UNITED STATES V. FREEMAN
United States Court of Appeals
804 F.2d 1574 (11th Cir. 1986)

[This case examines the insanity defense in federal court as modified by the Insanity Defense Reform Act of 1984.]

HILL, Circuit Judge.

Appellant Dwayne Freeman challenges his conviction of bank robbery under 18 U.S.C. § 2113(b), (d) (1982). At trial, the facts surrounding the robbery and the defendant's guilt were never at issue. Freeman merely contests the trial court's determination that [he] was sane at the time of the offense. Freeman bases his appeal on two grounds. First, he challenges the constitutionality of the Insanity Defense Reform Act of 1984, Pub.L.No. 98–473, § 402, 98 Stat. 1837, 2057 (codified at 18 U.S.C. § 20 (Supp. 1986); Fed.R.Evid. 704(b). Second, Freeman asserts that as a matter of law, he has established his insanity by clear and convincing evidence. We reject both of the defendant's arguments. The Insanity Defense Reform Act produced three principal changes to the insanity defense in federal courts. First, the definition of insanity was restricted so that a valid defense only exists where the defendant was "unable to appreciate the nature of the wrongfulness of his acts" at the time of the offense. The amendment thus eliminated the volitional prong of the defense; prior to the Act, a defendant could assert a valid defense if he were unable to appreciate the nature of his act or unable to conform his conduct to the law. . . . The second change produced by the Act resulted in a shifting of the burden of proof from the government to the defendant. Prior to the Act, the government was required to prove beyond a reasonable doubt that the defendant was sane at the time of the offense. . . . Under the current act, the defendant must prove his insanity by clear and convincing evidence. . . . The third change prohibits experts for either the government or defendant from testifying as to the ultimate issue of the accused's sanity. . . .

The defendant's principal contention concerning the constitutionality of the act pertains to the burden of proof being placed on the defendant. . . . *Davis v. United States,* 160 U.S. 469, 16 S.Ct. 353, 40 L.Ed. 499 (1895), established that the prosecution must prove the defendant's sanity beyond a reasonable doubt in federal cases. The Supreme Court, however, has pointed out that *Davis* is not a constitutional ruling, but an exercise of the Supreme Court's supervisory power over prosecutions in federal court. *Leland v. Oregon,* 343 U.S. 790, 72 S.Ct. 1002, 96 L.Ed. 1302 (1952); *Patterson v. New York,* 432 U.S. 197, 97 S.Ct. 2319, 53 L.Ed.2d 281 (1977).

In *Leland,* the Court held that a state could constitutionally require a defendant to prove insanity beyond a reasonable doubt. . . . The Supreme Court . . . has repeatedly reaffirmed the *Leland* holding. . . . The United States Constitution does not draw meaningless distinctions. Therefore, *Leland* compels a holding that the aspect of the Insanity Reform Act of 1984 requiring a defendant to prove insanity by clear and convincing evidence is constitutional. Additionally, we hold that the Act's restriction against opinion testimony as to the ultimate issue of insanity does not restrict the defendant in the preparation of his defense in violation of the Fifth Amendment. . . . The defendant is not prohibited from introducing evidence which would

assist the jury in making this determination. Furthermore, the restriction . . . is applicable to the government, as well as the defendant. There is no constitutional violation. . . .

Freeman additionally contends that he has established his insanity by clear and convincing evidence. [At trial,] Dwayne Freeman asserted that he was an enthusiastic volunteer for the "Save the Children" campaign to feed starving children in drought-stricken Ethiopia. Freeman's evidence was that he degenerated to the point of obsession. He then became depressed about not raising enough money for the children. On February 26, 1985, Freeman robbed a bank, allegedly to obtain money for the Ethiopia fund.

The district court found that the defendant had failed to prove by clear and convincing evidence that he was unable to appreciate the nature and quality of his acts at the time of the offense. . . .

A psychiatric team from the federal institute at Springfield, Missouri, did conclude that Freeman was suffering from severe mental illness and was manic depressive or possibly schizophrenic. Additionally, Freeman presented evidence showing that he had been hearing noises and was experiencing severe depression prior to the robbery. Ample evidence exists, however, indicating that Freeman knew his conduct was wrongful. The evidence shows Freeman changed his clothes after robbing the bank to avoid identification. Freeman employed a mask, handgun and satchel to execute the robbery and avoid apprehension. He informed bank personnel that if the police were called, he would come back and kill everyone. When spotted by the police, Freeman ran to avoid apprehension. . . . Finally, Freeman's probation officer observed Freeman's demeanor as being entirely appropriate following his arrest. The district court's decision was not clearly erroneous.

We therefore AFFIRM the district court's decision.