

Psychiatrist's False Testimony Triggers Retrial

"Citing the effect of false testimony by an expert witness for the prosecution, Houston's 1st Court of Appeals on Thursday overturned Andrea P. Yates' 2002 murder conviction and ordered a new trial for the mentally unstable Houston woman who drowned her five children in a bathtub in 2001..."

Court Cites False "Law & Order" Testimony in Overturning Yates Conviction

by Brenda Sapino Jeffreys, Texas Lawyer 7 Jan 2005

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Jeffreys goes on in the Texas Lawyer to write

Yates was found guilty in March 2002 for the murder of three of her five children and sentenced to life in prison.

In a 12-page opinion written by Justice Sam Nuchia, a former police chief in Houston, a three-justice panel of the 1st Court concluded there is a "reasonable likelihood" that false testimony by Dr. Park Dietz, an expert witness for the prosecution, could have affected the judgment of the jury. The panel found 230th District Judge Belinda Hill abused her discretion by denying a motion for mistrial filed by Yates' attorneys after they learned that Dietz falsely testified that an episode of the television program "Law & Order" --- about a woman with postpartum depression who drowned her children in a bathtub and was found insane --- aired before the crime.

No such episode was ever shown..."

Liptak, in the New York Time writes

Dr. Dietz testified that Ms. Yates was psychotic at the time of the murders but knew right from wrong. The latter conclusion meant that she was not insane under Texas' unusually narrow definition

of legal insanity.

On cross-examination, Dr. Dietz was asked about his work as a consultant on "Law & Order," a program Ms. Yates, the appeals court said, *was known to watch*. He was asked whether any of the episodes he had worked on concerned "postpartum depression or women's mental health."

"As a matter of fact," he answered, "there was a show of a woman with postpartum depression who drowned her children in the bathtub and was found insane, and it was aired shortly before the crime occurred." ... "The state used Dr. Dietz's false testimony to suggest to the jury that appellant patterned her actions after that *Law & Order* episode," the decision said. "We conclude that there is a reasonable likelihood that Dr. Dietz's false testimony could have affected the judgment of the jury."

Dr. Dietz did not explain the supposed significance of the "Law & Order" episode at the trial. But prosecutors returned to the subject in a separate cross-examination and in closing arguments, suggesting that she had copied the program in a way that implied lucid planning and premeditation... (full article (<http://www.nytimes.com/2005/01/07/national/07yates.html>))

Jeffrey's article adds background and further explanation

The Yates case became national news because of the horrific nature of the deaths of the five children, who ranged in age from 6 years to 7 months. And the conviction of Yates, who suffered from postpartum depression, has drawn attention to the state's insanity defense laws. Under Texas Penal Code §8.01, a person seeking acquittal due to insanity must convince a jury that he or she suffered from a severe mental disease or defect and did not know his or her actions were wrong. The Texas Legislature may address the insanity defense law during the 79th session, which convenes Jan. 11.

The jury that convicted Yates rejected the defense's insanity defense, and found her guilty. But the jury found she was not a continuing threat to society, and sentenced her to life in prison. She was charged with capital murder.

According to the 1st Court's opinion, four of five psychiatrists and one psychologist who treated or assessed Yates after the June 20, 2000, murders testified at trial that she did not know right from wrong and was either incapable of knowing what she did was wrong or believed her acts were right.

Dietz, on the other hand, testified that although Yates was psychotic on June 20, she knew what she did was wrong, Nuchia wrote in the opinion.

Nuchia wrote that the panel agrees that the prosecutors who tried Yates' criminal case did not know when Dietz was on the witness stand that he gave false testimony in connection with the "Law & Order" episode. But the panel found that prosecutors used Dietz's "Law & Order" testimony twice --- once when cross-examining a defense expert, Dr. Lucy Puryear, and in closing arguments --- and that "served to give weight to that testimony."

"We conclude that the testimony, combined with the State's cross-examination of Dr. Puryear and closing argument, was material," Nuchia wrote...

(full article (<http://www.law.com/jsp/article.jsp?id=1104759362735>))