



## Crime & Punishment

James Alan Fox on criminal behavior and the justice system

### Incompetence is not injustice

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There are few areas of the law surrounding which there exist more public misunderstanding and displeasure than the issue of mental illness as it pertains to criminal prosecution and responsibility. In Connecticut, the ongoing case against Steven Hayes, a parolee who is charged with a brutal triple homicide during a 2007 home invasion in Cheshire, is stirring up quite a controversy in the court of public opinion.

Unable to communicate with an unresponsive Hayes, defense counsel is seeking to have the defendant declared mentally incompetent, a move that has caused widespread outrage in communities across the state. Dozens of angry Connecticutians have posted comments to the Hartford Courant website—tirades such as “What a joke. Justice in CT? LOL. How about a competency hearing for the judge?”

What this protester and others may not grasp is the important distinction between mental competency to stand trial and lack of criminal responsibility due to insanity. Insanity concerns the matter of whether the defendant, at the time of the alleged crime, understood what he or she was doing, as well as the fact that it was wrong. By contrast, incompetency considers whether the defendant, in his or her present state of mind, can communicate effectively with counsel and therefore assist in preparing a defense.

More important than this distinction in definition is the difference in legal implications. Whereas insanity may negate culpability (and more about this issue in future posts), incompetency only postpones the criminal proceedings until such time as the defendant is marginally well enough to comprehend and communicate. If and when the defendant regains competency, the trial proceeds. There is no advantage for the accused in such delay, and no implication regarding criminal responsibility for the crime.

Actually, there is one possible advantage, although it is a long stretch. An exceedingly long trial delay may make it difficult to prosecute if it impacts on the availability of witnesses and the quality of their recollections. However, the data on incompetency cases show that such delays are typically a matter of months, not years.

So be patient, good citizens of Connecticut. Your chance to see justice served should come in relatively short order. Delaying the system—and for good reason—hardly constitutes beating the system.