

New Jersey Supreme Court Alters Decades-Long Approach To Insanity Defense In Criminal Cases

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On September 9, 2013, the Supreme Court of New Jersey affirmed an Appellate Division decision in [State v. Handy](#) authored by the Hon. Jack M. Sabatino, J.A.D., which focused on a not-so-frequent scenario facing trial courts in criminal cases – the rare circumstance where a criminal defendant has both a substantive defense (like self-defense, for example) to a criminal prosecution and grounds to claim not guilty by reason of insanity.

Prior to Judge Sabatino's Appellate Division decision in [State v. Handy](#), 421 N.J. Super. 559 (App. Div. 2011) trial court judges were required by [State v. Khan](#), 175 N.J. Super. 72 (App. Div. 1980), to bifurcate criminal trials (create two separate trials) where a criminal defendant had substantive and insanity-related defenses. Under the decades-long [Khan](#) jurisprudence, a criminal defendant with an insanity defense had an initial proceeding regarding his or her mental health. If the defendant was found not guilty by reason of insanity, he or she was committed to a psychiatric facility for treatment with periodic reviews; if the insanity defense failed, a second, substantive trial would commence.

Therein is the problem with the pre- Handy approach. Under Handy-like circumstances, the defendant is not afforded the opportunity to “put on a substantive defense,” like Mr. Handy, for example, who had a self-defense claim.

In [State v. Handy](#), Judge Sabatino eschewed this approach and held that “a defendant who wishes to present a substantive defense based upon at least some evidence, or who otherwise wishes to put the State to its burden of proving the elements of the offense beyond a reasonable doubt, should not be required to first submit to a trial restricted to the issue of insanity.”

The Supreme Court of New Jersey granted Certification and agreed with Judge Sabatino, concluding that Khan’s approach was no longer a valid approach to Handy-like cases. The Supreme Court stated that “[w]e need not recite at length the scholarly explanation that Judge Sabatino, writing for the Appellate Division, offered in support of the conclusion that the Khan approach should no longer be followed[.]” and held that trials that involve both a substantive defense and an insanity defense must be unitary proceedings.