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Bill Nemitz: Justice for Ayla is easier demanded than done

Those demanding justice for Ayla Reynolds can learn from the decades-old death of 19-month-old Eva Marie Knowles.

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Watching the Ayla Reynolds Murder Investigation Circus roll into Portland on Wednesday, complete with a foot chase between the missing toddler's parents down Middle Street, I got to thinking about a murder case I once covered and a timeless lesson about proof beyond a reasonable doubt:

It was 1979 and another baby girl, 19-month-old Eva Marie Knowles, had been savagely beaten in an apartment in Oakland where she lived with her parents, Paul H. O'Neal and Joanne Knowles.

Little Eva died within hours in the emergency room at Mid-Maine Medical Center in Waterville, leaving police, prosecutors, hospital staffers and indeed the whole community outraged at what had happened.

Almost immediately, all eyes turned to O'Neal, who was quickly charged with murder and tried not once, not twice, but three times over the next 2½ years.

The first trial resulted in a hung jury. The second trial led to a conviction, but on appeal the Maine Supreme Judicial Court tossed out the testimony of a prosecution witness and ordered yet another trial.

The third trial ended in acquittal after jurors looked at the timeline, the physical evidence and the mother's story and decided, as one juror later told me, that the state lacked "enough evidence to prove anything."

In fact, as defense attorney Robert E. Sandy Jr. of Waterville told me this week, the jury foreman called Sandy the day after O'Neal walked out of jail a free man and asked, "Now when are they going to charge the mother?"

Sandy's reply: Never. The mother had been the prosecution's star witness through all three proceedings, so there was no way the state could turn around and blame the girl's death on her.

Bottom line: The murder of little Eva Marie Knowles was, is and forever will be a crime left unpunished.

All of which brings us back to Wednesday's fiasco inside and outside the Cumberland County Courthouse, where the parents of Ayla Reynolds crossed paths in what can only be described as a not-ready-for-prime-time reality show.

Justin DiPietro, Ayla's tight-lipped father, was there to deal with an unrelated assault charge and bail violation. (The assault charge was dropped; the bail violation cost him four days in jail, which he had already served, and a \$150 fine.)

Trista Reynolds, Ayla's mother, was there along with her father, Ron Reynolds, and a phalanx of supporters to scream at DiPietro for not telling investigators what he knows about 20-month-old Ayla's disappearance from his home in Waterville on Dec. 17, 2011.

At the same time, they lambasted the state police and the Maine Attorney General's Office for not charging DiPietro, along with two women who were also in the house that night, with murder, manslaughter, aggravated assault, endangering the welfare of a child, or something — anything — that might hold the three accountable for Ayla's still-unknown fate.

Their anger and frustration, with the second anniversary of Ayla's disappearance fast approaching, is understandable. Indeed, Trista Reynolds' revelation that Ayla's blood was found

in DiPietro's home is beyond troubling.

But as Trista and Ron Reynolds stood outside the courthouse during a lull in the free-for-all, I couldn't help but ask, "Let's say there was an arrest that didn't lead to a conviction. Would that give you at least some satisfaction?"

"What difference would that make if it doesn't lead to a conviction?" replied an agitated Ron Reynolds while his daughter nodded in agreement. "We're calling for justice!"

Exactly. Calling for justice, however, is one thing. Achieving it is quite another.

Contacted Thursday in Augusta, Deputy Attorney General Bill Stokes said for the umpteenth time that he can't discuss the details of an investigation that appears, at least for now, to have dead-ended.

Police say DiPietro, his ex-girlfriend and his sister know more about what happened on the night in question than they're telling investigators. At the same time, many obstacles (see: Fifth Amendment right against self-incrimination) stand between what we all think happened to little Ayla and what any of us knows beyond a reasonable doubt.

Stokes, speaking generally, conceded that "if we waited until we had absolute certainty, then we'd never bring anything (to trial). And the jury doesn't have to have absolute certainty."

So why not gather up the bloodstained evidence, wrap it in a grieving mother's outrage and keep your fingers crossed that a sympathetic judge or jury will give Trista Reynolds, as she put it Wednesday, "the answers I deserve to have."

Stokes said the decision on when to charge in any case centers on one critical question: "Is there a substantial probability that you can prove guilt beyond a reasonable doubt to the satisfaction of a fact finder, whether it's a judge or a jury?"

Not a preponderance of the evidence, which will win in civil court if 51 percent of the evidence tips your way. Not probable cause, which can all but guarantee a grand jury indictment but nothing remotely close to a final verdict.

We need proof of guilt beyond a reasonable doubt, that highest of legal standards. And I'm going to bet that if the AG's office had it, we'd all be watching jury selection by now.

Add to that our constitutional protection from double jeopardy, which prohibits prosecutorial do-overs once a “not guilty” verdict has been handed down, and authorities’ reluctance to roll the dice starts to make more sense.

So why not at least slap a lesser charge on those who know what happened to Ayla? If not murder, Trista Reynolds tearfully suggested to the media horde that surrounded her, why not start with endangering the welfare of a child?

Stokes directs our attention to a state statute that prohibits a defendant from being “subject to separate trials for multiple offenses based on the same conduct or arising from the same criminal episode.” His translation: “You can’t just sort of bring one charge and another charge and another charge until you’re basically just wearing people down.”

It’s a point worth pondering: Would a Class C child-endangerment conviction suffice for little Ayla, even if it were to become clear later that she was the victim of a Class A murder?

“You don’t want to take the risk — there’s too much at stake,” Stokes said. “You just cannot, under any circumstances, allow this type of public pressure to affect you. It can’t be allowed to tip the scales because it perverts the whole process.”

Someday, we can only hope, Ayla Reynolds will get the justice she deserves for what even police now concede was a tiny life cut short.

But as her grieving mother and grandfather now take their battle to the streets, they’d do well to consider the legacy of all-but-forgotten Eva Marie Knowles, who was a month younger than Ayla the night someone spilled her innocent blood:

Justice delayed, however painful, is better than no justice at all.

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