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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

CLARK *v.* ARIZONA

CERTIORARI TO THE COURT OF APPEALS OF ARIZONA

No. 05–5966. Argued April 19, 2006—Decided June 29, 2006

Petitioner Clark was charged with first-degree murder under an Arizona statute prohibiting "[i]nten[tionally] or knowing[ly]" killing a police officer in the line of duty. At his bench trial, Clark did not contest that he shot the officer or that the officer died, but relied on his own undisputed paranoid schizophrenia at the time of the incident to deny that he had the specific intent to shoot an officer or knowledge that he was doing so. Accordingly, the prosecutor offered circumstantial evidence that Clark knew the victim was a police officer and testimony indicating that Clark had previously stated he wanted to shoot police and had lured the victim to the scene to kill him. In presenting the defense case, Clark claimed mental illness, which he sought to introduce for two purposes. First, he raised the affirmative defense of insanity, putting the burden on himself to prove by clear and convincing evidence that, in the words of another state statute, "at the time of the [crime, he] was afflicted with a mental disease or defect of such severity that [he] did not know the criminal act was wrong." Second, he aimed to rebut the prosecution's evidence of the requisite *mens rea,* that he had acted intentionally or knowingly to kill an officer.

Ruling that Clark could not rely on evidence bearing on insanity to dispute the *mens rea,* the trial court cited the Arizona Supreme Court's decision in *State* v. *Mott,* 187 Ariz. 536, 931 P. 2d 1046, which refused to allow psychiatric testimony to negate specific intent and held that Arizona does not allow evidence of a mental disorder short of insanity to negate the *mens rea* element of a crime. As to his insanity, then, Clark presented lay testimony describing his increasingly bizarre behavior over the year before the shooting. Other lay and expert testimony indicated, among other things, that Clark thought that "aliens" (some impersonating government agents) were

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trying to kill him and that bullets were the only way to stop them. A psychiatrist testified that Clark was suffering from paranoid schizophrenia with delusions about "aliens" when he killed the officer, and concluded that Clark was incapable of luring the officer or understanding right from wrong and was thus insane at the time of the killing. In rebuttal, the State's psychiatrist gave his opinion that Clark's paranoid schizophrenia did not keep him from appreciating the wrongfulness of his conduct before and after the shooting. The judge then issued a first-degree murder verdict, finding that in light of that the facts of the crime, the expert evaluations, Clark's actions and behavior both before and after the shooting, and the observations of those who knew him, Clark had not established that his schizophrenia distorted his perception of reality so severely that he did not know his actions were wrong.

Clark moved to vacate the judgment and life sentence, arguing, among other things, that Arizona's insanity test and its *Mott* rule each violate due process. He claimed that the Arizona Legislature had impermissibly narrowed its insanity standard in 1993 when it eliminated the first of the two parts of the traditional *M'Naghten* insanity test. The trial court denied the motion. Affirming, the Arizona Court of Appeals held, among other things, that the State's insanity scheme was consistent with due process. The court read *Mott* as barring the trial court's consideration of evidence of Clark's mental illness and capacity directly on the element of *mens rea*.

Held:

1. Due process does not prohibit Arizona's use of an insanity test stated solely in terms of the capacity to tell whether an act charged as a crime was right or wrong. Pp. 6–15.

(a) The first part of the landmark English rule in *M'Naghten's Case* asks about cognitive capacity: whether a mental defect leaves a defendant unable to understand what he was doing. The second part presents an ostensibly alternative basis for recognizing a defense of insanity understood as a lack of moral capacity: whether a mental disease or defect leaves a defendant unable to understand that his action was wrong. Although the Arizona Legislature at first adopted the full *M'Naghten* statement, it later dropped the cognitive incapacity part. Under current Arizona law, a defendant will not be adjudged insane unless he demonstrates that at the time of the crime, he was afflicted with a mental disease or defect of such severity that he did not know the criminal act was wrong. Pp. 6–7.

(b) Clark insists that the side-by-side *M'Naghten* test represents the minimum that a government must provide, and he argues that eliminating the first part " 'offends [a] principle of justice so rooted in the traditions and conscience of our people as to be ranked as funda-

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mental,' " *Patterson* v. *New York,* 432 U. S. 197, 202. The claim entails no light burden, and Clark does not carry it. History shows no deference to *M'Naghten* that could elevate its formula to the level of fundamental principle, so as to limit the traditional recognition of a State's capacity to define crimes and defenses. See, *e.g., Patterson, supra,* at 210. Even a cursory examination of the traditional Anglo-American approaches to insanity reveals significant differences among them, with four traditional strains variously combined to yield a diversity of American standards. Although 17 States and the Federal Government have adopted recognizable versions of the *M'Naghten* test with both its components, other States have adopted a variety of standards based on all or part of one or more of four variants. The alternatives are multiplied further by variations in the prescribed insanity verdict. This varied background makes clear that no particular formulation has evolved into a baseline for due process, and that the insanity rule, like the conceptualization of criminal offenses, is substantially open to state choice. Pp. 7–12.

(c) Nor does Arizona's abbreviation of the *M'Naghten* statement raise a proper claim that some constitutional minimum has been shortchanged. Although Arizona's former statement of the full *M'Naghten* rule was constitutionally adequate, the abbreviated rule is no less so, for cognitive incapacity is relevant under that statement, just as it was under the more extended formulation, and evidence going to cognitive incapacity has the same significance under the short form as it had under the long. Though Clark is correct that applying the moral incapacity test (telling right from wrong) does not necessarily require evaluation of a defendant's cognitive capacity to appreciate the nature and quality of the acts charged against him, his argument fails to recognize that cognitive incapacity is itself enough to demonstrate moral incapacity, so that evidence bearing on whether the defendant knew the nature and quality of his actions is both relevant and admissible. In practical terms, if a defendant did not know what he was doing when he acted, he could not have known that he was performing the wrongful act charged as a crime. The Arizona appeals court acknowledged as much in this case. Clark adopted this very analysis in the trial court, which apparently agreed when it admitted his cognitive incapacity evidence for consideration under the State's moral incapacity formulation. Clark can point to no evidence bearing on insanity that was excluded. Pp. 12–15.

2. The Arizona Supreme Court's *Mott* rule does not violate due process. Pp. 15–38.

(a) *Mott* held that testimony of a professional psychologist or psychiatrist about a defendant's mental incapacity owing to mental disease or defect was admissible, and could be considered, only for its

bearing on an insanity defense, but could not be considered on the element of *mens rea*. Of the three categories of evidence that potentially bear on *mens rea*—(1) everyday "observation evidence" either by lay or expert witnesses of what Clark did or said, which may support the professional diagnoses of disease and in any event is the kind of evidence that can be relevant to show what was on Clark's mind when he fired his gun; (2) "mental-disease evidence," typically from professional psychologists or psychiatrists based on factual reports, professional observations, and tests about Clark's mental disease, with features described by the witness; and (3) "capacity evidence," typically by the same experts, about Clark's capacity for cognition and moral judgment (and ultimately also his capacity to form *mens rea*)—*Mott* imposed no restriction on considering evidence of the first sort, but applies to the latter two. Although the trial court seems to have applied the *Mott* restriction to all three categories of evidence Clark offered for the purpose of showing what he called his inability to form the required *mens rea*, his objection to *Mott*'s application does not turn on the distinction between lay and expert witnesses or the kinds of testimony they were competent to present. Rather, the issue here is Clark's claim that the *Mott* rule violates due process. Pp. 15–25.

(b) Clark's *Mott* challenge turns on the application of the presumption of innocence in criminal cases, the presumption of sanity, and the principle that a criminal defendant is entitled to present relevant and favorable evidence on an element of the offense charged against him. Pp. 25–30.

(i) The presumption of innocence is that a defendant is innocent unless and until the government proves beyond a reasonable doubt each element of the offense changed, including the mental element or *mens rea*. The modern tendency is to describe the *mens rea* required to prove particular offenses in specific terms, as shown in the Arizona statute requiring the State to prove that in acting to kill the victim, Clark intended to kill a law enforcement officer on duty or knew that the victim was such an officer on duty. As applied to *mens rea* (and every other element), the force of the presumption of innocence is measured by the force of the showing needed to overcome it, which is proof beyond a reasonable doubt that a defendant's state of mind was in fact what the charge states. See *In re Winship*, 397 U. S. 358, 361–363. Pp. 25–26.

(ii) The presumption of sanity dispenses with a requirement that the government include as an element of every criminal charge an allegation that the defendant had the capacity to form the *mens rea* necessary for conviction and criminal responsibility. Unlike the presumption of innocence, the presumption of sanity's force varies

across the many state and federal jurisdictions, and prior law has recognized considerable leeway on the part of the legislative branch in defining the presumption's strength through the kind of evidence and degree of persuasiveness necessary to overcome it, see *Fisher* v. *United States,* 328 U. S. 463, 466–476. There are two points where the sanity or capacity presumption may be placed in issue. First, a State may allow a defendant to introduce (and a factfinder to consider) evidence of mental disease or incapacity for the bearing it can have on the government's burden to show *mens rea*. Second, the sanity presumption's force may be tested in the consideration of an insanity defense raised by a defendant. Insanity rules like *M'Naghten* and the variants noted above are attempts to define or indicate the kinds of mental differences that overcome the presumption of sanity or capacity and therefore excuse a defendant from customary criminal responsibility, see, *e.g., Jones* v. *United States,* 463 U. S. 354, 373, n. 4, even if the prosecution has otherwise overcome the presumption of innocence by convincing the factfinder of all the elements charged beyond a reasonable doubt. The burden a defendant raising the insanity issue must carry defines the strength of the sanity presumption. A State may, for example, place the burden of persuasion on a defendant to prove insanity as the applicable law defines it, whether by a preponderance of the evidence or to some more convincing degree. See, *e.g., Leland* v. *Oregon*, 343 U. S. 790, 798. Pp. 26–29.

(iii) A defendant has a due process right to present evidence favorable to himself on an element that must be proven to convict him. Evidence tending to show that a defendant suffers from mental disease and lacks capacity to form *mens rea* is relevant to rebut evidence that he did in fact form the required *mens rea* at the time in question. Thus, Clark claims a right to require the factfinder in this case to consider testimony about his mental illness and his incapacity directly, when weighing the persuasiveness of other evidence tending to show *mens rea*, which the prosecution has the burden to prove. However, the right to introduce relevant evidence can be curtailed if there is a good reason for doing so. For example, trial judges may "exclude evidence if its probative value is outweighed by certain other factors such as unfair prejudice, confusion of the issues, or potential to mislead the jury." *Holmes* v. *South Carolina,* 547 U. S. ___, ___. And if evidence may be kept out entirely, its consideration may be subject to limitation, which Arizona claims the power to impose here. Under state law, mental-disease and capacity evidence may be considered only for its bearing on the insanity defense, and it will avail a defendant only if it is persuasive enough to satisfy the defendant's burden as defined by the terms of that defense. Such evidence is thus being channeled or restricted to one issue; it is not being excluded en-

tirely, and the question is whether reasons for requiring it to be channeled and restricted satisfy due process's fundamental fairness standard. Pp. 29–30.

(c) The reasons supporting the Arizona rule satisfy due process. Pp. 30–38.

(i) The first such reason is Arizona's authority to define its presumption of sanity (or capacity or responsibility) by choosing an insanity definition and placing the burden of persuasion on criminal defendants claiming incapacity as an excuse. Consistent with due process, a State can require defendants to bear that burden, see *Leland, supra,* at 797–799, and Clark does not object to Arizona's decision to require persuasion to a clear and convincing degree before the presumption of sanity and normal responsibility is overcome. If a State is to have this authority in practice as well as in theory, it must be able to deny a defendant the opportunity to displace the sanity presumption more easily when addressing a different issue during the criminal trial. Yet just such an opportunity would be available if expert testimony of mental disease and incapacity could be considered for whatever a factfinder might think it was worth on the *mens rea* issue. The sanity presumption would then be only as strong as the evidence a factfinder would accept as enough to raise a reasonable doubt about *mens rea*; once reasonable doubt was found, acquittal would be required, and the standards established for the insanity defense would go by the boards. What counts for due process is simply that a State wishing to avoid a second avenue for exploring capacity, less stringent for a defendant, has a good reason for confining the consideration of mental disease and incapacity evidence to the insanity defense. Pp. 30–32.

(ii) Arizona's rule also serves to avoid confusion and misunderstanding on the part of jurors. The controversial character of some categories of mental disease, the potential of mental-disease evidence to mislead, and the danger of according greater certainty to capacity evidence than experts claim for it give rise to risks that may reasonably be hedged by channeling the consideration of such evidence to the insanity issue on which, in States like Arizona, a defendant has the burden of persuasion. First, the diagnosis may mask vigorous debate within the psychiatric profession about the very contours of the mental disease itself. See, *e.g., Jones, supra,* at 364–365, n. 13. Though mental-disease evidence is certainly not condemned wholesale, the consequence of this professional ferment is a general caution in treating psychological classifications as predicates for excusing otherwise criminal conduct. Next, there is the potential of mental-disease evidence to mislead jurors (when they are the factfinders) through the power of this kind of evidence to suggest that a defendant suffer-

ing from a recognized mental disease lacks cognitive, moral, volitional, or other capacity, when that may not be a sound conclusion at all. Even when a category of mental disease is broadly accepted and the assignment of a defendant's behavior to that category is uncontroversial, the classification may suggest something very significant about a defendant's capacity, when in fact the classification tells little or nothing about the defendant's ability to form *mens rea* or to exercise the cognitive, moral, or volitional capacities that define legal sanity. The limits of the utility of a professional disease diagnosis are evident in the dispute between the two testifying experts in this case; they agree that Clark was schizophrenic, but they reach opposite conclusions on whether his mental disease left him bereft of cognitive or moral capacity. Finally, there are particular risks inherent in the opinions of the experts who supplement the mental-disease classifications with opinions on incapacity: on whether the mental disease rendered a particular defendant incapable of the cognition necessary for moral judgment or *mens rea* or otherwise incapable of understanding the wrongfulness of the conduct charged. Unlike observational evidence bearing on *mens rea*, capacity evidence consists of judgment, and judgment is fraught with multiple perils. Although such capacity judgments may be given in the utmost good faith, their potentially tenuous character is indicated by the candor of the defense expert in this very case. He testified that Clark lacked the capacity to appreciate the circumstances realistically and to understand the wrongfulness of what he was doing, but he admitted that no one knew exactly what was on Clark's mind at the time of the shooting. Even when an expert is confident that his understanding of the mind is reliable, judgment addressing the basic categories of capacity requires a leap from the concepts of psychology, which are devised for thinking about treatment, to the concepts of legal sanity, which are devised for thinking about criminal responsibility. Pp. 33–38.

(d) For these reasons, there is also no cause to claim that channeling evidence on metal disease and capacity offends any "'principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental,'" *Patterson, supra,* at 202. P. 38.

Affirmed.

SOUTER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, THOMAS, and ALITO, JJ., joined, and in which BREYER, J., joined except as to Parts III–B and III–C and the ultimate disposition. BREYER, J., filed an opinion concurring in part and dissenting in part. KENNEDY, J., filed a dissenting opinion, in which STEVENS and GINSBURG, JJ., joined.