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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A12-0586  
A12-0613**

State of Minnesota,  
Appellant (A12-0586),  
Respondent (A12-0613),

vs.

Jonas Gerald Grice,  
Respondent (A12-0586),  
Appellant (A12-0613).

**Filed March 4, 2013  
Affirmed  
Bjorkman, Judge**

Dakota County District Court  
File No. 19HA-CR-10-2397

Lori Swanson, Attorney General, St. Paul, Minnesota; and

James C. Backstrom, Dakota County Attorney, Phillip D. Prokopowicz, Jessica Bierwerth, Assistant County Attorneys, Hastings, Minnesota (for respondent State of Minnesota)

David W. Merchant, Chief Appellate Public Defender, Bridget K. Sabo, Assistant Public Defender, St. Paul, Minnesota (for appellant Jonas Grice)

Considered and decided by Connolly, Presiding Judge; Stauber, Judge; and  
Bjorkman, Judge.

## UNPUBLISHED OPINION

**BJORKMAN**, Judge

Appellant challenges his conviction of second-degree intentional murder, arguing that he presented sufficient evidence to establish his mental-illness defense. We affirm.

### FACTS

Appellant Jonas Grice was indicted on charges of first-degree premeditated murder and second-degree intentional murder relating to the July 12, 2010 shooting death of A.H. Grice pleaded not guilty by reason of mental illness. In a bifurcated trial, Grice waived his right to a jury trial, pleaded guilty to second-degree intentional murder in exchange for the dismissal of the other charge, and presented his mental-illness defense to the court. His guilty plea and the witness testimony established the following facts.

#### **Grice's history of mental illness**

Grice was diagnosed with paranoid schizophrenia in 2005, at the age of 22, after a psychotic break during which he demolished everything in his bedroom. He was civilly committed and remained in the hospital for three months. While in the hospital, Grice began seeing psychiatrist Paul Ekberg, D.O., who prescribed anti-psychotic medications and continued to treat Grice thereafter. Grice took his medications only sporadically and sometimes delayed appointments for months or years. Though Grice experiences stretches of relative stability, he suffers recurring paranoid delusions and fears being attacked by others. His delusions commonly center on a belief that other people monitor him because of a criminal-sexual-conduct offense he committed in 2004. Grice also experiences various visual and auditory hallucinations, or "illusions," in the form of

moaning or screaming coming from the sound of tires on the road. His usual coping mechanism is to withdraw from social contact. Grice's paranoia has made it difficult to maintain regular employment, and he continues to live with his parents.

### **July 12-13, 2010**

Late in the afternoon on July 12, Grice left his parent's house to get the oil in his car changed. The place Grice went to have the oil changed was crowded, which made Grice feel paranoid, so he decided to wash the car instead. He drove to a car wash, arriving shortly before 6:00 p.m., and parked in a stall adjacent to a vending area.

As Grice was washing his car, B.D. and A.H. pulled into the car wash in B.D.'s car and parked near the vacuum station. B.D. exited his car and walked toward the vending area to get change for the vacuums. He and Grice began exchanging insults. B.D. then returned to his car and told A.H. about the encounter. A.H. suggested that they confront Grice, so the two men returned to the area where Grice had been washing his car.

Grice was sitting in his car when B.D. and A.H. approached. Grice retrieved his gun from underneath the driver's seat, tucked it into the waistband of his pants, pulled his shirt over it, and exited the car. A.H. asked Grice what his problem was with B.D. and shoved Grice; Grice shoved him back. B.D. ran around to the other side of the car wash to close the garage door behind Grice. When B.D. came around the other side of the building, he saw A.H. lying on his back. A few seconds later, B.D. heard a gunshot and A.H. screaming. B.D. turned and ran toward a nearby video store to call 911. B.D. heard

several more gunshots as he ran, with several seconds between them. Grice got in his car and calmly drove away. When police arrived shortly thereafter, A.H. was dead.

Grice drove to the home of his girlfriend, G.S., in St. Paul. He showed G.S. the gun but did not tell her about what happened at the car wash. Grice emptied the gun on the bed, and G.S. noticed that some bullets were missing. Grice said, "Self-defense." G.S. took the gun from Grice, washed it, and hid it. When the two saw reports of the shooting while watching the news later that evening, G.S. was concerned that the description of the car matched Grice's car and asked him about it. He again said only "self-defense" and would not respond to additional questions.

The next day, Grice drove G.S. and their child to the child's medical appointment. Grice took a different route than usual on the way to the appointment, and on the way home Grice stopped about five minutes from G.S.'s house and told her to take the child and walk the rest of the way. Grice then returned to his parents' house.

Grice's father also had seen news reports about the shooting and was concerned. He questioned Grice, who said that he "didn't start it" and that someone had come up to him "as though he played football or something." But Grice would not discuss the incident further and instead mowed the lawn, took a shower, and received a haircut from his parents. Believing Grice was involved in the shooting, Grice's parents encouraged him to stay with G.S. and their child at a motel for the night to ensure they would know where he was. Grice's father came to the motel and convinced Grice to turn himself in to police.

### **Expert testimony**

During the mental-illness phase of Grice's trial, the district court heard testimony from four expert witnesses. All four experts agreed that Grice suffers from paranoid schizophrenia and that his mental illness did not prevent him from knowing the nature of his action when he shot A.H. But they disagreed as to the other prong of the mental-illness defense—whether Grice's mental illness prevented him from knowing that his action was wrong.

The court-appointed psychologist, Bruce Renken, Ph.D., opined that Grice was legally mentally ill at the time of the offense. Dr. Renken testified that Grice was in a psychotic state, which caused him to be extraordinarily afraid and to believe he was being ambushed when B.D. and A.H. approached him. According to Dr. Renken, Grice's state of fear was "so much out of proportion to reality" that it left him unable to "rationally appraise the situation to determine what would be right, whether—you know, say, a violent act would be right or wrong."

Wayne Siegel, Ph.D., a clinical psychologist whom Grice retained, also opined that Grice was legally mentally ill at the time of the offense. Dr. Siegel testified that Grice was paranoid and experiencing auditory hallucinations on the day of the shooting, with his paranoia "at delusional levels" at the point of the confrontation with A.H. Dr. Siegel explained that Grice shot A.H. as a result of a grossly altered reality, borne of Grice's mental illness, in which Grice believed he needed to shoot A.H. to defend himself. Grice therefore did not know that his action was wrong.

Forensic psychiatrist Michael Farnsworth, M.D., opined that Grice was not legally mentally ill at the time of the offense. Dr. Farnsworth testified that Grice's decision to shoot A.H., rather than taking other action, was inconsistent with a claim of delusional self-defense, as was his departure from the scene after the shooting. Dr. Farnsworth explained that, in his experience, mentally ill patients "who truly believe they're acting in self-defense" will "stand their ground and will argue it." He would not expect to see one who "feels that they've acted just-fully, . . . running away, hiding, or not revealing information about it." Dr. Farnsworth thus considered Grice's immediate departure and evasive conduct after the shooting indicative of awareness that his action was wrong.

James Gilbertson, Ph.D., a licensed psychologist, also opined that Grice was not legally mentally ill at the time of the offense. Dr. Gilbertson testified that Grice exhibited normal behavior shortly after the incident without medical intervention, which is inconsistent with a psychotic break. Dr. Gilbertson viewed the "excessive use of violence" against A.H., followed by a calm departure from the scene and resumption of normal routines, as indicative of a guilty mind, rather than an inability to appreciate the wrongfulness of shooting A.H.

### **Guilt and sentencing**

The district court accepted Grice's guilty plea but determined that Grice failed to establish his mental-illness defense. The district court found that Grice suffered from a major mental illness at the time of the offense but did not prove that he failed to understand the nature of his act and its wrongfulness. The district court denied the state's

motion for an aggravated sentence and imposed the presumptive sentence of 306 months' imprisonment. This appeal follows.<sup>1</sup>

## DECISION

In Minnesota, a defendant seeking to establish a mental-illness defense must meet the *M'Naghten* standard codified at Minn. Stat. § 611.026 (2012). *Bruestle v. State*, 719 N.W.2d 698, 704 (Minn. 2006). That standard requires proof of mental illness and that “the person was laboring under such a defect of reason” because of the mental illness “as not to know the nature of the act, or that it was wrong.” Minn. Stat. § 611.026. A defendant must prove by a preponderance of the evidence that he met this standard at the time of committing the crime. *State v. Odell*, 676 N.W.2d 646, 648 (Minn. 2004).

When reviewing whether a defendant met his burden to prove mental illness, we conduct “a rigorous review of the record to determine whether the evidence, direct and circumstantial, viewed most favorably to support a finding of guilt, was sufficient to permit the [district] court to reach its conclusion.” *Id.* (quotation omitted). “[T]he issue of legal mental illness is a question for the finder of fact to resolve.” *State v. Brom*, 463 N.W.2d 758, 764 (Minn. 1990). Accordingly, we defer to the fact-finder’s determination as to the appropriate weight to give to various testimony. *State v. Peterson*, 764 N.W.2d 816, 822-23 (Minn. 2009); *see also DeMars v. State*, 352 N.W.2d 13, 16 (Minn. 1984) (holding that the fact-finder is not bound by expert testimony that defendant was legally

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<sup>1</sup> The state appealed the district court’s sentencing determination, No. A12-0586, which this court consolidated with this appeal. The state has conceded that it cannot appeal the sentencing determination. We therefore do not address Grice’s sentence.

mentally ill because evidence of defendant's conduct supported a determination that he knew the nature of his act and that it was wrong).

Grice argues that the greater weight of the evidence demonstrates that his paranoid schizophrenia kept him from understanding that shooting A.H. was wrong. Grice contends that the testimony of Dr. Siegel and Dr. Renken shows that he believed, because of his mental illness, that A.H. presented "grave danger" to him against which he was morally and legally right to defend himself, and the district court improperly rejected their testimony. We are not persuaded.

First, this argument essentially asks this court to second guess the district court's determination that the opinions of Dr. Farnsworth and Dr. Gilbertson were, on balance, more persuasive and plausible than those of Dr. Siegel and Dr. Renken. The supreme court has consistently rejected this type of argument in deference to the fact-finder. *See Odell*, 676 N.W.2d at 648-49; *Brom*, 463 N.W.2d at 764-65; *DeMars*, 352 N.W.2d at 16. And while Grice points to claimed strengths and weaknesses in the testimony of the various experts, he does not identify any reason why the district court was required to credit the opinions of the two experts who supported his mental-illness defense over the two who did not. Indeed, Grice has not identified any cases in which an appellate court has overturned a conviction based on divided expert testimony as to whether the defendant was legally mentally ill at the time of the offense.<sup>2</sup>

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<sup>2</sup> He cites only *State v. Rawland*, in which the supreme court overturned a murder conviction based on the testimony of four experts who "were in general agreement" that the defendant suffered from paranoid schizophrenia that "affected his judgment" at the

Second, the district court articulated multiple reasons for weighing the expert testimony as it did, and our careful review of the record reveals ample support for the court’s analysis. The district court considered each expert’s experience and familiarity with Minnesota’s mental-illness standard in determining relative credibility. On the one hand, the district court noted that Dr. Farnsworth has conducted between 2,000 and 3,000 mental-illness examinations using this standard, finding the standard was met in approximately half of the cases he evaluated in the past two years. The district court also noted Dr. Gilbertson’s significant experience in evaluating mental-illness defenses—conducting more than 800 examinations over the past 30 years—though it acknowledged that Dr. Gilbertson’s analysis in this case was “hampered” by Grice’s unwillingness to meet with him. On the other hand, the district court noted that Dr. Renken “incorrectly stated” the wrongfulness prong of the mental-illness standard, “thereby undermining the weight of his opinion.”<sup>3</sup> And the court observed that Dr. Siegel has considerable clinical experience but had never before conducted an examination in connection with a mental-illness defense.

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time of the offense. 294 Minn. 17, 22, 41-42, 46-47, 199 N.W.2d 774, 777, 788, 790 (1972).

<sup>3</sup> Dr. Renken testified that the “wrong” in the *M’Naghten* standard “can refer to either legal or moral wrongfulness.” This misstates the standard. See *State v. Ulm*, 326 N.W.2d 159, 161 (Minn. 1982) (stating that “in Minnesota the defendant must know that his act was wrong in a moral sense and not merely know that he has violated a statute”). Grice asserts that Dr. Renken’s apparent misunderstanding of the legal standard is immaterial because he ultimately testified that he believed Grice did not know that shooting A.H. was morally wrong. We disagree. Dr. Renken’s testimony that Grice did not know the shooting was morally wrong does not preclude the district court from weighing against Dr. Renken’s credibility the misstatement of the standard to which he was testifying.

The district court also considered the evidence of Grice's behavior before, during, and after the incident and found the opinions of Dr. Farnsworth and Dr. Gilbertson most consistent with that evidence. *See Bruestle*, 719 N.W.2d at 704 (“When making a determination about a defendant’s sanity, a court can, in addition to assessing expert witness testimony, look to events surrounding the crime.”); *State v. Wilson*, 539 N.W.2d 241, 245 (Minn. 1995) (stating that the “circumstances surrounding the crime may shed light on defendant’s mental state at the time of the [offense]”).

The evidence concerning Grice's behavior shortly before the shooting is largely undisputed. While Grice suffered a relapse in May 2010 and sought medication from Dr. Ekberg, there is no evidence that the medication failed to stabilize Grice as it had in the past or that he had relapsed before the shooting. Grice's mother did not notice any signs of active psychosis in early July. His girlfriend likewise did not notice any signs of withdrawal or instability during that time and entrusted their infant child to his care.

With respect to Grice's conduct during the incident, Dr. Farnsworth noted that Grice had the opportunity to leave in his car to avoid a confrontation, which would have been consistent with his usual response to extreme paranoia. Instead, Grice elected to retrieve his gun and engage with A.H. Dr. Farnsworth also noted that Grice could have, if he believed his life was in danger, taken other actions to scare A.H. off short of shooting him, such as waving the gun at him or shooting the gun away from him. Dr. Farnsworth rejected the suggestion that these alternatives would not be realistic for a paranoid schizophrenic confronted with a situation he perceives to be dangerous, explaining that mentally ill individuals are “not confused in terms of what options they

have. Their reality may be different, but they still have the same set of choices that a person without a mental illness has.” Dr. Farnsworth and Dr. Gilbertson also both noted that Grice shot A.H. multiple times, continuing to aim at and shoot him after he had fallen to the ground, which they found inconsistent with his claim of delusional self-defense.

With respect to Grice’s conduct after the incident, Dr. Farnsworth and Dr. Gilbertson both opined that Grice’s behavior was so calm and calculated to avoid detection as to be inconsistent with the psychotic break to which Dr. Seidel and Dr. Renken testified and more consistent with criminal awareness and intent. In particular, Dr. Farnsworth emphasized that Grice not only left the scene after shooting A.H., rather than staying to explain to police that he acted in self-defense, but calmly drove away, turned the gun over to his girlfriend, watched news reports of the shooting, and was concerned about being followed by police. Both experts also explained that decompensation is a gradual process; it was unlikely that Grice rapidly decompensated from a period of apparently relative stability in the days before the incident to such an extreme manifestation of his delusional paranoia that it obscured his ability to know right from wrong. Likewise, Dr. Farnsworth and Dr. Gilbertson stated it was unlikely that Grice would almost immediately recover from his claimed psychotic break and calmly resume his usual routines.

The district court thoroughly considered the experience of the four experts, the plausibility of each expert’s explanation of Grice’s conduct, and all of the circumstances surrounding the offense in determining that Grice failed to prove by a preponderance of

the evidence that his schizophrenia made him incapable of understanding that repeatedly shooting A.H. was wrong. Viewing the record as a whole and in the light most favorable to that determination, we conclude that Grice failed to establish his mental-illness defense.

**Affirmed.**