

Here the written confession bore on appellant's claim of self defense, her only real defense. Unlike her oral confession, the statement "he was making his getaway" when she stabbed him appears only in the written version, which she was unable to read. No language is better calculated to destroy a claim of self defense. And the jury during its deliberations, in spite of the "getaway" language in the written confession, was obviously concerned about the question of self defense because it requested additional instructions on this very issue.

Appellant's mental condition presented an issue for the jury. Two psychiatrists testified that her act was a product of mental disease or defect and one said it was not. Thus the jury was required to judge the credibility of the witnesses, a typical jury function.

Judge Edgerton concurs in the court's disposition of the *Mallory* point, but dissents from its holding that a jury issue was presented as to mental disability.

*Reversed and remanded.*

BASTIAN, *Circuit Judge*, concurring in part and dissenting in part: I concur in the opinion of Judge Wright in its holding that the District Court did not err in refusing to grant appellant's motion for judgment of acquittal by reason of insanity. On the issue of insanity, the testimony of the psychiatrists at the trial of this case was in conflict as to the question of whether or not, at the time she committed the crime charged against her, appellant was suffering from a mental disease. In such circumstances, this issue was properly resolvable only by the jury and, in the instant case, the jury resolved it against appellant, as indeed they were entitled to do under our system of criminal jurisprudence.

My dissent is directed toward the majority's holding ap-