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## E43 Disclosing and Strengthening Forensic Science in Portugal: A Homicide Case

*João De Sousa, MS\*, Morgado 2625-576 Vialonga, PORTUGAL*

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**Learning Overview:** The goal of this presentation is to disclose, analyze, discuss, and by doing so, contribute to strengthening forensic science in Portugal.

**Impact on the Forensic Science Community:** This presentation will impact the forensic science community by showing an example of the wrong practice of forensic science concerning a case in Portugal. Attendees will understand how to correctly practice forensic science.

In a city near Lisbon, the capital of Portugal, a 51-year-old male triathlete disappeared on July 16, 2018, after his daily cycle training, according to his 43-year-old wife's statement to the authorities. The national media widely publicized his disappearance and, with the local people's help, his wife, family, and the authorities began a search. One month and nine days after the missing person report, the dead body of the triathlete was found skeletonized, with firearm aggression signs, 91 miles away from home (his cycle training starting point).

After the criminal investigation work of the judicial police, the authorities found a firearm at the house of the 43-year-old male lover of the triathlete's wife and, with the autopsy final results and conclusions, both were preemptively arrested on September 29, 2018. The court trial started on September 10, 2019, with a people's jury. On September 10, 2019, the first session of the court trial began with heavy media coverage and was passionately followed by the Portuguese population. After three months, the male lover of the triathlete's wife was released from jail.

Three months later, on March 3, 2020, the people's court decided to condemn the triathlete's wife to 25 years in prison (the maximum sentence in Portugal) for the murder of her husband and a not guilty decision for the lover was rendered, even though he owned the gun. On September 8, 2020, after the prosecutor's appeal, a superior court of law decided against the people's court decision and condemned the lover to the maximum sentence: 25 years for the murder of the triathlete, by using his gun. The higher court kept the sentence of the triathlete's wife by co-authorship. At present, both of the condemned are appealing to the higher court, and no one in the media or the population understands this decision. A lively national discussion about the justice system is currently underway.

There were multiple problems with this criminal investigation and court trial: the collection and value of evidence from the crime scene presented to the people's court, misinterpretation of the collected forensic evidence, the manner in which the forensic practitioners and the police agents testified in court, the lawyer's lack of knowledge and comprehension of the forensic evidence, and the Portuguese judge's and people's weak knowledge of forensics. To illustrate what was previously mentioned as autopsy procedure failures, a necropsy performed on August 8, 2018, and the exam conclusions misinterpreted by the people's court were examined. Despite the existence of a regulatory norm—NP-INMLCF-008, Recommendation n. R(99)3 of the European Council—that requires a radiological diagnosis (virtopsy) in firearm utilization cases, the medical examiner did not follow the correct procedures.

In addition, it was detected and mentioned in the medical examiner's report that he found a hyoid bone fracture. The medical examiner told the people's court that this injury was not relevant for determining the cause of death. The medical examiner did not mention whether the injury was caused antemortem, perimortem, or postmortem, nor was the court questioned. Result: doubts about the true cause of death.

Regarding the firearm and the use and misuse by the judge of a forensic exam: the forensic examination of the firearm and the projectile collected from the corpse were inconclusive. The court ruled that the weapon was responsible for firing the projectile, despite the forensic exam not so concluding. In the meantime, another event took place (February 14, 2020) that raised questions about the criminal investigation proficiency and the court's decision. Another firearm projectile was found in the house where the homicide presumably occurred (after the police analysis took place). During the trial, it was demonstrated that the police did not follow homicide case protocol. The aim of this real case presentation is to demonstrate that there are flaws in the application of justice in Portugal, flaws that can only be corrected if there is training and education in the field of forensic science. Both police actions and court decisions must follow scientific criteria and protocols because, if not, errors will prevail and the final decisions will be untruth, unaccountable, uncheckable, wrongful, and truly unfair!

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**Justice, Evidence, Untruth**