase, one might think that the legislators would also lengthen the session. The late KU professor Burdett Loomis documented the cost of the Kansas Legislature’s short, rushed sessions all the way back in 1994.

Loomis wrote at length about the frantic, sleep-deprived, late-night sessions in which the Legislature would cobble together budgets at the last minute. Each succeeding year, they would vow to pass a budget earlier — and then do the same thing again. In 2012, Rep. Bob Bethell fell asleep driving home after the end of the session, crashed his car and died.

Now the legislators finally make decent pay. So, why the super-short session this year? They rushed the budget through so quickly that they did not even

allow time for the next round of budget estimates, which may make their numbers particularly inaccurate and require fixing later.

The legislators were in such a rush they held bulk line-item veto overrides, not taking the time to review Gov. Kelly’s proposed spending cuts one at a time.

Unfortunately, the only plausible reason for this crazy hurry is the leadership’s desire to ram through policies without allowing time for discussion, deliberation or debate.

As shown during recent town hall meetings for Sen. Roger Marshall and other members of Congress, public feedback can get raucous, particularly when programs, policies or benefits that make a real difference in people’s lives are threatened. Constituents deserve to have a voice, and if what they say is hard to hear, well, that’s why we pay you the big bucks.

Granted — and in stark contrast with the current circus in Washington, D.C. — the Kansas budget this year was largely an incrementalist one, making only small, mostly upward changes to state appropriations.

But some major “hot button” legislation passed, including a ban on Diversity, Equity, and Inclusion, a ban on gender-affirming medical care for transgender youths and some additional tax cuts on top of the huge one passed last year.

This threatens to put the state into a \$461 million shortfall by 2028. Constituents may want to talk about this, but whoops, the session’s already over! It should also be noted that the legislators shortened their session primarily by cutting the so-called “breaks.” These are — or were — the days they would go home and listen to constituents before heading back to Topeka to finish their work.

As a political scientist, I strongly support building up the institutional capacity of state legislatures, including pay. But is it too much to ask for better service in exchange for the higher pay?

With its frantic session this year, the Kansas Legislature failed to hold up its end of the deal.

Michael A. Smith is a professor of political science at a Kansas university.

To mow or not to mow: An ode to yardwork



Your Turn
Todd Thompson
Guest columnist

How do I love mowing? Let me count the ways. I’m not just ripping off an Elizabeth Barrett Browning sonnet; I actually mean it.

And if you don’t already enjoy it, I think you would if you understood all the benefits it has to offer.

There aren’t many things that sound better to me than the first pull of a mower’s cord turning into that steady hum. That hum is like a symphony to me, drowning out the cacophony of work calls, email notifications and office hustle.

Long before being elected county attorney, I discovered the mental, physical and emotional benefits of mowing back when I was a teenager. I’d mow my grandparents’ yard, which felt like a mountain, even if it was just a steep, sprawling hill.

No riding lawn mower, no self-propelled mower, just me, my push mower and my thoughts as I switch-backed across that 45-degree incline for hours every

weekend. No music, no earbuds, just that rhythmic sound of the blades spinning.

Yes, I know this sounds unbelievable. And yes, this will be the story I tell my kids, just like my dad’s tale of how he had to walk barefoot to school in six feet of snow.

Even as a kid, mowing gave me a deeper appreciation for people like my dad and so many others who worked with their hands like him. My few hours working on the weekend paled in comparison to my dad’s pouring and finishing concrete under the relentless sun. The contrast stuck with me.

In a world that often celebrates digital and intellectual accomplishments, we tend to overlook those who keep the real world running, people like my dad. These are the people who roll up their sleeves, fix what’s broken, build what’s needed and tend to what machines still cannot.

They show up, do the job, and let the results speak for themselves. They are the true backbones of our nation.

At the same time, mowing offers a kind of refuge for those of us tied to phones and desks — and for me, a courtroom. It’s a chance to disconnect. Nobody can call you. Nobody can interrupt you. It’s just you and the

yard. It’s meditative. The right balance of physical effort and mental space.

It’s not exhausting, but it’s enough to let your mind wander. That wander is where the magic happens, problems untangle and ideas connect, like the insights that come to you before falling asleep or while in the shower.

Physically, mowing gets your heart pumping and gives you a healthy dose of vitamin D. Science has also shown that just the smell of grass can boost your mood and reduce stress through a compound called cis-3-Hexenal.

Mowing provides a much-needed break from digital overload. It builds focus, calms your thoughts and gives you that immediate sense of accomplishment. Like checking off a to-do list, which fuels you to keep going. It gives you a small win — and who doesn’t need a win from time to time.

So who wouldn’t want to get outside and tame that wild mane of a lawn into a clean-cut buzz? Soak in the sun, stretch your legs, breathe the fresh air and escape for a while. Now if only this story convinces my wife to take a turn now and then.

Todd Thompson is the Leavenworth County attorney.