Did a murderer escape punishment using the "Twinkie defense"?

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Dear Straight Dope:

My friend told me that a man ate an insanely large number of Twinkies and murdered someone. She also said that he was arrested, and claimed that the Twinkies made him do it (or some such nonsense). Anyway, according to her, the man was set free on the grounds of temporary insanity. Is this true?

— Jennyaliz

Your friend has the details a little mixed up, but don't hold it against her—the media, who get paid to keep track of these things, got it screwed up too. She's talking about the infamous "Twinkie defense," a term that entered the national vocabulary two decades ago following a brutal double murder in 1978.

It all started on November 27, 1978 in San Francisco. Dan White, an ex-policeman who had recently resigned as city supervisor, climbed in the basement window of City Hall to avoid metal detectors, walked upstairs to the office of mayor George Moscone and demanded his supervisor job back. When Moscone refused, White shot him twice at close range, then stood over the body and put two more bullets into the mayor's brain to finish him off. Then he reloaded, went down the hall, and killed Harvey Milk, a popular supervisor who was also America's first openly gay public office holder, shooting him five times.

At trial, White's lawyer argued that he was suffering from "diminished capacity," a controversial defense then permissible in California courts. White supposedly was suffering from depression and thus
incapable of premeditated murder. As evidence of this, psychiatrist Martin Blinder testified that the formerly health-conscious White had recently become a junk food junkie. Blinder commented that too much sugar can affect the chemical balance in the brain and worsen depression, but didn't blame the crime on bad diet. Rather, he offered junk food use as proof of White's mental state—in other words, Twinkie consumption was an effect rather than the cause of White's problems. But the media and public immediately—and misleadingly—dubbed the defense's argument the "Twinkie defense."

Whatever they called it, it worked. The jury found White guilty of a lesser charge, voluntary manslaughter. White was sentenced to six years in prison rather than life as many expected. The gay community and others were outraged, and rioting broke out in San Francisco. Largely in response to this case, California voters in 1982 overwhelmingly approved a proposition to abolish the "diminished capacity" defense. Dan White, for his part, served his time in prison, was paroled in 1985 and committed suicide a few months later.

"Diminished capacity" is different from "not guilty by reason of insanity." The insanity verdict, which has been an accepted part of English common law for centuries, is rendered in cases where the defendant is clearly bereft of his reason, hears voices, etc., and so can't be held responsible for his actions. Typically the defendant is committed to a mental institution after trial. In contrast, "diminished capacity" results in the defendant being convicted of a lesser offense. A person with diminished capacity is sane and understands the consequences of his actions, but supposedly doesn't possess the mental state required to premeditate a crime.

Obviously diminished capacity is a much lower standard than insanity. We've all heard of attorneys blaming medications, other drugs and alcohol, conditions like premenstrual syndrome, attention deficit disorder, post traumatic stress syndrome and/or early childhood neglect or traumas for their clients' criminal behavior. While an argument can be made for considering these things when
evaluating a defendant’s mental state, the Dan White case illustrates the potential for abuse. White hid the gun under his jacket, evaded metal detectors, brought along extra bullets, killed Moscone only after the mayor rebuffed his demand, and administered the coup de grace to his victims--all seeming evidence of premeditation. Yet the jury bought his plea.

For that reason most U.S. courts have refused to accept the diminished capacity defense (although lawyers still make the argument, for example in the trial for the Matthew Shepard gay-bashing murder in Wyoming). Not that a clever defense attorney necessarily needs it. Ask O.J.

— Jill