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Criminal responsibility in kleptomania; An analysis of supreme court case law

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Abstract

This study aims to examine how assertions of kleptomania are reflected in high court proceedings and to evaluate their implications for criminal liability within the framework of Supreme Court (SC) jurisprudence. It further seeks to analyze the judicial reasoning underlying decisions to overturn or uphold cases in which kleptomania is invoked as a mitigating or exculpatory factor. A systematic search was conducted in the Supreme Court of Appeals (SCA) online decision database on August 19, 2025, using the terms "kleptomania" and "pathological stealing disorder." Among 9,649,954 decisions, 71 were identified as relevant, and after excluding two that lacked sufficient descriptive content, 69 decisions were included in the analysis. Only descriptive statistical methods (frequency and percentage) were used. Of the decisions analyzed, 97.1% originated from the Criminal Chambers (CC) and 2.9% from the Civil Chambers (CiC). Appeals most frequently involved Criminal Courts of First Instance (CCFI) (85.5%). Theft-related offenses dominated the sample (89.9%), with kleptomania claims also appearing in a small number of divorce cases (2.9%). Convictions were the primary outcomes at the trial level (92.8%), whereas the SCA overturned these decisions at a high rate (81.2%). In over half of the cases (55.1%), kleptomania assertions relied solely on the defendants' statements, while 43.5% were supported by medical reports. The most common reason for reversal was the failure to obtain an expert evaluation in accordance with Article 32 of the Turkish Penal Code (TPC) (62.3%). SC decisions indicate that uncorroborated claims of kleptomania are insufficient and that verdicts lacking expert assessment are highly prone to reversal. These findings highlight the need for multidisciplinary collaboration between legal and forensic professionals in evaluating kleptomania within the context of criminal liability.

Keywords: Kleptomania, forensic psychiatry, supreme court decisions, criminal responsibility

Introduction

Kleptomania is a rare psychiatric disorder classified under impulse control disorders, characterized by an inability to resist the urge to steal objects that are often worthless or unnecessary, without any economic need or gain motive [1]. Defined as a separate diagnostic category in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) and the International Classification of Diseases, Tenth Revision (ICD-10), kleptomania is distinguished by recurrent stealing behavior, increased tension before the act, and feelings of pleasure, relief, or satisfaction during the act. In this respect, kleptomania differs from conscious and planned theft behaviors [2]. However, the inability to confirm the disorder with biological markers or objective laboratory tests makes diagnosis largely dependent on psychiatric evaluation and detailed clinical history [3-5].

Article 32 of the TPC regulates criminal responsibility in cases where an individual's ability to perceive the legal meaning and consequences of their actions or to direct their behavior is diminished or abolished due to a mental disorder. In such cases, courts are required to obtain expert psychiatric evaluations to determine whether criminal responsibility should be reduced or eliminated. SC jurisprudence consistently emphasizes that failure to obtain an expert report under Article 32 constitutes a significant procedural deficiency and frequently results in reversal of lower court decisions.

The place of kleptomania in legal proceedings is as controversial as its clinical diagnosis. In the context of criminal liability, the assertion of a kleptomania defense can be decisive in determining the perpetrator's capacity to act, intent, and eligibility for sentencing reduction. However, the lack of sufficient time and appropriate conditions for detailed psychiatric evaluation in

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legal cases, the rarity of judicial decisions ordering psychiatric observation, and the challenges of making a differential diagnosis based on a single clinical examination create significant uncertainties for courts. Furthermore, it is well known that defendants may engage in simulation behaviors, invoking kleptomania in an attempt to avoid criminal responsibility [6-8].

SC decisions are significant in terms of their power to establish precedent and guide practices at the national level [9]. The aim of this study is to examine how claims of kleptomania are reflected in the high court, based on the power of SC decisions to establish precedent and guide practices at the national level. In this context, the study aims to analyze the reasoning behind the SC decisions to overturn and uphold kleptomania-related rulings. The study aims to contribute to a better understanding of the effects of kleptomania on criminal liability, strengthen the reporting processes of forensic practitioners, and enable courts to approach kleptomania defenses on a more objective basis.

Material and Methods

Data Source and Method

The study utilized the official website of the SCA online decision search platform, https://karararama.yargıtay.gov.tr/. On August 19, 2025, the keywords "kleptomania" and "pathological stealing disorder" were searched. Out of a total of 9.649.954 decisions, 71 decisions containing these keywords were identified. During the content review, two decisions in which the term kleptomania appeared only as a descriptive example and were not directly related to the case were excluded from the study, leaving 69 decisions for evaluation. The date range of the decisions included in the study was determined as 11.07.2012 – 17.04.2025.

To enhance the reliability of data extraction, all identified decisions were independently reviewed and coded by two researchers experienced in forensic medicine and legal analysis. Each decision was evaluated in terms of court type, case subject, outcome, source of the kleptomania claim, and reasoning of the SC. In cases where discrepancies occurred during coding, the decisions were re-evaluated jointly and consensus was reached through discussion. Given the descriptive and jurisprudential nature of the study, formal inter-rater reliability statistics were not calculated; however, the use of a double-review process was intended to minimize subjective bias and increase methodological robustness.

Rationale for Not Requiring Ethical Approval

This study did not require ethical committee approval because it involved the analysis of publicly accessible judicial decisions, did not include human subjects, and contained no identifiable personal data.

Descriptive Statistics

Only descriptive statistical methods were used in the evaluation of the data. Findings related to decisions were presented using numbers (frequencies) and percentages. No comparative statistical analysis was performed; results were interpreted descriptively based solely on ratios.

Results

It was determined that 97.1% (n=67) of the 69 decisions examined were issued by the CC of the SC, while 2.9% (n=2) were issued by the CiC. When the courts of appeal were examined, it was found that the vast majority of decisions came from the CCFI (85.5%, n=59), followed by the CC (Regional Court of Appeal, RCA) (5.8%, n=4), the Juvenile Court (JC) (2.9%, n=2), the High Criminal Court (HCC) (2.9%, n=2), and the Family Court (RCA decision) (2.9%, n=2).

When the subjects of the cases were evaluated, it was determined that theft was the predominant crime (89.9%, n=62) and other types of crimes were quite limited. In this context, defendants also invoked kleptomania as a defense in cases involving violation of the Military Criminal Code No. 1632 (2.9%, n=2), attempted aggravated theft (1.4%, n=1), robbery (1.4%, n=1), and purchasing or accepting stolen goods (1.4%, n=1). In the civil courts, two cases related to divorce proceedings (2.9%, n=2) were identified (Table 1).

Table 1. Distribution of Supreme Court decisions by court type, case subject, and judicial chamber

Supreme court	n (%)	p
Criminal chambers	67	97.1
Civil chambers	2	2.9
Court of appeal		
Criminal courts of first instance	59	85.5
Criminal chamber (Regional Court of Appeal decision)	4	5.8
Juvenile court	2	2.9
High criminal court	2	2.9
Family court (Regional Court of Appeals decision)	2	2.9
Subject matter of the case		
Theft	62	89.9
Violation of the military criminal code (No. 1632)	2	2.9
Divorce proceedings	2	2.9
Attempted aggravated theft	1	1.4
Robbery	1	1.4
Purchasing or accepting stolen goods	1	1.4
Total	69	100

In the four cases included in the study, it was observed that different types of crimes were committed alongside the crime of theft. In this context, one case involved theft and damage to property, one case involved theft, violation of residential inviolability, and damage to property, one case involved theft and violation of residential inviolability, and another case involved aggravated theft, aggravated fraud, forgery of official documents, and use of another person's identity or identity information.

When examining the distribution of decisions by year, it is observed that the number of decisions has fluctuated over the years since the process began in 2012. The highest increases

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occurred in 2015 (10 decisions) and 2019 (11 decisions), with these years representing the peak points in the distribution. Relative increases were observed in 2020 and 2023, and by 2025, the number of decisions was determined to be 2 (Figure 1).

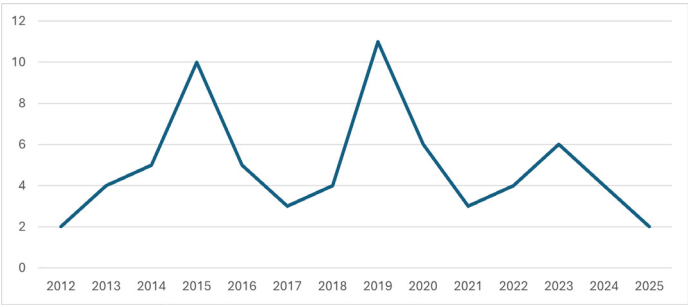

Figure 1. Distribution of decisions by year

When the decisions of the courts of first instance were examined, it was found that in the vast majority of cases (n=64; 92.8%), a conviction was handed down, in three cases (4.3%) it was decided that no punishment was warranted, and in two cases (2.9%) the divorce petition was granted. Most of the kleptomania claims put forward by the defendants were based solely on statements (n=38; 55.1%). However, in 30 cases (43.5%), the statements were supported by hospital reports, and in only one case (1.4%) was the claim based on a social investigation report. When the types of SC decisions were evaluated, it was determined that a significant portion of the decisions were overturned (n=56; 81.2%), while a more limited number of cases were upheld (n=13; 18.8%) (Table 2).

Table 2. Distribution of decisions examined according to their content and outcome

The decision of the court of first instance	n	%
Conviction	64	92.8
Decided that no punishment was warranted	3	4.3
The divorce petition was granted	2	2.9
Source of kleptomania report		0.012
Solely on statements	38	55.1
Solely on statements and hospital reports	30	43.5
Social investigation report	1	1.4
Types of Supreme Court decisions		
Overturned	56	81.2
Upheld	13	18.8
Total	69	100

When examining the grounds for the reversal decisions issued by the SC, it was determined that the most frequent reason for reversal was the establishment of a judgment without obtaining a report under Article 32 of the TPC (62.3%, n=43). This was followed by failure to resolve contradictions between reports (10.1%, n=7) and rendering a verdict based on a single physician's report (5.8%, n=4). To a lesser extent, failure to appoint a mandatory defense attorney (4.3%, n=3), failure to observe the requirement for psychiatric observation (4.3%, n=3), and other legal reasons unrelated to forensic psychiatry (1.4%, n=1) were also among the reasons for reversal (Table 3).

Table 3. Distribution of Supreme Court reversal decisions based on their reasoning

Reasons for the Supreme Court's reversal decisions	n	%
judgment without obtaining a report under Article 32 of the Turkish Penal Code	43	62.3
Failure to resolve contradictions between reports	7	10.1
Rendering a verdict based on a single physician's report	4	5.8
Failure to appoint a mandatory defense attorney	3	4.3
Failure to observe the requirement for observation	3	4.3
Other legal reasons unrelated to forensic psychiatry	1	1.4
Total	69	100

Upon examination of the reversal decisions, it was determined that two decisions belonging to the civil chambers were upheld, while all reversal decisions were issued by the criminal chambers. Table 3 shows the grounds for the 56 reversal decisions issued by the criminal chambers among the total of 69 decisions included in the study.

Discussion

This study examines the reflections of kleptomania in high courts through SC decisions. It is known that even a single decision rendered by high courts in national and international practices can be binding [10,11]. Therefore, evaluations based on SC precedents are significant. The findings of our study show that the kleptomania defense can play a decisive role in the high court process. It is noteworthy that 97.1% of the 69 decisions examined belong to the CC. This situation reveals that kleptomania is essentially raised in criminal proceedings. Furthermore, our findings clearly show that kleptomania is closely related to discussions of criminal responsibility, particularly at the intersection of forensic medicine and law.

Kleptomania is a disorder classified among impulse control disorders in psychiatric classifications, characterized by the inability to resist the urge to steal objects that are often worthless

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or unnecessary to the individual, without any economic need or gain motive [1,12,13]. According to the DSM-5, this behavior, which occurs repeatedly and cannot be controlled by the individual's will, is defined by increased tension before the act and feelings of pleasure, satisfaction, or relief during the act; the stolen items are usually not used or are given to others. In this respect, kleptomania differs from conscious acts of theft [2,3,8]. In the SC decisions examined in our study, it was an expected finding that theft crimes constituted the vast majority (89.9%) of the case subjects; however, in some cases, the theft act was accompanied by different crimes such as damage to property, violation of residential inviolability, aggravated fraud, or forgery of official documents. This picture reveals that kleptomania is mostly discussed in conjunction with other types of crimes rather than being evaluated as an isolated reason in legal proceedings.

Although kleptomania is defined as an impulse control disorder in DSM-5, there are no specific biological markers or objective laboratory tests for diagnosis. The diagnosis is primarily based on psychiatric evaluation and detailed clinical history. Therefore, it is difficult to confirm the diagnosis with medical reports in court proceedings, and in most cases, no objective findings supporting the diagnosis can be obtained other than the information in the patient's medical history [4,5,14]. Indeed, the fact that a significant portion of the kleptomania defenses put forward by the defendants in our study were based solely on statements (55.1%) appears to be directly related to this situation. This finding reveals that it is quite difficult to corroborate claims of kleptomania with objective medical evidence in the judicial process. The discrepancy between the high frequency of kleptomania claims and the relatively limited number of cases supported by medical documentation is consistent with findings in the forensic psychiatric literature. Previous studies emphasize that kleptomania is difficult to diagnose retrospectively and lacks objective biological markers, which increases diagnostic uncertainty and the risk of simulation. This gap highlights the importance of comprehensive psychiatric evaluation and expert reporting in judicial proceedings where criminal responsibility is questioned.

It is known that kleptomania patients generally do not seek treatment voluntarily, and the disorder usually comes to light following legal proceedings. Therefore, the absence of prior medical reports is common, and claims of kleptomania are often first raised at the level of statements during legal proceedings [3,15,16]. In our study, when the Supreme Court's reversal decisions were examined, it was found that the most common reason was the establishment of a verdict without obtaining a report under Article 32 of the TPC (62.3%). This finding shows that the SC does not disregard the possibility that the defendant's statements may be true and takes into account that the diagnosis of kleptomania often remains ambiguous before the legal process begins.

In comparative legal contexts, similar concerns have been raised regarding the assessment of kleptomania in criminal responsibility [3,7,17]. Previous studies emphasize that kleptomania is associated with significant diagnostic challenges and lacks objective biological markers, leading courts to approach such claims with caution due to the potential for malingering [3,17]. In Anglo-American legal systems, forensic psychiatric evaluation plays a central role in determining criminal responsibility in cases involving impulse control disorders [7]. This approach is consistent with the jurisprudence of the Turkish SC, which emphasizes the necessity of expert assessment rather than reliance on subjective statements.

In cases where a psychiatric condition that could affect criminal responsibility is present, it is understood that the SC considers the issuance of a ruling without obtaining an expert report under Article 32 of the TPC to be a serious procedural deficiency [10]. Furthermore, grounds for reversal such as rendering a verdict based solely on a single physician's report (5.8%) demonstrate the Supreme Court's sensitivity regarding the quality and adequacy of forensic psychiatric reports.

The social visibility of certain psychiatric disorders may increase periodically. In particular, the association of well-known public figures with such disorders increases awareness of these illnesses [18]. In our study, we observed significant increases in the number of decisions in 2015 and 2019 compared to the annual average. This fluctuation reveals that the visibility of kleptomania in criminal proceedings varies periodically and indicates a need to investigate the underlying reasons. The noticeable increase in the number of SC decisions in 2015 and 2019 may be attributed to multiple factors. Possible explanations include fluctuations in the workload of the SC, increased societal and media visibility of psychiatric disorders, and heightened awareness regarding mental health defenses in criminal proceedings [9,10,18]. Additionally, periodic legislative discussions and evolving judicial sensitivity toward psychiatric conditions affecting criminal responsibility may have contributed to the increased frequency of kleptomania-related appeals during these years.

Kleptomania is not only an individual mental disorder but also a significant problem that affects family dynamics. Repetitive and uncontrollable stealing behaviors can lead to loss of trust between spouses, communication problems, and damage to reputation in the social environment. This situation, which is reflected in legal processes, creates both economic and psychosocial pressures on the family and increases the stress factors that spouses have to deal with together. The burden brought about by this psychiatric disorder disrupts marital harmony and can, in some cases, become grounds for divorce [8,16,19-21]. Indeed, in our study, two of the SC decisions examined (2.9%) referred to kleptomania in divorce cases.

In previous studies, it has been noted that when conducting a detailed search on the Supreme Court's online decision search platform, all decisions cannot be viewed at once due to a numerical limitation [10]. This situation has been considered a significant methodological constraint for researchers. During our study, however, it was observed that a search using keywords

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could be performed within a total of 9.649.954 decisions using the "detailed search" option on the platform. This improvement is considered to contribute methodologically to research in the fields of law and forensic medicine by increasing the accessibility of judicial data.

Conclusion

It has been determined that claims of kleptomania are significantly reflected in SC decisions. An examination of SC decisions provides important clues from both a forensic medicine and legal perspective. It is understood that kleptomania must be supported by expert reports, not based solely on individual statements, otherwise there is a high probability that the decisions will be overturned by the SC. These findings emphasize the importance of cooperation between forensic medicine practitioners and lawyers, highlighting the necessity of a multidisciplinary approach, particularly in determining criminal responsibility.

Ethical Approval
This study did not require ethical committee approval because it involved the analysis of publicly accessible judicial decisions.

Patient Consent
This study did not include human subjects, and contained no identifiable personal data.

Conflict of Interest
The authors declare no conflict of interest.

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