

than a scintilla,<sup>2</sup> yet, of course, the amount need not be so substantial as to require, if uncontroverted, a directed verdict of acquittal.<sup>3</sup> The judgment of the trial judge as to the sufficiency of the evidence is entitled to great weight on appeal, but, since the defendant's burden is merely to raise the issue, any real doubt should be resolved in his favor.<sup>4</sup>

In this case a psychiatrist and a psychologist testified that the defendant had a "mental defect," principally because his I.Q. rating shown by various tests was below the "average" intelligence range of 90 to 110. His overall I.Q. was 68. Neither witness was able to say whether appellant's mental defect stemmed from organic injury or from some other cause. But the psychiatrist testified that some organic pathology can only be established by autopsy and that McDonald's defect probably prevented him from progressing beyond the sixth grade.

The witnesses also explained generally how mental defect affects behavior. The psychologist testified that a

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<sup>2</sup> *Battle v. United States*, 209 U.S. 36, 38.

<sup>3</sup> Compare *Tatum v. United States*, 88 U.S.App.D.C. 386, 190 F.2d 612; *Durham v. United States*, 94 U.S.App.D.C. 228, 232, 214 F.2d 862, 866; *Wright v. United States*, 102 U.S.App.D.C. 36, 39, 250 F.2d 4, 7; *Logan v. United States*, 109 U.S.App.D.C. 104, 284 F.2d 238; *Fitts v. United States*, 10 Cir., 284 F.2d 108; *United States v. Currens*, 3 Cir., 290 F.2d 751, 761; *Hall v. United States*, 4 Cir., 295 F.2d 26.

<sup>4</sup> In considering the quantum of evidence necessary to raise the issue of criminal responsibility, we cannot ignore our experience that in most cases the accused does not possess the knowledge and financial ability required to seek and obtain expert testimony in his behalf. Ordinarily such persons can only obtain examinations by psychiatrists employed in government institutions, and if these examinations are inadequate, "the [resulting] inadequacy of the evidence is not a point in favor of the prosecution." *Williams v. United States*, 102 U.S.App.D.C. 51, 55-56, 250 F.2d 19, 23-24.