

CRIMINAL INSANITY: A CHANGE IN JUSTICE FOR THE MENTALLY ILL OFFENDER

Marissa Zwerner

This article argues that courts should adjudicate the culpability, or guilt, of defendants suffering from a major mental illness in the same manner as similarly-situated defendants, such as juveniles and the mentally challenged, who suffer from similar issues of capacity. The current criminal justice procedures for adjudicating the offenses of juveniles and individuals with mental handicaps, both of whom are developmentally incapable of understanding the consequences of their acts, provides a valuable model for understanding how courts should address criminals with mental illnesses.

This “new” criminal class of offense should include a modified charge that addresses the special circumstances unique to defendants with mental illnesses. Additionally, courts should modify their sentencing guidelines to protect the public at large, while still providing the necessary treatment and rehabilitation specific to this uniquely-situated population with mental illnesses.