

Turcotte case shows evolving nature of law

Overturning of original verdict ‘extremely rare’

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NO ADULT HAS THE RIGHT TO DETERMINE THE LIFE AND DEATH OF CHILDREN. EVEN IF IT HAD BEEN FIRST-DEGREE MURDER, I WOULDN’T HAVE BEEN SATISFIED BECAUSE I’LL NEVER GET MY CHILDREN BACK.



— ISABELLE GASTON, EX-WIFE OF GUY TURCOTTE

Olivier Turcotte, 5, and his little sister, Anne-Sophie, 3, wanted to watch a video. So they begged their father, Guy, to stop at the Video Zone store to rent one. Bundled up in their snowsuits, the siblings went waddling through the shop, chattering like a pair of happy penguins, trailing after their dad. Turcotte paid for the movies with his credit card, adding a bag of chips to their haul.

Then the cardiologist continued on home in the resort town of Saint-Jerome, north of Montreal, where he cooked spaghetti for his children, using sauce from a jar, before slaughtering them in their sleep later that night. Olivier suffered 27 stab wounds. Anne-Sophie, in the bedroom next door to her brother, was stabbed 19 times. Police discovered Turcotte the next morning, cowering beneath his bed, covered in blood and vomit.

He told officers that he had drunk windshield wiper fluid. He told them how he wanted to die. It was Feb. 21, 2009, the flashpoint of a tragic and yet sensational story, one that has twisted through the Quebec court and helped transform the law while leaving the fate of a child killer in the hands of a jury of his peers, for the second time in four years.

The murders stunned Quebecers. The killer was a doctor, as was his estranged wife, Isabelle Gaston. Their relationship had been messy. They were separated. She was seeing someone else, and had been, for some time, at the time of the killings.

But these were Turcotte's own children, and while his guilt for their murders was beyond question — he admitted killing them — a jury would find the physician to be not criminally responsible (NCR) due to a mental disorder at his initial trial in 2011.

The Quebec Court of Appeal overturned the verdict and ordered a new trial, a decision that reverberated through judicial circles, both because of its timing, and because it showed, in real time, that the law is fluid, evolving case by case.

“To overturn a verdict of not guilty, based on not criminally responsible (NCR) is extremely rare,” says Stéphane Beaulac, a law professor at the Université de Montréal. “Even more rare, is for the decision to be based on a change or an adjustment of the law between the first trial and the appeal.”

In tossing out the lower court's decision the appeal court had relied upon a Supreme Court of Canada judgment rendered just five months after the Turcotte case. In that ruling, the top court concluded that a defendant could indeed be mentally ill when he commits a crime and employ an NCR defence. But if he was incapacitated by intoxication — and not by a mental disorder — at the time of the murders, then the mental disorder defence should not be successful.

Guy Turcotte's fate is now back in the hands of 11 jurors, who began deliberations in a Saint-Jerome courtroom on Monday. Quebec Superior Court Justice Andre Vincent instructed jurors to consider four verdicts: not criminally responsible because of a mental disorder, guilty of first-degree murder, guilty of second-degree murder or guilty of involuntary manslaughter.

It took the jury five days to reach its not criminally responsible verdict in July 2011. Gaston spoke to reporters outside the courtroom afterwards. She thought about committing suicide after her babies were killed. Everything she had loved most was lost, and she expressed “shock” at the NCR verdict, though remained composed and precise with her words, boring through to the essence of what Turcotte had done.

“No adult has the right to determine the life and death of children,” she said. “Even if it had been first-degree murder, I wouldn't have been satisfied because I'll never get my children back.”