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December 30, 2024

Honorable Chief Justice and Associate Justices
Supreme Court of New Jersey
P.O. Box 970
Trenton, New Jersey 08625

Re: State v. Jeremy Arrington
App. Div. Docket No. A-2662-21

Your Honors:

Please accept this letter in lieu of a more formal petition to review the Appellate Division's published opinion¹ affirming Jeremy Arrington's convictions.² (Dpa 1-23 (majority opinion), Dpa 24-38 (Jacobs, J.S.C.,

¹ This petition uses the same abbreviations as the Appellate Division briefing. In addition, Dpa refers to the appendix to this petition. Both the published and unpublished versions of the Appellate Division opinion are included in the appendix. The citations are to the unpublished opinion. (Dpa 1-38) The published opinion omits a brief discussion of the other issues in the counseled and pro se supplemental briefs. (Dpa 22-23; Dpa 39-75)

² The Appellate Division recognized that defendant's sentences on the attempted murder convictions were illegal and accordingly remanded for resentencing. (Dpa 23)

concurring)) Arrington is seeking review of all the issues presented in his counseled and pro se briefs in the Appellate Division, and he relies on and incorporates the arguments from those briefs. He adds the following in support of this petition.

Arrington was convicted of multiple counts of murder, attempted murder, and related offenses following an incident at a home in Newark. Arrington's sole defense to these serious charges was that he was not guilty by reason of insanity. The trial court completely barred Arrington from presenting this defense to the jury, ruling that unless he called an expert to testify, he could not proceed with his defense. In a published opinion, the Appellate Division affirmed, holding that an insanity defense requires testimony from an expert mental health professional. This Court should grant certification because this published opinion on a novel question presents a question of general public importance which has not been but should be settled by this Court. R. 2:12-4.

New Jersey uses the exact same definition of insanity today as it did in the 1800s. M'Naghten's Case, 8 Eng. Rep. 718 (H.L. 1843) ("to establish a defence on the ground of insanity, it must be clearly proved that at the time of committing the act the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing, or as not to know that what he was doing was wrong"); State v. Spencer,

21 N.J.L. 196 (E. & A. 1846) (adopting the M’Naghten standard in New Jersey); Graves v. State, 45 N.J.L. 347, 351-52 (1883) (recognizing that since Spencer, the M’Naghten standard “has been regarded as the settled law of this state”); N.J.S.A. 2C:4-1 (“A person is not criminally responsible for conduct if at the time of such conduct he was laboring under such a defect of reason, from disease of the mind as not to know the nature and quality of the act he was doing, or if he did know it, that he did not know what he was doing was wrong.”). Our Legislature specifically retained this 19th century definition of insanity against the recommendation from the New Jersey Criminal Law Commission. State v. Singleton, 211 N.J. 157, 174 (2012).

And in the 19th century, lay testimony about the defendant’s insanity was not only admissible but was better evidence than testimony from “medical men.” Spencer, 21 N.J.L. at 208-09. The “evidence of those who saw the person accused every day immediately previous to the commission of the act, who were intimate with him, talked with him, ate and drank with him, and who testify to his acts, his words, his conversation, his looks, his whole deportment, is that on which a jury ought to place the greatest reliance.” Ibid. (emphasis added). While the opinions of “medical men” were admissible, “their opinions in relation to a particular individual, are of no more weight, and in my judgment of not so much weight, as those of unprofessional persons of good sense, who have had ample

opportunities for observation.” Ibid. (emphasis added).

Since the adoption of the M’Naghten test, New Jersey courts have recognized that lay testimony about a defendant’s insanity is competent, persuasive evidence. See, e.g., Genz v. State, 58 N.J.L. 482, 483-84 (Sup. Ct. 1896) (holding that it was error to refuse “to receive the opinions of nonprofessional witnesses as to the insanity of the prisoner. . . . [S]uch opinions of such witnesses, grounded on facts and circumstances within their personal knowledge, and stated, are held to be competent, and should go to the jury who are to estimate their worth”); Clifford v. State, 60 N.J.L. 287, 289 (Sup. Ct. 1897) (“[A] nonexpert witness may state facts and express an opinion in respect to the sanity of a defendant.”); In re McCraven, 87 N.J. Eq. 28, 30 (Ch. 1916) (“A witness, not an expert, may, in a case of insanity, state facts as to the actions of the alleged lunatic, and then tell what, in his or her opinion, they indicate as to soundness or unsoundness of mind.”); State v. Morehous, 97 N.J.L. 285, 294–95 (1922), overruled on other grounds by State v. Smith, 32 N.J. 501 (1960) (“Lay witnesses on insanity may give their opinion of a person’s sanity or insanity provided such opinions are based on facts within the knowledge of the witness and stated.”); State v. Scelfo, 58 N.J. Super. 472, 477–78 (App. Div. 1959) (rejecting the defense’s claim that uncontradicted expert testimony that the defendant was insane ought to override lay testimony about the defendant’s

behavior and compel a “judgment of acquittal by reason of insanity” because expert testimony “is in parity with lay opinion testimony in that the jury is entitled to give each equal weight”); State v. Ridsen, 106 N.J. Super. 226, 235-36 (App. Div. 1969), affirmed as modified, 56 N.J. 27 (1970) (holding that the lay witnesses’ testimony was “at least as significant as the experts’ testimony in helping the jury determine whether [the defendant] was insane at the time of the murder”); See also Estate of Nicolas v. Ocean Plaza Condo. Ass’n, Inc., 388 N.J. Super. 571, 582–83 (App. Div. 2006) (holding that for purposes of a statute of limitation, a “person’s insanity. . . can be established under N.J.R.E. 701, through the testimony of laypersons, without the presentation of expert testimony”).

In rejecting this longstanding tradition of the importance of lay testimony about a defendant’s insanity, the Appellate Division imported modern definitions and modern ideas about mental illness to hold that expert testimony is necessary to present an insanity defense. (Dpa 14-18) The Appellate Division reasoned that the question of whether a defendant was “‘laboring under such a defect of reason, from disease of the mind’ at the time of the charged offense is a complex subject—one that necessitates expert testimony by a psychiatrist, a psychologist, or some other duly qualified mental health professional.” (Dpa 18) But criminal insanity is different from medical insanity. Graves, 45 N.J.L. at

350 (“[T]he law adopts a standard of its own as a test of criminal responsibility – a standard not always in harmony with the views of scientists.”); Model Criminal Jury Charge, “Insanity” (rev. Oct. 17, 1988) (“The law adopts a standard of its own as a test of criminal responsibility, a standard not always in harmony with the views of psychiatrists.”). And where New Jersey still uses the exact same test, using the exact same language as it did in the 1800s, it is inappropriate to impose modern notions about medicine on that centuries-old test.

New Jersey law does not require a defendant to call an expert in order to raise an insanity defense. There is no such requirement in the statutes. There is no such requirement in the caselaw. Instead, our courts have a long tradition of recognizing that lay and expert opinions on sanity are of equal value. The Appellate Division’s published opinion holding that a defendant cannot present his sole defense of insanity to the jury because he did not have supporting expert testimony is contrary to this longstanding body of caselaw. This Court should grant this petition and reverse because the Appellate Division’s novel imposition of an expert-testimony requirement presents a question of general public importance which has not been but should be settled by this Court. R. 2:12-4.

Respectfully submitted,

JENNIFER N. SELLITTI
Public Defender
Attorney for Defendant-Petitioner

BY: /s/ Margaret McLane
Assistant Deputy Public Defender
Attorney ID 060532014

CERTIFICATION

I hereby certify that the foregoing petition presents substantial issues of law and is filed in good faith and not for purposes of delay.

/s/ Margaret McLane
Assistant Deputy Public Defender
Attorney ID 060532014

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