

HOME PAGE

TODAY'S PAPER

VIDEO

MOST POPULAR

U.S. Edition ▼

SUBSCRIBE NOW

bonzeblayk ▼

Help

The New York Times

N.Y. / Region

Search All NYTimes.com

Go

WORLD

U.S.

N.Y. / REGION

BUSINESS

TECHNOLOGY

SCIENCE

HEALTH

SPORTS

OPINION

ARTS

STYLE


TRAVEL

JOBS

REAL ESTATE

AUTOS

Mentally Ill, but Insanity Plea Is Long Shot




John Marshall Mantel for The New York Times

Defense lawyers for David Tarloff, pictured here in August, must meet a difficult standard to prove insanity.

By **RUSS BUETTNER**
Published: April 3, 2013

Slouched over in the striped gray shirt that he has worn for much of his murder trial, his piercing stare disconcertingly fixed at the courtroom walls at times, [David Tarloff](#) can appear like one of the few killers whose claim to an insanity defense might be deserved.

Multimedia



FEB 16 20082:23:44 PM

Tarloff Confession

In the last three weeks, jurors have heard a long recitation of Mr. Tarloff's psychiatric problems.

Throughout his adult life, Mr. Tarloff, 45, has been prescribed antipsychotic medication to alleviate delusions and hallucinations. He has received a diagnosis of schizophrenia and been hospitalized against his will numerous times. And three months after one such commitment, Mr. Tarloff entered an Upper East Side medical office on Feb. 12, 2008, and [killed Kathryn Faughey](#), a psychologist, with a mallet and a knife.

Yet a lifetime of mental illness hardly makes an insanity defense a sure thing. Mr. Tarloff's lawyers must convince jurors, who began deliberations Wednesday, that he was so sick that day that he did not understand the consequences

FACEBOOK

TWITTER

GOOGLE+

SAVE

EMAIL

SHARE

PRINT

SINGLE PAGE

REPRINTS

MOST EMAILED


RECOMMENDED FOR YOU


6

articles viewed recently

bonze

All Recommendations






1. NEWS ANALYSIS

[How Businesses Use Your SATs](#)

2. EDITORIAL

[Antibiotic Use, and Abuse, on the Farms](#)

3. [F.D.A. Unveils Deal to Limit Antibiotic Use in Animal Feed](#)




4. FRANK BRUNI

[Our Crazy College Crossroads](#)

5. LETTER


[Families and College Costs](#)



6. OP-ED | MARK BITTMAN


[Butter Is Back](#)

7. [U.S. Students Strong at Problem Solving, but Trail Other Nations](#)



8. BIG CITY

[Standing Up to Testing](#)



9. GAIL COLLINS

[The Season of the Twitch](#)

10. INTERNATIONAL EDUCATION

[Educators Survey State of Higher Learning in Asia](#)

Go to Your Recommendations »

What's This? | Don't Show

http://www.nytimes.com/2013/04/04/nyregion/mental-illness-is-no-guarantee-insanity-defense-will-work-for-tarloff.html?_r=0

Page 1 of 3

Connect With NYTMetro

Follow us on Twitter
and like us on Facebook
for news and
conversation.



[Enlarge This Image](#)



Associated Press

Kathryn Faughey, a psychologist, who was killed by Mr. Tarloff in 2008.

of his actions: that pounding and stabbing Dr. Faughey could kill her, or that the attack was wrong.

The standard is so difficult to meet that few defendants using the insanity defense in New York win at trial. Of 5,910 murder cases completed in the last decade statewide, only seven defendants have been found at trial to be not responsible by reason of mental disease or defect, according to the state Division of Criminal Justice Services.

The state does not track how often the defense is raised. But failed attempts at the insanity defense regularly receive public attention, including Andrew Goldstein, a schizophrenic who in 1999 [pushed Kendra Webdale](#) to her death in front of a subway train, and Renato Seabra, a Portuguese fashion model who in 2011 [murdered and mutilated](#) his lover in a Times Square hotel. Both were found criminally responsible for murder.

The insanity defense is also [expected to be used](#) by lawyers defending James E. Holmes, the man accused of killing 12 people inside a movie theater in Colorado last July.

“From the perspective of the prosecution, it’s kind of like shooting fish in a barrel,” said Charles P. Ewing, a forensic psychologist, lawyer and professor at the University at Buffalo Law School. “In terms of responsibility, you have to be extremely mentally ill not to be able to understand what you are doing, or that it’s wrong.”

Mr. Tarloff’s lawyers have not challenged prosecutors on whether he killed Dr. Faughey. [His trial](#), like most involving an insanity defense, has centered on testimony from mental health experts hired by each side. Using the same set of facts, those experts typically come to completely different conclusions about the defendant’s state of mind at the moment of the alleged crime.

Jurors tend to embrace the prosecution’s theory because they fear that an insanity claim may be a ruse, and worry about dangerous people being released into the world, said Valerie P. Hans, a professor at Cornell University Law School who has studied and written about juror behavior in insanity defense cases.

“That concern will be strong and will lead jurors to take potential dangerousness into account as they are evaluating criminal responsibility,” Ms. Hans said.

However, even when the insanity defense is successful, defendants are rarely set free. Those defendants are typically sent to secure state psychiatric institutions until they are deemed no longer mentally ill or dangerous. Most will spend longer in a lockdown psychiatric center than they would have spent in prison had they pleaded guilty, said Dr. Ewing, author of “Insanity: Murder, Madness and the Law.”

“I tell my students you have to be crazy to plead insanity,” Dr. Ewing said. “And I say that because the consequences are so grave.”

For prosecutors, much hinges on the findings of the experts they hire before trial. Unlike the defense, prosecutors must turn over to the other side all of the findings from the experts they hire. So when a prosecution expert concludes that a defendant met the definition of not criminally responsible, prosecutors typically accept the plea of not

responsible and the case does not go to trial. That happened in 50 murder cases over the last decade, according to the state Division of Criminal Justice Services.

Last year, there was a rare case of a district attorney's moving to trial even after the prosecution's own expert found the defendant not responsible.

In July 2011, [David Trebilcock](#) stabbed his girlfriend's 6-year-old daughter to death in the bedroom of her home in Sherrill, N.Y. He told first responders and medical professionals that the girl, Lauren Belius, was the Antichrist and he had been sent by God to kill her.

After a trial in Utica last year, Judge Michael L. Dwyer of Oneida County, who decided the case without a jury as Mr. Trebilcock wished, concluded that Mr. Trebilcock could not be held legally responsible for the crime and said he found the opinion of the expert first hired by prosecutors most persuasive.

"His medical opinion is not for sale, no matter who is paying the bill," Judge Dwyer said.

Mr. Trebilcock, now residing in a state psychiatric center, continues to believe he did the right thing, his lawyer said.

"He knows society sees that as wrong, but he sees it as 100 percent right, doing God's will," said the lawyer, Patrick J. Marthage of the Oneida County Public Defender's office.

1 | **2** | [NEXT PAGE »](#)

A version of this article appears in print on April 4, 2013, on page A23 of the New York edition with the headline: Mental Illness Is No Guarantee Insanity Defense Will Work for Psychologist's Killer.

[f](#) [t](#) [+](#) [SAVE](#) [EMAIL](#) [SHARE](#)

Get Free E-mail Alerts on These Topics

- | | |
|---|---|
| ✉ Murders and Attempted Murders | ✉ Mental Health and Disorders |
| ✉ Tarloff, David | ✉ Decisions and Verdicts |