



F34 Depraved Indifference — Murder of a Child in New York: Are Moms Getting Away With Murder?

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After attending this presentation, attendees will wonder whether those who cause the death of innocent children are being held to a proper legal standard as, over the years, New York's appellate courts have restricted the application of "depraved mind" murder (an equivalent in seriousness to intentional murder) for prosecutors.

This presentation will impact the forensic science community by illustrating deficiencies or "quirks" in the law of child abuse that prevent parents from being held responsible for the deaths of their children in egregious, "non-intentional" cases if they have attempted assistance in any way.

In the presented case study, the evidence overwhelmingly established that the defendant knew her son had sustained devastating, life-threatening injuries at the hands of her domestic partner and was in severe pain. Nevertheless, she did not call an ambulance or take her son to the hospital. Instead, she and the codefendant made worthless and belated efforts to treat the child with home remedies and children's acetaminophen. The defendant otherwise ignored her child's injuries over a period of seven hours. During this time, the defendant made casual telephone calls without mentioning the child's injuries, drank beer, and smoked, and then went to sleep. She finally called 911 at or around the time the child died. Even then, she took the time to dispose of potentially incriminating evidence before making the call. Furthermore, she admitted that she did not seek medical attention earlier because she was afraid of being blamed for the injuries. The fact that she deliberately placed her own interests ahead of her son's need for emergency treatment was strong evidence that her omission evinced depraved indifference rather than mere recklessness or negligence.

The mother's conviction was upheld at the intermediate appellate level; however, the highest appellate court reversed and remanded, finding that the treatment, given after the injuries were obvious, was a quintessential case of far too little, far too late; but to them demonstrated that it did not support a finding that she did not care at all. As for the fact that she attempted to conceal the crime, that also did not, in the court's view, evince a mental state of depraved indifference. Zahira Matos pleaded guilty to a new indictment charging her with Reckless Manslaughter.

Lawyers may be surprised to learn that even a studied indifference to the duty of care owed to a child by his mother can be considered merely reckless in New York, even when horrific injuries are demonstrated, as long as they cared to the smallest extent — even if the child is left to die.

This presentation introduces a case study of a child severely beaten by his mother's domestic partner, and then left without medical treatment in full view of both as they labored to cover up their crime. Experts at the trial of the mother found that the child died from child abuse syndrome and suffered for hours before death. When the two women finally called for police and medical assistance, the child had likely been dead for hours.

Child Abuse, Wound Interpretation, Homicide