



F15 The Role of the Forensic Pathologist in the Judge's Decision in Italy: A Presentation of a Peculiar Case

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After attending this presentation, attendees will understand the principal phases of the Italian criminal procedure and the weight of the forensic pathologist's opinions in judges' decisions.

This presentation will impact the forensic science community by explaining the relationship between the forensic pathologist and the public prosecutor and their influence on the judge's pronouncement.

Italian criminal law is divided into two different parts: the Criminal Code (*Codice Penale*) that prescribes the types of crimes and the Criminal Procedure Code (*Codice di Procedura Penale*) that codifies rules describing every phase of the criminal proceedings.

When a violent death occurs, the prosecutor assigns an expert in the field ("*perito*" — a forensic pathologist in case of murders) to evaluate the case. The preliminary information reported by the forensic expert after the inspection will be used by the prosecutor to determine whether there is enough evidence to require a trial. If a trial occurs, there is the entrustment of the case (*conferimento dell'incarico*), a document containing questions that are asked of a forensic pathologist regarding the case. The prosecutor and the private parties can designate their own expert witnesses (respectively, "*consulente tecnico d'ufficio*" and "*consulente tecnico di parte*") who give support to their arguments. Once the trial has started, if the judge does not close the case with a non-suit judgment, he allows a hearing (*dibattimento*) based on the discussion among the parties. The respective results are extremely useful for the judge in coming to a decision.

The primary goal of this presentation is to present an emblematic case study of a homicide prosecution in Rome. A 28-year-old White male was walking down the street screaming incomprehensible phrases in a foreign language at night. At some point, a young man approached him and ordered him to stop screaming. After that, the man immediately started to assault the 28-year-old, beating him to death. According to the declaration of the witnesses, the man struck the victim with a kick to the chest, causing him to fall, then continued to kick the victim several times. The police and an ambulance were called. The rescuers tried to resuscitate the victim without success, and pronounced the death. The police notified the Public Prosecutor of the violent death; he then contacted the on-duty forensic pathologist, asking him to go to the crime scene. At the crime scene, the forensic pathologist saw the body of the victim placed on its right side on the ground between a motorbike (on the left) and a car (on the right), with the head toward the sidewalk (on the top) and the legs toward the center of the street, surrounded by a pool of blood. The next day, the forensic pathologist was requested to answer these questions after a complete autopsy: (1) cause of death and location of the injuries, their mechanisms, and the relative position between victim and offender; and, (2) the minimum number of blows, their nature (punches, kicks, others), and their severity in connection with the death.

At the postmortem examination, the head was found to be the main affected area. Bruises and lacerations were found on the skin of the face, while a linear fracture on the squamous part of the right temporal bone together with subarachnoid hemorrhage and brain contusions were observed. Toxicological analyses were negative. The death was due to intracranial injuries due to physical assault, and the manner of death was homicide.

Different types of homicide are described in Italian jurisdictions: (1) "voluntary" homicide is the killing of a human being in which the offender had intent to kill; (2) "involuntary" homicide is the involuntary action of causing the death of a person without criminal intent; and, (3) "unintentional" homicide occurs when the death of a human happens as a result of a deliberated and voluntary act of violence not meant to kill.

During the hearing, the judge took into consideration the outcomes of the expert survey of the prosecutor and of the private parties.



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The forensic pathologist's opinion is usually decisive in court. Despite this, the judge is *peritus peritorum*, which means that he can freely and independently weigh all the results to reach a proper judgment.

Forensic Pathologist, Prosecutor, Judge