

Brief #1

Your Name:

Date Reviewed: June 06, 2019

Brief in support of the... {X} Petitioner { } Respondent

Brief Name: Brief amici curiae of 290 Criminal Law and Mental Health Law Professors filed.

Organization: Brief amici curiae of 290 Criminal Law and Mental Health Law Professors filed.

Key Facts [Make sure you include page numbers for reference]:

- Defendant is a prerequisite of justice, so it falls under the Due Process Clause (pg. 2)
- Evidence of mental abnormality to negate the *Mens rea* for the crimes charged (pg. 2)
- It's unfair to prevent the defendant, Because of routinely admissible evidence, that he lacked understanding of his actions (page 7)
- Even if he formed the charged mens rea (page 11)
- Every Jurisdiction has to prove for commitment to a secure mental facility once a defendant has been acquitted by reason of insanity (page 19)
- The insanity defense test is used to determine how much of an understanding a person has from right and wrong (page 20)
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Brief #1	
Your Name:	Date Reviewed: June 6, 2019
Brief in support of the... <input checked="" type="checkbox"/> Petitioner <input type="checkbox"/> Respondent	
Brief Name: Brief Amici Curiae of 290 Criminal Law and Mental Health Law Professors filed	
Organization: Brief Amici Curiae of 290 Criminal Law and Mental Health Law Professors filed	
<p>Key Facts [Make sure you include page numbers for reference]:</p> <ul style="list-style-type: none"> • “There is no dispute that severe mental disorder can strongly affect an individual’s cognitive and self-regulation capacities and that in extreme cases, the defects are sufficiently grave to negate any attribution of fault because such offenders do not know, understand or appreciate the wrongfulness of their actions.” (page 2) • “Although most people with mental disorders who commit crimes may be fully or partially responsible, in cases of severe disorder, the rationality and self regulation defects this Court has recognized are so substantial that the offender is blameless and should not be held responsible.” (page 6-7) • “It is unfair to prevent a defendant from proving, based on routinely admissible evidence, that he lacked rational understanding of his conduct, even if he formed the charged mens rea.” (page 8) • “Abolishing this narrowly defined and deeply rooted defense could plausibly be justified only if an alternative legal approach could reach the same just result or if irremediably deep flaws preclude fair and accurate administration of the defense.” (page 8) • “This Court has long recognized that at every stage justice demands that some people with severe mental abnormalities must be treated differently from those without substantial mental impairment because some impaired defendants are incapable of reason and understanding in a specific context.” (page 16) • “The doctrines of actus reus, mens rea, insanity, mistake, justification, and duress have historically provided the tools for a constantly shifting adjustment of the tension between the evolving aims of the criminal law and changing religious, moral, philosophical, and medical views of the nature of man.” (page 18) 	

Brief #1**Your Name:****Date Reviewed:** January 6, 2020**Brief in support of the...** ☒ **Petitioner** ☐ **Respondent****Brief Name:** Brief Amici Curiae Legal Historians and Sociologists**Organization:** Legal Historians and Sociologists**Key Facts [Make sure you include page numbers for reference]:**

- Due process is supposed to protect principles that are “fundamental to the american scheme of justice” (pg 2-3)
- These principles come from historical teachings and basic societal values (pg 3)
- Insanity and criminality has been debated for thousands of years (pg 3)
- Anglo American law held that there can not be criminality when there is a lack of understanding or ability to comprehend reality (pg 3)
- In *Sinclair v state*, all civilized nations recognized that it is “futile and useless” to punish someone who is *non compos mentis* (not sane or in one’s right mind) for an act. (pg 3)
- “Kansas’s decision to abolish the insanity defense is a historical aberration that runs contrary to the bedrock principle of moral responsibility that grounds the American legal system.” (pg 25)

Brief #1**Your Name:****Date Reviewed: 1/6/20****Brief in support of the... { 1 } Petitioner { } Respondent****Brief Name: BRIEF FOR THE AMERICAN BAR ASSOCIATION AS AMICUS CURIAE IN SUPPORT OF PETITIONER****Organization: American Bar Association****Key Facts [Make sure you include page numbers for reference]:**

- The ABA looked back at the history of the insanity defense anglo-american law and concluded that the best approach to this issue is that an individual who at the time can't comprehend the moral wrongdoing of their actions due to mental issues should not be held accountable. (page 3)
- Focuses more on an individual's specific intent, rather than a more broad surface level approach (like an individuals 'evil mind', an example used in the text)(page 3)
- The ABA not only appealed to a general audience (using logical analysis), but also appealed to traditionalists by explaining that traditionally in anglo-american societies, a mentally unfit individual would be excused of their crime (page 5)
- The mens rea approach of Kansas does not reflect traditional ways of the anglo-american criminal justice system (18)
- The ABA has proven to be a reliable data source when it comes to mental health (first mentioned in page 2)
- The mens rea approach states specifically that the individual who committed the crime needs to know what he was doing while he committed the crime(18-19).

Brief #1	
Your Name:	Date Reviewed: jun 02 19
Brief in support of the... {James K. Kahler} Petitioner {State of Kansas } Respondent	
Brief Name: Brief amici Curiae of Philosophy Professors filed	
Organization: Philosophy Professor	
<p>Key Facts [Make sure you include page numbers for reference]:</p> <ul style="list-style-type: none"> ● In order for someone to take responsibility and get convicted sanity is necessary Pg6) ● People should never be criminally punished for wrongful acts for which they are not responsible this is a fundamental principle of justice. Pg1 ● A state can onboard the demand to punish only be criminally responsible by insisting that within its orders "responsible" is defined in such a way that the mentally disorder I responsible even in cases in which they lacked a fair opportunity to Conform to law. Pg14 ● A Mentally ill defendant who is given only the opportunity to appeal to his mental disorder to negate the mental state elements of the crime is preventing him from showing that is criminal conduct was reflective to his disorder..Pg10 ● Mental disorder, especially if its severe , sometimes eliminates and frequently substantially restricts, the opportunity to conform to low. When Mens rea is caused by mental disorder. Pg7 ● Mental disorder often makes it impossible to infer anything about how its sufferer employs and exercises god capacities for rational thoughts pg(9) 	

Brief #1

Your Name:

Date Reviewed: 1/6/20

Brief in support of the... { x } Petitioner { } Respondent

Brief Name: Brief amici curiae of Philosophy Professors filed

Organization: Philosophy Professors

Key Facts [Make sure you include page numbers for reference]:

- The presence of the mental state elements of the crime, the mens rea, is necessary for criminal responsibility. But it is not sufficient - Page 2
- The excusing affirmative defenses reflect that a wrongdoer's psychological states at the time of the crime can fail to constitute responsibility thanks to their causes - Page 3
- Had he found himself in those same mental states for other reasons—from the pressure of poverty, or the simple desire to be rich— then he would have been criminally responsible - Page 3-4
- They (Philosophers) uniformly accept that the mental state elements of crimes are insufficient for responsibility - Page 4
- Being in the mental states required for a crime due to duress is one ground of excuse; being in those mental states due to infancy is another - Page 5
- There are compelling arguments for the claim that at least sometimes mental states that are a product of severe mental illness fail to suffice for criminal responsibility for the acts of wrongdoing they accompany and guide - Page 6

Brief #1**Your Name:****Date Reviewed:** January 6th, 2020**Brief in support of the...** ☒ **Petitioner** ☐ **Respondent****Brief Name:** Brief amici curiae of Idaho Association of Criminal Defense Lawyers**Organization:** Idaho Association of Criminal Defense Lawyers**Key Facts [Make sure you include page numbers for reference]:**

- Lawyers from SLLDA (Salt Lake City Division of IACDL) helped represent Tomas Herrera who tried to sue the state of Utah for abolishing the insanity defense in the state. (Page 2)
- IACDL has knowledge of how the abolition of the insanity defense has impacted the American criminal justice system, so their insight is pertinent to Kahler v. Kansas. (Page 2)
- The abolition of the insanity defense in several states has had overwhelmingly negative effects. In Idaho and Montana, an excessive amount of taxpayer dollars was put towards incarcerating those who would have otherwise been able to use the insanity defense in other states. (Page 3)
- Without the insanity defense, those who are mentally ill are being deprived of the mental health treatment they truly need. (Page 3)
- In the case of Mr. David Card, his inability to not guilty by reason of insanity led to him being sentenced to death, which his legal team spend 18 years fighting. There was a lot of unnecessary litigation and money spent on this case. (Page 4)
- By allowing defendants to use the insanity defense, it sends a message and catalyzes change in the world of mental health. Allowing defendants to plead insanity allows them to get the mental help they need, which is extremely important in our current era. (Page 9)

Brief #1**Your Name:****Date Reviewed: Aug 09, 2019****Brief in support of the... {X} Petitioner { } Respondent****Brief Name: Brief amicus curiae of Lynn Denton, et al. filed. (Distributed)****Organization: Brief amicus curiae of Lynn Denton, et al. filed. (Distributed)****Key Facts [Make sure you include page numbers for reference]:**

- A defendant can present evidence of a mental disease or defect to not approve the prostictions argument that required mens rea or mental state. (Page 9)
- States have the flexibility to chanel mental issues into the requirements of the mens rea because the constitution does not deny flexibility. (Page 10)
- The Court does not demand that all states make the insanity defense available. (Page 10)
- The due process does not impose a single formulation of legal insanity. (Page 11)

Brief #1

Your Name:

Date Reviewed: January 6th, 2020

Brief in support of the... { x } Petitioner { } Respondent

Brief Name: Brief amici curiae of Idaho Association of Criminal Defense Lawyers, et al. filed

Organization: Idaho Association of Criminal Defense Lawyers, et al.

Key Facts [Make sure you include page numbers for reference]:

- Only four states have no insanity defense: Utah, Montana, Idaho, and Kansas. (8)
- The consequences of abolishing the law has been negative in Montana and Idaho: there is less effective mental health treatment to those that need it, and it costs taxpayers a lot of money. (9)
- To find the abolishment of the insanity defense unconstitutional would mean that the states involved would be able to apply more efficient and effective means to battle mental health. (9)
- One man, a man named Mr. Card, argued in the state of Idaho that he was mentally incompetent to be found guilty on two charges of first-degree murder, but he was found guilty and sentenced to death, then his was then in constant litigation between the federal and state courts, costing taxpayers a lot of money. (10)
- Had Idaho allowed Mr. Card to plea the insanity defense, then he would've probably been found not guilty by reason of insanity and he would have been given proper mental health treatment. (13)
- In Montana the abolition of the insanity defense does not allow the addressing of mental illness. (15-16)
- The abolition furthers goals of education and society, according to Montana. (17)

Brief #1

Your Name:

Date Reviewed: June 5th, 2019

Brief in support of the... { Yes } Petitioner { } Respondent

Brief Name: Brief of National Association of Criminal Defense Lawyers.

Organization: National Association of Criminal Defense Lawyers.

Key Facts [Make sure you include page numbers for reference]:

- In the brief i am currently reading. They go on to provide many precedents of the case that relate to the current case we are learning, and back it up by presenting other cases that were granted insanity defense due to the fact that they couldn't comprehend right from wrong while performing the act.
- In People v. Skinner, the Supreme Court of California reversed Jesse Skinner's second-degree murder conviction where the trial court found, "on clearly sufficient evidence," that he "could not distinguish right and wrong." As a result of Skinner's mental illness, the trial court found, he held a delusional belief that he had "a Godgiven right to kill" his wife, and believed his doing so was "with complete moral and criminal impunity" and "not wrongful because it is sanctified by the will and desire of God." The California Supreme Court held that under the State's insanity test, a defendant could establish insanity based on a showing that he "was incapable" either "of knowing or understanding the nature and quality of his or her act" or "of distinguishing right from wrong" at the time of the offense.
- Based on the record, the high court found that although Skinner "knew he was committing an act that would, and was intended to kill a human being," but he "was not able to comprehend that the act was wrong because his mental illness caused him to believe that the act was not only morally justified but was expected of him."
- So too in State v. Cameron, the Supreme Court of Washington reversed Gary Cameron's conviction for first-degree murder, holding that the jury had been erroneously prevented from considering Cameron's insanity defense based on his delusional belief that he was following a command from God. The court 16 found that while Cameron appeared to understand his actions in killing his stepmother, and intended their natural consequences, he could not distinguish between right and wrong at the time of his act due to delusions that the act was ordained by God. The court noted that after the crime, Cameron made no attempt to conceal the victim's body, and was seen downtown "wearing only a pair of women's stretch pants, a woman's housecoat, a shirt and no shoes." The following day, police apprehended him "wandering along the shoulder of the interstate "wearing only the stretch pants and one shoe," such that he was actually "thought to be an escapee from a nearby mental hospital." Cameron promptly confessed, stating among other

things that his stepmother had practiced "sorcery" and "witchcraft" and that while he knew his act was against the law, "as far as right and wrong in the eye of God," he felt he had done "no particular wrong."

- A final example is *People v. Horn*. Horn had fueled her car at a gas station but lacked the means to pay the attendant, and told the attendant that someone was bringing money to her. When the attendant suggested Horn move her car so as not to block others. Horn booked it and while pursued by another attendant on a motorcycle as she approached a red light, Horn pumped the brakes entering the intersection, where she killed another motorcyclist. At trial, The appeals court observed that "[t]here was no real evidence that [Horn] could not understand the nature and quality of her act," as "it [was] clear that she was aware that she was driving her car, was being followed by the gas station attendant on his motorcycle, and that she was entering an intersection on a red light," but noted that the trial court "expressly found that [Horn] was incapable of distinguishing between right and wrong at the time of the incident." Because Horn's mental illness critically impeded her moral capacity, the court found her not guilty by reason of insanity.
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Brief #1**Your Name:****Date Reviewed: 6/7/19****Brief in support of the... { x } Petitioner { } Respondent****Brief Name: Brief amici curiae of the American Civil Liberties Union and the ACLU Foundation of Kansas in Support of the Petitioner****Organization: ACLU****Key Facts [Make sure you include page numbers for reference]:**

- Opening of the summary of the argument (Page 2) states "It is a long-standing tenet of our democracy— and indeed of free societies generally—that criminal punishment should be levied only on those who are responsible for their crimes."
- Kansas Law only takes total Mens rea into account (Page 2)
- "State supreme courts have consistently recognized that the insanity defense is so deeply rooted in the American system of justice as to be required by the Fourteenth Amendment." (Page 8)
- The cases in which the abolishment of the insanity defense occurs is based mainly on John Hinckley's use of the insanity defense, where he used it to defend his attempted assassination of Ronald Regan in 1981
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Brief #1	
Your Name:	Date Reviewed: 1/6/20
Brief in support of the... { * } Petitioner { } Respondent	
Brief Name: BRIEF FOR THE AMERICAN BAR ASSOCIATION AS <i>AMICUS CURIAE</i> IN SUPPORT OF PETITIONER	
Organization: American Bar Association	
Key Facts [Make sure you include page numbers for reference]: <ul style="list-style-type: none"> • The ABA opposes the decision that someone can be convicted of a crime and get the death sentence even though they didn't know right from wrong because of a mental disorder. (4) • ABA uses commonly - known rationales for a punishment. (4) • ABA established the Criminal Justice Mental Health Standards Project in 1981 to address the effects of mental illness on a criminal case. (7) • Proposes different disciplinary solution for convicted criminals with a mental illness. (7) • Before the constitution was drafted early Anglo - American tradition rejected that the mentally ill were not responsible for their actions. (12) • The ABA is against the Mens Rea approach because it goes against the insanity defense saying that their actions were wrong. (18) 	

Brief #1	
Your Name:	Date Reviewed: 1/6/20
Brief in support of the... { X } Petitioner { } Respondent	
Brief Name: Brief Amicus Curiae of Professor John F. Stinneford in Support of Neither Party	
Organization: John F. Stinneford	
<p>Key Facts [Make sure you include page numbers for reference]:</p> <ul style="list-style-type: none"> • John Stinneford reasoned that not having the insanity defense would make one with a mental issue's condition worse, as they could be placed in prison. This would be cruel and unjust because having someone like Kahler who has many mental challenges be placed in a jail cell for a long time could drive them to more issues. This would violate the Eighth Amendment. (Page 3) • The Principle of Proportionality states that those who committed crimes should be punished based on the crime committed, and how much damage they did. (Page 8) • In the Bill of Rights, it was understood that "excessive or disproportionate punishments" would be prohibited, as they weren't necessary. (Page 9) • Since the Eighth Amendment was, "adopted as an admonition to all departments" of the government, Congress should not have the same power to give disproportionate punishments. (Page 16) • The Eighth Amendment was created in order to make sure that all crimes receive a fair punishment, based on the crime committed. (Page 16) • It was decided "that the govern- mental power to punish should be limited by customary retributive notions of proportionality" (Page 10) 	

Brief #1

Your Name:

Date Reviewed: 1/6/2020

Brief in support of the... { ✓ } Petitioner { } Respondent

Brief Name: Philosophy Professors Filed

Organization: ?

Key Facts [Make sure you include page numbers for reference]:

- One of Kahlers arguments for the case is that people shouldn't be criminally punished for something they aren't responsible for due to mental stability. (page 1)
- Criminal responsibility has to have certain psychological background, "causal history" (page 14)
- Kahlers crimes were a result of his mental illness (page 10)
- Mental disorders can impair your judgement (page 7&8)
 - Basically saying because of Kahlers mental illness he didn't know what he did
- Kahler killed his family for his own good (page 9)
- Kansas should have the insanity defence to have a difference for the responsible and irresponsible due to mental illness

Brief #1**Your Name:****Date Reviewed:** 1/6/2020**Brief in support of the...** {x} Petitioner { } Respondent**Brief Name:** Brief of Amici Curiae Legal Historians And Sociologists In Support Of Petitioner**Organization:** Attorneys for Amici Curiae**Key Facts [Make sure you include page numbers for reference]:**

- The Courts primary guide in determining wheater or not a right is "fundamental" is historical practice (p3)
- The insanity defense has been a part of the American justice system for hundreds of years (p3)
- The law does not base criminality based solely on intent (p5)
- The basis of justice is to recognize right from wrong, or good from evil (p5)
- Plato believed that intentional killings should be more harshly punished than unintentional ones (p6)
- End of twelfth century began to question what makes an act morally blameworthy (p9)

Brief #1

Your Name:

Date Reviewed: 1/6/20

Brief in support of the... { X } Petitioner { } Respondent

Brief Name: Brief for the American Bar Association as Amicus Curiae in Support of Petitioner

Organization: American Bar Association

Key Facts [Make sure you include page numbers for reference]:

- ABA found that the insanity defense has a long history and has existed since many centuries ago (page 1)
- ABA *Criminal Justice Mental Health Standards* has been quoted in more than 120 U.S. Supreme Court Opinions and 700 federal court opinions, so this organization is very reliable and trusted (page 2)
- After comprehensive historical review, ABA adopted a standard stating that a mentally insane person should not be held accountable for a crime they committed because they were unaware of their actions at the time of the crime (page 3)
- ABA believes the mens rea approach is not equivalent to the insanity defense (page 6)
- Many organizations (6 task forces) came together to study and examine the legal history, trying to find evidence to support the insanity defense (page 5-6)
- ABA's constant research concluded "that moral blameworthiness is an indispensable principle of the Anglo-American civil law," leaving the organization to believe that mens rea approach is inconsistent (page 11-12)
- ABA argues that our court system only punishes individuals who should be held morally responsible for their actions, not those who aren't competent
 - ABA rejects mens rea because it fails "to meaningfully advance the integrity of the legal process or the criminal justice system" (page 21)

Brief #1**Your Name:****Date Reviewed: June 7th 2019****Brief in support of the... { X } Petitioner { } Respondent****Brief Name: Amicus Curiae of Professor John F. Stinneford In Support Of Neither Party****Organization: Counsel for Amicus Curiae****Key Facts [Make sure you include page numbers for reference]:**

- The insanity defense is a principle that ensures that a person who is not individually culpable does not receive any cruel or unusual punishments. The Kansas law allows cruel and unusual punishments, regardless if they are culpable or not. Kansas exceeds the eighth amendment's constitutional limits by not comparing culpability to liability. (page 2)
- The common law of the Eighth Amendment that forbids cruel and unusual punishments, has preexisting meaning and was meant to be a long standing usage and "custom" in both England and the United States. (3-4)
- The law has long been adhered to the idea that "those who are under a natural disability of distinguishing between good and evil, are not punishable by any criminal prosecution ever. (page 25)
- The specific parameters of the insanity defences used by federal and state courts, have evolved over time but a central question is to whether mental disease or defect has robbed the defendant of the capacity to know that his conduct was unlawful. (page 25)
- Kansas' abolition of the insanity defense appears to be a jarring departure from longstanding common law which would have resulted in punishment in excess of culpability, violating the eighth amendment. (page 27)
- In nearly every state, however different the test is, the law continues to incorporate the principle that criminal punishment is not acceptable for those who cannot tell right from wrong. (26)

Brief #1

Your Name:

Date Reviewed: 1/6/20

Brief in support of the... ☒ Petitioner (James Kraig Kahler) ☐ Respondent

Brief Name: Brief Amici Curiae of the American Civil Liberties Union and the ACLU Foundation of Kansas

Organization: ACLU (American Civil Liberties Union)

Key Facts [Make sure you include page numbers for reference]:

- The ACLU is an organization that supports liberty and equality within the U.S. constitution; involved in many criminal justice cases; enforces constitutional rights (Page 2)
- M'Naghten Rule: Criminal punishments should only be charged against those who are responsible for their crimes (Page 2)
 - "It recognizes that in instances where mental illness precludes an individual from understanding the nature and quality of his acts, or distinguishing right from wrong, the individual is not morally culpable and cannot be found guilty of a crime."
- Only Kansas, Alaska, Idaho, Montana, and Utah in the U.S. do not use the insanity defense (Page 2)
 - Kansas found that the insanity defense violated the Eighth Amendment's protection from cruel and unusual punishment
- Insanity defense states that criminal charges cannot be applied against those who are unaware of what they've done wrong (Page 3)
- Argues that he should not be held responsible for his crimes because he was not aware of what he was doing due to his mental illness (protected under insanity defense)
- Not giving defendants the insanity defense deprives them of the opportunity to understand what they have done is wrong; they will never be able to understand the punishments behind their actions and this violates the Fourteenth Amendment's Due Process Clause (Page 3)
- The insanity defense is necessary, many prisons are not equipped to help people with mental illnesses therefore they will not receive the help that they need (Page 4)
 - Serves no medical or penological purpose
- Mens Rea approach (allowed by Kansas) is not enough to help the mentally ill; it questions whether or not someone meant to commit the crime intentionally or not
- "Without it [the insanity defense], individuals who lack the ability to appreciate the wrongfulness of their behavior are nonetheless convicted, punished, and remitted to an incarceration system that provides little opportunity for treatment or rehabilitation." (Page 5)
- The Eighth Amendment's prohibition against cruel and unusual punishment and the Fourteenth Amendment's Due Process Clause require states to provide the insanity defense in trial (Page 6)
- Due Process clause protects fundamental rights ---> fundamental rights are rooted in history ---> insanity defense is deeply rooted in American history ---> Kansas took away the insanity defense ---> the Due Process Clause is violated
- Abolishing the insanity defense serves no legitimate penological purpose (Page 10)
 - "The criminal acts of defendants found to be legally insane arise from a lack of understanding produced by severe mental disability, and thus do not reflect culpability in any meaningful sense. To convict such people offends our sense of justice."
- The insanity defense is not overused (Page 19)
- Insanity defense does not put society in danger because the criminals are not being released to the public (Page 20)
- Defendants do not fake insanity

Brief #1

Your Name:

Date Reviewed: 6/7/19

Brief in support of the... ☒ Petitioner ☐ Respondent

Brief Name: The American Civil Liberties Union and the ACLU Foundation of Kansas

Organization: ACLU

Key Facts [Make sure you include page numbers for reference]:

- The American Civil Liberties Union ("ACLU") is a nationwide, nonprofit, nonpartisan organization pg 1
- criminal punishment should be levied only on those who are responsible for their crimes pg 2
- For most of our history, every state has recognized an insanity defense. Today, just five states—Kansas, Alaska, Idaho, Montana, and Utah—have departed from the norm and eliminated this defense. Pg 2
- Depriving defendants who have severe mental illness and lack the capacity to appreciate the wrongfulness of their actions of a defense to criminal conviction "offends . . . principle[s] of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental pg 3
- The Eighth Amendment prohibits penalties that serve no legitimate penological purpose, yet convicting persons whose mental disabilities prevent them from distinguishing right from wrong pg 3
- Social science studies and data demonstrate overwhelmingly that prisons are ill-equipped to treat people with mental illness, and that incarcerating such individuals not only serves no valid penological or medical purpose but actually increases the likelihood that these people will recidivate pg 4

Brief #1

Your Name:

Date Reviewed: 1/6/20

Brief in support of the... ☒ Petitioner { } Respondent

Brief Name: Brief *Amicus Curiae* of Professor John F. Stinneford in Support of Neither Party

Organization: John F. Stinneford

Key Facts [Make sure you include page numbers for reference]:

- John Stinneford supported Kahler (the petitioner) because he reasoned that since Kahler is mentally challenged, it would be a cruel and unusual punishment to put him in prison. Thus, this would violate the Eighth Amendment. (page 3)
- The Principle of Proportionality states that the punishment given should be equal to the crime's damage. (page 8)
- When the Eighth Amendment was established from a clause from the English Bill of Rights: "Cruell and Unusuall Punishments' Clause" (page 10). This Clause was added to the Eighth Amendment to avoid punishments that do not mirror crime. (page 16)
- Cruel and unusual punishments can be dated back centuries and even then it was thought of as wrong. Stinneford explained that giving a cruel and unusual punishment can be considered a crime itself because it is unnecessary. (page 19)
- The insanity defense is necessary because it "is a longstanding common law safeguard for distinguishing those who are truly culpable—and thus deserving of punishment—from those who are not" (page 28).
- Abolishing the insanity defense would violate the Cruel and Unusual Punishments Clause. (page 28)

Brief #2

Your Name:

Date Reviewed: August 9, 2019

Brief in support of the... { X } Petitioner { } Respondent

Brief Name: Brief of Amici Curiae of State of Utah, et. al.

Organization: State of Utah, et. al.

Key Facts [Make sure you include page numbers for reference]:

- The Due Process Clause and the Eighth Amendment do not require states to provide the insanity defense. (Pg. 1).
- "Our federal system recognizes the independent power of a State to articulate societal norms through criminal law." It is the state's decision whether or not to use the insanity defense. (Pg. 4).
- Mens Rea, "Offends a "fundamental" principle because it provides no "mechanism to excuse criminal defendants whose mental states render them blameless," and "moral culpability" is "the essential prerequisite for criminal punishment." (Pg. 7).
- M'Naghten's moral capacity standard has not achieved "the uniform and continuing acceptance we would expect for a rule that enjoys 'fundamental principle' status." (Pg. 7).
- "States today routinely impose criminal liability irrespective of an accused's moral capacity." (Pg. 15).
- "Constitutionalizing a moral capacity defense would commit the Court to substantial policymaking and produce troubling consequences." (Pg. 19).

Brief #1

Your Name:

Date Reviewed:1/6/20

Brief in support of the... { James k. Kahler } **Petitioner** { State of Kansas } **Respondent**

Brief Name: Brief amici curiae of 290 Criminal Law and Mental Health Law professors filed.

Organization: 290 Criminal Law and Mental Health Professors

Key Facts [Make sure you include page numbers for reference]:

- (pg 4)Believes the men's rea alternative is not fair as opposed to the affirmative defense which is.
 - Mens rea- the mental state a person is when they commit the crime.
 - If the person is able to form intent for a crime they are basically guilty in Kansas's form of the insanity defense.
- Pg (21 and 22) it is very difficult to fake being legally insane. Because the insanity defense is used in less than 1% of cases and is rarely successful, people faking would, therefore, have an even harder time succeeding as professions are able to recognize using their knowledge if someone is lying. They go in a mental hospital anyway, I don't know if that's better than jail.
- There is a historical precedent. Only four other states have abolished it. Banning it would be against the longheld moral belief our country has that explains that if the defendants don't have the mental capacity to believe its actions are wrong or to understand its actions altogether. NO other way to have equal justice. (pg 23)
- People argue that there is a danger to public safety, but there is not. The defendant would be committed to a mental facility. (pg 19)
- (pg 12) A person's mental state does not interfere with their ability to go out and complete an action, it doesn't affect them physically. Mental disorders affect a person's motivations and can cause them to become more irrational, this allows them to form men's rea/intent
- (pg 13 and 14) A person can completely plan out murder and have intent, however there thinking is irrational and they do not realize that. A defendant can recognize that their behavior violates the law, but there thinking is so muddled that they believe so much they have to break the law and there think its right. Often people hear god in their heads and trust that more than law and follow the voice in their head. They have the intent to kill but believe its an order from god.

Brief #1	
Your Name:	Date Reviewed: 1/6/20
Brief in support of the... { } Petitioner { } Respondent	
Brief Name: AMERICAN PSYCHIATRIC ASSOCIATION	
Organization: American Psychiatric Association	
<p>Key Facts [Make sure you include page numbers for reference]:</p> <ul style="list-style-type: none"> • The idea of insanity was thought about a long time before modern law, in the 5th century BC. Pg. 11 • Throughout time, the insanity defense was for people who were unable at the time they committed the crime to know that it was wrong or that they did it. Pg. 11 • "The two primary objectives of criminal punishment are retribution and deterrence." Pg. 22 • Modern science concludes that mental illness can severely impair one's thoughts to the point where they do not know what they are doing is wrong. Pg. 25 • Affirmative defence in a Federal Statute, if the person was mentally ill at the time they were committing the act. Pg. 17 • The Due Process clause prohibits punishment of a mentally ill person who, while committing a crime, did not know that what they were doing was wrong. Pg. 6 	

Brief #1

Your Name:

Date Reviewed: june 7 2019

Brief in support of the... { x } Petitioner { } Respondent

Brief Name: Brief amici curiae of Idaho Association of Criminal Defense Lawyers, et al. filed.

Organization: Idaho association of criminal defense lawyers

Key Facts [Make sure you include page numbers for reference]:

- Kansas, Idaho, Montana, Utah only states without insanity defense
- there are only negative consequences if those jurisdictions were to be abolished
- Results in large expenditures of taxpayer money and is less effective on mental health treatment
- medicating an individual who is actively challenging the charges against him, at either trial, raises a lot of concerns
 - They could restore competence and subject him to a criminal sentence in an even more corrective environment
- When a defendant is found not guilty by reason of insanity, he can get the treatment needed without confrontation and moral questioning 9
- Because insanity is not a defense, criminal cases can involve people whose misconduct evidences illness rather than their criminality
- Having an insanity defense will heavily affect society and weigh in a large monetary cost, however this is better than the emotional cost of those who are not properly treated.

Brief #1**Your Name:****Date Reviewed: 1/6/2020****Brief in support of the... { X } Petitioner { } Respondent****Brief Name: Brief of *Amici Curiae* Legal Historians And Sociologists In Support of Petitioner****Organization: Legal Historians and Sociologists****Key Facts [Make sure you include page numbers for reference]:**

- The defendant's ability to determine/recognize if their action was good or evil (Page 5)
- A case involving the insanity defense that occurred back in 1505 should be reviewed/used as a precedent towards making a decision currently (Page 12)
- The insanity defense is not a modern topic, but a topic that has been discussed for thousands of years from Hebrew scholars and Greek philosophers in the fifth and sixth centuries (Page 3)
- Forty-five states have affirmative insanity defense for defendant's that lack of moral culpability and that the M'Naghten Rules help provide the basis of an insanity defense (Page 24)
- One's madness/act can be derived from one's mental illness; a case that occurred in the 1800's that references one's madness is protected by the law due to one's delusions/mental illness (Page 17).
- Someone that is unable to make moral judgements should not be criminally held at fault and that in past history, insanity can be used as a pardon of criminal liability (Page 24)

Brief #1**Your Name:****Date Reviewed: 1/6/20****Brief in support of the... { X } Petitioner { } Respondent****Brief Name: Brief for the American Bar Association as Amicus Curiae in Support of Petitioner****Organization: American Bar Association****Key Facts [Make sure you include page numbers for reference]:**

- ABA found that the insanity defense has a long history and has existed since many centuries ago (page 1)
- ABA *Criminal Justice Mental Health Standards* has been quoted in more than 120 U.S. Supreme Court Opinions and 700 federal court opinions, so this organization is very reliable and trusted (page 2)
- After comprehensive historical review, ABA adopted a standard stating that a mentally insane person should not be held accountable for a crime they committed because they were unaware of their actions at the time of the crime (page 3)
- ABA believes the mens rea approach is not equivalent to the insanity defense (page 6)
- Many organizations (6 task forces) came together to study and examine the legal history, trying to find evidence to support the insanity defense (page 5-6)
- ABA's constant research concluded "that moral blameworthiness is an indispensable principle of the Anglo-American civil law," leaving the organization to believe that mens rea approach is inconsistent (page 11-12)
- ABA argues that our court system only punishes individuals who should be held morally responsible for their actions, not those who aren't competent
 - ABA rejects mens rea because it fails "to meaningfully advance the integrity of the legal process or the criminal justice system" (page 21)

Brief #1

Your Name:

Date Reviewed: 1/6/2020

Brief in support of the... { X } Petitioner { } Respondent

Brief Name: BRIEF OF AMICUS CURIAE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS IN SUPPORT OF PETITIONER

Organization: The National Association of Criminal Defense Lawyers

Key Facts [Make sure you include page numbers for reference]:

- Purposes of punishment don't justify punishing someone with a lack of moral capacity
 - Reasons: Retribution, Deterrence, Rehabilitation, Incapacitation
 - If one isn't morally responsible, then there is no retribution in punishing someone who doesn't understand what they've done is wrong (5)
 - If someone doesn't know what they've done is wrong, then punishment cannot act as a deterrent as they can't see the faults in their actions (5)
 - By denying one who is mentally ill aid, we are preventing their rehabilitation (5)
 - By holding a mentally insane person in prison (incapacitation), we aren't providing them the services they need, and if they're released back into society it isn't dependent on their "level of insanity," but is just when their time expires. (6)
- The Insanity defense has been seen and used all throughout history. (6-7)
 - Rooted in ancient Greek, Hebrew, and Roman law, as well as existing in old english law
- Abolishment of law allows for those who are more commonly seen as insane, not being capable of understanding their actions, to be both imprisoned and executed (9)
 - Insanity Defence rarely used, usually failing, so why limit it more?
- Cases of Delusions, which are plentiful, would be excluded from the Insanity Defence
 - "Satanic Delusion Cases"
 - God's Demands Cases
 - General Delusions

Brief #1

Your Name:

Date Reviewed: 1/6/2020

Brief in support of the... {x} Petitioner { } Respondent

Brief Name: Brief amici curiae of American Psychiatric Association et al.

Organization: American Psychiatric Association

Key Facts [Make sure you include page numbers for reference]:

- Mental Health America (MHA) interested in providing treatment to those who commit crimes with mental health issues rather than putting them in jail (pg. 3)
- Kansas ruled that someone cannot use the defense of not knowing right from wrong in a court. Mental diseases and defects cannot be used as excuses.
 - "Effective January 1, 1996, Section 22-3220 of the Kansas Statutes (now codified at § 21-5209) "abandons lack of ability to know right from wrong as a defense." App. 35a. Instead, the statute provides that "[i]t shall be a defense to a prosecution under any statute that the defendant, as a result of mental disease or defect, lacked the culpable mental state required as an element of the crime charged" but that "[m]ental disease or defect is not otherwise a defense." (pg. 4)
- The question about M'Naughten- "whether the mental illness had deprived the defendant of the capacity to know what 'normal' people know about their behavior" did the defendant have an understanding of a 'normal' person's behavior?
- - "Imposition of Criminal Punishment on Individuals Who, as a Result of Mental Disorder, Are Unable To Know That Their Conduct Is Wrongful Undermines the Moral Basis of the Criminal Law" (pg. 22).
- "Kahler was not permitted to introduce evidence that he lacked the ability to tell right from wrong, and the experts for the defense and prosecution did not address that issue." (pg. 6)
 - The experts did not even think about the fact that Kahler could have some sort of mental disease that alters the way he sees/knows things.
- " ("The mens rea approach . . . abandons lack of ability to know right from wrong as a defense."). And, for all of the reasons discussed above, merely allowing a defendant to put in evidence that he lacked the mental state required by the definition of the offense charged does not adequately protect the fundamental principles of criminal justice that the insanity defense has traditionally served." (pg. 25)
 - Kansas will not allow the insanity defense because simply saying that the person was not in the correct mental state at the time of the crime and/or the time of the trial is not an acceptable excuse for whatever crime they have committed and the defense does not help protect the principals of criminal justice.