



## The Star-Ledger

### Judges: No court reviews needed after acquittals for insanity

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Defendants who are found not guilty by reason of insanity and are not sent to an institution don't have to appear in court for periodic reviews, a state appeals court found yesterday.

Judges do have the authority to impose requirements on people to show they are receiving treatment and are not posing a danger to themselves or the community, wrote appellate court Judge William Gilroy. Those requirements could include the submission of periodic reports on the progress of treatment.

"Additional conditions would protect the interests of the defendant and the safety of the public," wrote Gilroy, who was joined by Judges Donald Coburn and Rudy Coleman.

The appeals court said regular court reviews are necessary only when a defendant remains in a mental health institution.

The case involves a bloody episode in Franklin Township in 2004. A police officer checking on a 911 hang-up call found Manuel Bacote Ortiz, then 19, standing in the door holding a large butcher's knife.

Ortiz shouted, "I'll kill you," at the officer and refused to obey the officer's order to put down the knife. Ortiz moved toward the officer, who shot him twice. Ortiz' Rottweiler, Tiebout, was also shot as the dog rushed toward the office.

Police charged Ortiz with attempted murder and possession of a weapon. Following a bench trial, a judge found Ortiz not guilty by reason of insanity on both counts. At trial, a psychiatrist, Daniel Greenwald, said Ortiz suffered from "paranoid schizophrenia, from general anxiety and possible borderline retardation."

Ortiz was released in the care of his mother with the condition he attend intensive out-patient mental health treatment. The court found he did not need to have regular review hearings, which are typically imposed to determine how long a person should be institutionalized.

Prosecutors argued against the idea, saying the decision "clearly abdicated" the role of the court to ensure public safety.

Somerset County Prosecutor Wayne Forrest yesterday said he had not yet had a chance to review the ruling.

Ortiz's attorney, John McDonald, did not return a call seeking comment.

The panel sent the case back to the trial court to see if more conditions were needed to determine if Ortiz was following treatment.

Criminal justice experts said the case would likely affect only a small slice of cases, because insanity defenses are rarely successful.

"It's not as if insanity verdicts are handed down everyday," said Kip Cornwell, an associate dean at Seton Hall University School of Law in Newark.

Cases such as Ortiz's would "promote" the ability of some to stay out of institutions, Cornwell said.

In insanity cases, the majority of people are initially sent to an institution for evaluation to determine if institutionalization is needed, said George Thomas, a professor at Rutgers University School of Law-Newark. And they can be held for much longer than the sentence length of the crime if they still pose a danger.

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