

IN THE SUPREME COURT, STATE OF WYOMING

APRIL TERM, A.D., 1984

IN THE MATTER OF THE)
ADOPTION OF RULE 16.2,)
WYOMING RULES OF CRIMINAL)
PROCEDURE, DEFENSE OF)
UNCONSCIOUSNESS, AUTOMATISM,)
OR TRAUMATIC AUTOMATISM)

IN THE SUPREME COURT
STATE OF WYOMING

APR 3 1984
RITA M. WHITE
CLERK

ORDER

The adoption of Rule 16.2, Wyoming Rules of Criminal Procedure, pertaining to the Notice of Defense of Unconsciousness, Automatism, or Traumatic Automatism, having been found advisable by the Court;

IT IS ORDERED that the following rule be and it is hereby adopted to read as follows:

Rule 16.2. Notice of Defense of Unconsciousness, Automatism, or Traumatic Automatism.

(a) Notice by defendant. -- Upon written demand of the attorney for the state, stating the time, date, and place at which the alleged offense was committed, the defendant shall serve within ten (10) days, or at such different time as the court may direct,

upon the attorney for the state, a written notice of his intention to offer a defense of unconsciousness, automatism, or traumatic automatism. Such notice by the defendant shall state with particularity the facts upon which the defendant relies to justify the defense of unconsciousness, automatism or traumatic automatism and the names and addresses of the witnesses upon whom he intends to rely to establish such defense.

(b) Examination of defendant. -- Upon the filing of such notice by the defendant, the court shall order an examination of the defendant by a designated examiner. A written report of such examination shall be filed with the clerk of court, and the report shall include detailed findings and an opinion of the examiner as to whether the accused did suffer from unconsciousness, automatism, or traumatic automatism at the time of the alleged offense. The clerk of court shall deliver copies of the report to the attorney for the state and the accused or his counsel.

(c) Disclosure of information and witness. -- Within ten (10) days after the examiner's report is served upon him, but in no event not less than ten (10) days before trial unless the court otherwise directs, the attorney for the state shall serve upon the defendant or his attorney a written notice stating the names and addresses of the witnesses upon whom the state intends to rely to establish that the defendant did not, at the time of the alleged offense, suffer from unconsciousness, automatism or traumatic automatism and any other witnesses, to be relied upon to rebut

testimony of any of the defendant's witnesses relating to such a defense.

(d) Continuing duty to disclose. -- If prior to or during trial, a party learns of an additional witness whose identity, if known, should have been included in the information furnished under subdivision (a) or (b) the party shall promptly notify the other party or his attorney of the existence and identity of such additional witness.

(e) Failure to comply. -- Upon the failure of either party to comply with the requirements of this rule, the court may exclude the testimony of any undisclosed witness offered by such party as to the defense of unconsciousness, automatism or traumatic automatism. This rule shall not limit the right of the defendant to testify on his own behalf.

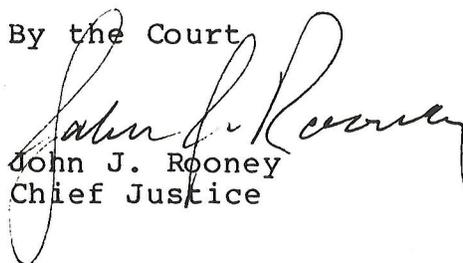
(f) Exceptions. -- For good cause shown, the court may grant an exception to any of the requirements of subdivisions (a) through (e) of this rule.

(g) Inadmissibility of withdrawn defense. -- Evidence of an intention to rely upon the defense of unconsciousness, automatism or traumatic automatism later withdrawn, or of statements made in connection with such intention is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.

IT IS FURTHER ORDERED that the foregoing rule be published in the Wyoming Reporter and shall become effective sixty (60) days after its publication in the Pacific Reporter Advance Sheets; and thereupon shall be spread at length upon the journal of this Court.

Dated this 3 day of May, 1984.

By the Court

A handwritten signature in cursive script, appearing to read "John J. Rooney". The signature is written in dark ink and is positioned above the printed name and title.

John J. Rooney
Chief Justice