

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
COUNTY OF DU PAGE

PEOPLE OF THE STATE OF ILLINOIS,	)	
PLAINTIFF,	)	
	)	CRIMINAL NO.
VS	)	
	)	12 CF 2152
ELZBIETA PLAKOWSKA,	)	
DEFENDANT.	)	

**VERDICT**

I would like to thank the Prosecutors and the Defense team for their outstanding work and presentations during this trial. I found the attorneys to be professional, and well versed in both the facts and the application of law to those facts.

I have considered all the evidence presented, the credibility of the witnesses, including their demeanor and manner while testifying, the exhibits that were received, stipulations, arguments of counsel, applicable case and statutory law, and the relevant portions of the Illinois Criminal Code. The Court has also considered the weight and quality of the evidence presented, drawn reasonable inferences where appropriate and applied the requisite standards and burdens of proof. The Court has considered all of the evidence without placing undue influence on any factor, despite omitting the mentioning of some of the evidence from this verdict.

**THE COURT FINDS:**

The Court has jurisdiction.

The Defendant is charged with 10 counts of First Degree Murder and 2 counts of Aggravated Cruelty.

The Defendant has plead NOT Guilty, and has presented evidence supporting the consideration of the Defense of Insanity.

As the judge in this matter, my first task is to determine whether the State has proven the Defendant GUILTY of ANY of the offenses BEFORE I consider any of the issues of Insanity.

The State was very straight forward in their presentation of evidence on the issue of the 12 charges.

The Defendant had been a babysitter for Olivia, and was charged with caretaking duties at the time of the deaths.

Shortly before the deaths of Olivia and Justin, the Defendant was seen in church with the two children.

GPS technology showed that after the Defendant left the church with the two children, she went home first, and then to the home of Olivia.

Both Olivia and Justin were found stabbed to death within Olivia's home, at the time the Defendant was there with them.

The two dogs Niki and Tootsie were similarly found stabbed to death in Olivia's home.

The Defendant had the blood of Olivia, Justin and at least one dog on her jeans, immediately after the deaths of the children.

A knife, forensically capable of being a weapon used in the murders and the animal stabbings was found in the defendant's car, with what appeared to be blood stains on the knife's blade.

After the stabbing deaths of Justin and Olivia, the Defendant went to Macki Moody's home. The Defendant's son was staying at the Moody residence due to the Defendant abruptly evicting him from her home the night before.

Upon entering the home, the defendant was seen covered with blood. According to Matt, the Defendant looked panicked.

The Defendant said that she was attacked by a man wearing all black, with black shoes, a black shirt and black gloves.

The Defendant stated that the Man in Black tried to attack her, and that she had a wrist injury as a result. The Defendant insisted she was trying to protect the kids.

The Defendant claimed that her phone was taken by the man in black, and that the Man in Black knew where her family lived.

Detective Arsenault, and to a lesser extent, Detective Kowal interviewed the Defendant.

Detective Arsenault skillfully gave the Defendant the impression that he believed her story, and was simply asking for clarification.

As the interview progressed, Detective Arsenault was seemingly just allowing the Defendant to add more and more to her fictional account.

It's much more difficult for someone who is lying to be able to recount earlier assertions, than someone who is telling the truth.

As detective Arsenault began to re-address the many inconsistencies he had drawn out of the Defendant, it was clear even to the Defendant that the Man in Black facade was transparent.

Due to Detective Arsenault's meticulous dismantling of the Defendant's Man in Black fictional narrative, the Defendant relented and admitted she had in fact killed the children.

Subsequently, the Defendant admitted that she stabbed Justin, Olivia and the two dogs to both Dr. Resnick and Dr. Obolski.

As a preliminary matter, I do find that the State has proven the Defendant Guilty Beyond a reasonable doubt of the offenses charged in Counts 1-12.

It should be noted that the defense did not contest this finding, but instead has focused their battle on pursuing an Insanity Defense, which is abundantly understandable.

Once I, as the Judge, find that each one of the propositions relating to the 12 charges has been met, I then turn my attention to the Defense's position that the Defendant is Not Guilty by Reason of Insanity.

At the onset of this case, to some people, the facts may have seemed to scream insanity. As an adjective often used as a metaphor in conversations, the definition of INSANE has lessened in its impact. However, legal definitions and those of Noah Webster don't always parallel one another.

A person is insane and not criminally responsible for her conduct if at the time of her conduct, as a result of mental disease or mental defect, she lacks substantial capacity to appreciate the criminality of her conduct.

The Defendant has the burden of establishing insanity by clear and convincing evidence.

A person who, at the time of the commission of murder, was not insane but was suffering from a mental illness is not relieved of criminal responsibility for her conduct.

The first step, as the Court sees it, is to determine if the Defendant was suffering from a mental disease, a mental defect, or a mental illness.

The term "MENTALLY ILL" has been defined by Illinois Law as follows:

A person is mentally ill if, at the time of the commission of the offense, she was afflicted by a substantial disorder of thought, mood or behavior which impaired her judgment, but NOT to the extent that she was unable to appreciate the wrongfulness of her behavior.

There has been substantial testimony that there were not any sort of detected mental health issues with the defendant prior to the death of her father.

After the death of her father the Defendant's demeanor and mental status were observed to decline, as noticed by friends, family and employers.

The Defendants perceived demeanor, outlook, and grooming were so noticeable that an employer decided on October 30th, 2012 to discontinue having the Defendant clean her house.

Just prior to October 30th, Olivia's mother had decided to find a new babysitter.

The Defendant's behavior was not on a constant downward trajectory, since on some days the Defendant appeared better than others.

Dr. Resnick opined that since the Defendant wrote a text message to her husband Artur, that clearly, disenchantment with her marriage was not a motive for the killings.

He apparently did not consider that the Defendant may have already decided to kill the children, and that this text message was a "good-bye" message.

Dr. Resnick also interpreted the Defendants arguments with Matt the night before the killings as an indication that the Defendant was exhibiting signs of the onset of her mania.

He did not consider that the Defendant may have already decided to kill the children, and the act of abruptly evicting Matt was Defendant's way of making sure that Matt would have a living arrangement in place, since the Defendant did not plan to return home after the homicides.

The Defendant seemed cogent and stable to Matt in the afternoon of October 30th, when he communicated with the Defendant. Matt was 19 at the time, was working and attending school.

On October 30th, before the killings, a fellow parishioner was compelled to keep a watchful eye on the Defendant because of her odd behavior.

After the deaths of Olivia and Justin, the Defendant's behavior seemed to markedly worsen.

She was observed acting outside the realm of reality in the DuPage County Jail. She was talking to herself, kissing the sink, kicking the toilet, rocking and stabbing an imaginary child, and had other delusional episodes.

At the jail, Nurse Lamay provided a general description of Defendants behavior as void of eye contact, and with traveling speech.

Jail Nurse Venecia observed what he thought was behavior evidencing a mental health issue.

Jail Nurse Kvczynska observed what she thought was behavior evidencing a mental health issue.

Lt. Gustafson observed what she thought was behavior evidencing a mental health issue.

Dr. Corcoran observed what he thought was behavior evidencing a mental health issue and was able to provide a diagnosis of Depression and Psychotic Episode.

Dr. Resnick watched the videos of the Defendant being interviewed by police, and reviewed the Discovery in this matter.

Dr. Resnick was of the opinion that the Defendant was ABSOLUTELY in a psychotic state at the time she entered the jail, and reached a further conclusion that the defendant was in a psychotic state at the time of the killings.

The closest thing to an objective test for mania, was Dr. Resnick's statement that had the defendant NOT been in a manic state, the administration of Thorazine would have undoubtedly had a more severe effect on the Defendant.

The fact that the Defendant was calmed down by the Thorazine, rather than knocked out, suggested to Dr. Resnick that the Defendant was truly manic at the time of the drug's intramuscular injection.

The defense team has been outstanding in presenting strong evidence that the defendant was suffering from a mental health issue at the time of this offense.

However, the prosecution team has been equally as outstanding in eliciting testimony that the Defendant should be held criminally responsible for her acts.

The meter by which an insanity defense is measured, requires that the evidence reach the burden of being clear and convincing.

In the law, there are essentially three different burdens of proof.

A preponderance of the Evidence, Clear and Convincing evidence, and Evidence Beyond a Reasonable Doubt.

Some courts have remarked that the degrees of proof could be defined respectively, as **probably** true, **highly** probably true, and **almost certainly** true.



So, this Court generally examines and weighs the evidence to decide if it is highly probably true that the Defendant was legally insane at the time of the killings rather than just mentally ill.

Mental Illness can be thought of as a strong Gale Force Wind, whereas, Insanity is a Hurricane.

With regard to the first prong of Insanity, I am convinced that the Defendant was suffering from a mental illness at the time of the homicides.

The cause of her psychotic state could have resulted from the loss of her father, coupled with her husband's inability to meet her expectations.

It could have stemmed from her perception of not being appreciated, her conflict with Matt, financial issues or something totally unrelated.

It could have been a single issue, or a compilation of factors. It also could have been amplified or accelerated by the Defendant's alcohol usage.

We as humans are not all mentally and physically equal, and whatever it was that ultimately ignited the mental health breakdown, is not for me to discern.

As I noted above, and has been stated by the parties, the second prong of INSANITY requires that the Defendant lacked substantial capacity to appreciate the criminality of her conduct.

Although the phrase "lacks substantial capacity" is incapable of precise definition, the phrase "lack of substantial capacity" does not mean a total lack of capacity, but, rather, it means capacity which has been impaired to such a degree that only an extremely limited amount remains.

On the issue of insanity, the State has proposed that the Defendant is a liar, and a malingerer.

Malingering is the fabricating of symptoms of mental or physical disorders for a variety of motives.

During interviews with the police, the Defendant moaned uncontrollably, and questions posed to her were often repeated or answered with non-responsive replies.

There were also times when the Defendant appeared to simply agree with Detectives without any conviction.

Dr. Resnick attributes this to the Defendant's psychotic State coupled with exhaustion. The State argues that the Defendant was malingering and fabricating.

The many tests by Dr. Masson were unpersuasive in either bolstering or refuting the investigation of malingering. Some tests were unable to be interpreted.

Of the tests that were interpreted, the results were barely above the threshold required for the result to be significant. Nonetheless Dr. Masson concluded that the Defendant, in her expert opinion was NOT malingering.

Likewise, I did not find Dr. Felske's findings legally significant. The Defendant's scores were barely above threshold figures, and despite their clinical significance to psychologists and psychiatrists, they were given little legal weight.

I gave more credence to witness accounts of Defendant's behavior than the myriad of tests, and I agree that the defendant was NOT completely malingering.

I believe that the Defendant did exhibit signs of mental illness, but at times also feigned delusions, such as dressing herself from an imaginary dresser and offering food to jail staff.

Dr. Obolski's testimony was persuasive in characterizing some of the Defendants observed jail antics as falling outside the realm of a veritable delusion or hallucination.

It is however important to note that neither the tests conducted by Dr. Masson, nor the tests conducted by Dr. Felske are lie detector tests.

Additionally, if the testing by either Doctor is accepted as a reliable index, it does NOT mean that the Defendant was either insane or sane at the time of the homicides.

The tests only give an indication as to whether the Defendant is faking her mental health symptoms.

The Defendant could have embellished or lied in the mental health examinations. She very well could have concocted her recounting of her delusions, and her hallucinations.

This Court is finding that the Defendant's true symptoms of mental illness were commingled with her self-manufactured false delineations.

In fact, the decision by this Court that the Defendant was not malingering to the degree that she was actually free of mental illness, is taken with the same belief that the Defendant without a doubt, mixed the truth with purposeful lies about how the murders occurred.

It was Dr. Resnick's ultimate opinion, that at the very moment of the stabbings, the Defendant was having a Psychotic Episode.

Per Dr. Resnick, the Defendant believed that she was preventing a tragedy for the world by killing the devil. She was killing out of Love, not Anger.

Dr. Resnick provided an example of a person who acts in an insane manner, and then only moments later realizes that he had done something wrong. The example was of a person who believes that he is killing an intruder, but moments later realizes that he has killed his mother.

The circumstance with Defendant Plackowska is much different. She knew the whole time that she was stabbing Olivia and Justin.

She may have believed that she was stabbing the devil occupying their respective bodies, but she knew that by stabbing Justin, and by stabbing Olivia she was killing them. She told them to pray before the stabbings because she knew exactly who they were, and their impending fate.

Dr. Resnick did not put as much significance on issues and statements that both the State and Dr. Obolski found to be of remarkable importance.

However, Dr. Resnick did state that there were three main factors to be examined in measuring a defendant's capacity to appreciate wrongfulness.

- a. Efforts to avoid detection
- b. Disposal of evidence
- c. Efforts to avoid apprehension

Some of the testimony from witnesses included:

1. The Defendant told her son Matt about some Insurance papers shortly before the killings.
2. The Defendant brought Olivia to church prior to the murders, which the Defendant had no right to do.
3. The Defendant brought her own dog and Justin to Olivia's home which she did not have authority to do.
4. The Defendant lied about returning home after church, and instead said she drove straight to Olivia's house.
5. After the killings, one of the knives was found to be bent in a right angle and in the kitchen sink's garbage disposal. Although it did not appear from an examination of the knife that the disposal was turned on, it was the disposal mechanism that prevented the knife from sliding down the drain and out of sight.

6. The Defendant locked the door to Olivia's home to prolong discovery of the killings.
7. The Defendant chose a route after the murders to avoid detection by Olivia's mother.
8. The Defendant considered staying at a hotel, but suspected the police would be combing parking lots looking for her car.
9. The Defendant left a phone message for Father Murphy during her flight from the homicide scene admitting that "she did something today, and saw the devil."
10. The Defendant threw her phone out of her car window to avoid detection.
11. The Defendant clearly stated that she thought the phone battery dislodged from her cell phone after she threw the phone from her car to the pavement. However, that phone battery was found in her purse.
12. Immediately after the killings, the Defendant lied to her son Matt and her friend Macki Moody in concocting the man in a black scenario.
13. At the hospital, the Defendant said she did nothing wrong, but then said God would forgive her. It is unclear why God would forgive her if she believed that she had truly done nothing wrong.

14. The defendant-continued to lie to the police about the Man in Black excuse, and actually provided details about being outside smoking a cigarette, and additionally, but not limited to, being cut on the wrist by the intruder.
15. Rather than admit that she killed the children, the Defendant insisted she tried to protect Justin and Olivia.
16. Defendant later told police that her wrist was cut when she attempted to take her own life, but this wrist injury appeared to be barely more than a scratch.
17. In explaining the killings to the police, the Defendant never mentioned seeing a shadow, and first mentioned that to Dr. Resnick.
18. Dr. Obolski did not believe that the Defendant's description of The Shadow was consistent with an authentic Hallucination.
19. The Defendant stated that both Justin and Olivia reacted to the Shadow, but Dr. Obolski stated that such a reaction in the Defendant's Hallucination would be unlikely.
20. Dr. Obolski did not believe that the Defendant's account of the Shadow providing her with commands in English was consistent with known psychiatric findings.
21. Even after the Defendant brought forth her visualization of a shadow, her description of the appearance and the Shadow's commands were not consistent, varying from "Kill, Kill, Kill" to "Kill the Kids."

22. When the Defendant gave varying accounts of the Shadow's commands, each account never included a command to harm the dogs.
23. The Defendant stated she took a knife with her into the car in order to kill herself because she knew that she had done something wrong.
24. The Defendant told Dr. Resnick that when she was stabbing the children, one of her thoughts was that she wasn't supposed to be engaging in such conduct.
25. The Defendant stated that she didn't want to commit the murders in her own house, because she didn't want to make a mess there.
26. The Defendant told her husband from the jail, that she would do all that she can to "Get out of this."

However there was also substantial evidence that prior to the killings, the Defendant became consumed with attending Church, and reported that she had communicated with her father, who was in Heaven.

1. The Defendant began commenting that she saw the Devil in each of her family members.
2. The Defendant thought Justin's eyes were red, which indicated to the Defendant the presence of the Devil.
3. The Defendant stated that she believed that Justin would become a Saint following the killings.



It is possible that the Defendant believed that killing Justin, Olivia and the dogs would result in a reunion with her father in Heaven.

Assuming for the moment that the Defendant saw the Devil in Justin, it is possible that she felt that carrying out God's law in eradicating the Devil from the world outweighed Man's law that such an act was criminal.

The issue of whether the Defendant lacked substantial capacity to appreciate the criminality of her conduct is viewed in conjunction with all of the testimony.

The Defense has done an excellent job in submitting evidence of insanity.

However, such evidence needs to withstand the State's cogent and clinical argument that these killings had nothing to do with the Devil or a Shadow.

Even giving credence to the most lucid of the Defendant's various explanations, the choice to commit the criminal act because killing the devil within the kids would be a "Greater Good" for humanity, is still a decision incorporating the legal wrongfulness of the stabbings. It is still an appreciation of the criminality of her conduct.

It does seem evident to this court that it was mental illness that brought the Defendant to the crossroads of having to make such a choice.

Despite this saddening circumstance, mental illness alone is only one of two linchpins in a defense of insanity.

Dr. Resnick pointed out that Dr. Obolski found that the Defendant did have the substantial capacity to appreciate the criminality of her conduct, but was critical of Dr. Obolski's report because it didn't have the reasoning for such a conclusion.

I find that Dr. Resnick did the same thing. His ultimate opinion was clear that the Defendant was suffering from a psychotic episode.

However, he never asked the Defendant anything about whether she knew it was illegal or a criminal act under man's law to kill Justin and Olivia regardless of which version of events was to be believed.

Dr. Resnick said that the ultimate question that was presented to the Defendant at the time of the killings - required her to answer whether it was wrong to kill the children if possessed by the devil.

However, that isn't a legal question. The legal question would be whether the Defendant had the substantial capacity to appreciate the criminal nature of the homicides despite her belief that the children were possessed by the devil. The Defendant herself stated that at the time of the murders she knew that she wasn't "supposed to."

Dr. Resnick believed that the Defendant was under the influence of the Shadow's voice, and that the kids would not get into Heaven unless she killed them and the Devil. It was clear to Dr. Resnick that the Defendant was under the INFLUENCE of the voice.

Although not dispositive of the issues, the use of the word "influence" does not seem compelling.

This has been a 2 and a half week trial. It is clear to the Court that the attorneys in this case spent exponentially more time than those two weeks plus combing over every word of every interview to prepare for this trial.

It was further apparent to me that the attorneys watched every frame of every minute of video to dissect its literal and implied meanings.

Both sides painstakingly brought to my attention every minute detail and utterance that supported their respective positions.

I cannot imagine what either side could have done to further emphasize their positions.

The only way to change today's verdict would be to go back in time and undue to murders, which is sadly impossible.

It is the verdict of this Court that the Defendant is Found Guilty of Counts 1-5, of the Indictments charging the Defendant with the Murder of Olivia.

It is the verdict of this Court that the Defendant is Found Guilty of Counts 6-10, of the Indictments charging the Defendant with the Murder of Justin.

It is the verdict of this Court that the Defendant is Found Guilty of Count 11, which is an Indictment charging the Defendant with Aggravated Cruelty for causing the death of the Dog, Niki.

It is the verdict of this Court that the Defendant is Found Guilty of Count 12, which is an Indictment charging the Defendant with Aggravated Cruelty for causing the death of the Dog, Tootsie.

It is the intent of this Court, to follow the merger principles in compliance with the One-Act--One-Crime Rule.

In that regard, the parties should expect that the Defendant will be sentenced on

Count 1 -- Count 6--- Count 11, and Count 12

Judgment is hereby entered based upon this verdict.