

INTRODUCTION

Welcome to the Nassau County Surrogate's Court. I recognize in the audience, among others many law enforcement officers, prosecutors, criminal defense lawyers, and many from the general public. All of whose lives have been affected by this case and seek a form of justice. I commend you for your concerns. This case has a way of staying with anyone who has had contact with it.

We are here today because Latrice Brewer, never convicted of a crime in the death of her three children, has made claim to a portion of the childrens' estates. These estates were funded by a financial settlement of ^{NEARLY} \$350,000.00 by Nassau County for the alleged negligence of Child Protective Services in failing to protect the lives of these children. The Surrogate's Court, the forum for reviewing such claims arising from the death of citizens from Nassau County, MUST address this Brewer's claim and can not merely set it aside or ignore it. The validity of her claim must be resolved in a public proceeding in Ms. Brewer's attendance. That is why we are here today.

This court has a number of significant Judicial responsibilities in such a claim review.

This review will take place today and perhaps some days during the month of December concerning an issue called abandonment.

1. A factual review of the deaths of three wonderful, vibrant, innocent children.
 - a. Jewel Ward
 - b. Innocent Da Ma Soo
 - c. Michael Da Ma Soo

MUST BE INITIALLY MADE.

2. Recognize that the fact that Latrice Brewer has been found not responsible for their deaths is the law of this case. This determination, by a prior judge, with the participation of the District Attorney's office, and defense lawyer is not reviewable by the Surrogate's Court.

3. The facts in this case are not in dispute.

On February 24, 2008, Police Officer Keith Bartsch, responding to a 911 call, traveled to 891 Prospect Avenue in Westbury, NY for an unknown problem. Upon arriving, Officer Bartsch met 27 year old Leatrice Brewer, who was still on the phone with a 911 operator. Officer Bartsch asked Leatrice Brewer what the problem was and why she was locked out of her apartment, to which she responded, "I jumped out the window and I killed my kids." Officer Bartsch forced entry into the apartment where he found two small children and an infant dead in the bedroom. The officer checked to see if there was any sign of life in the children. After checking for a pulse, he found the children stiff from rigor mortis indicating that they had been dead for at least 3 hours with no possibility of revival. Officer Bartsch secured the crime scene and waited for Third Squad detectives. Leatrice Brewer was placed under arrest in the hallway of the apartment complex.

Officer Bartsch walked Leatrice Brewer to the back of an ambulance where detectives advised her of her constitutional rights and asked her what happened. Leatrice Brewer told Detectives DeCaro and Lambertson that around 4:00 a.m. she woke up her daughter Jewel, the oldest child, and told her it was time to go. Brewer was apparently acutely psychotic believing that she and her children are living under a voodoo curse that only death could break. She stated that she got a knife and slit her daughter's throat and placed her back in bed. She then took her

infant, innocent, to the bathroom where she drew a bath and drowned him. She then carried Innocent back to the same bed where she had placed Jewel and noticed that Jewel was still alive. Leatrice Brewer then took Jewel to the bathroom and drowned her in the tub. After returning Jewel to the bed, she took her middle child, Michael to the bathroom and drowned him in the tub. After killing all three children, she stated she attempted to call 911 but hung up the phone. Leatrice Brewer then stated she ingested a combination of bleach, Windex, OxiClean and a bottle of aspirin and laid down in bed with her children hoping she would die but she awoke early the next morning and realized her suicide was unsuccessful. She stated at some point during the night she vomited up the material she ingested. Police observed the area in the apartment where Leatrice Brewer had apparently vomited. At approximately 8:30 a.m. that morning the Leatrice Brewer made a second attempt at killing herself. She stated she called 911 for them to respond and then she jumped out of the second story window apartment. Once again Leatrice Brewer was unsuccessful at committing suicide. As a result of jumping out the second story window, Leatrice Brewer suffered multiple back injuries. After surviving the fall she walked back upstairs to her neighbor's apartment and borrowed a telephone to call 911. During this 911 call Leatrice Brewer confessed to killing her three children.

Doctors with the Nassau County Medical Examiners officer perform autopsies on the three children and determined the causes of death to be homicide and consistent with the facts related by Leatrice Brewer.

Ms. Brewer's legal team in this matter has supplied this court with respondent's #1. This exhibit contained all reports generated with respect to Ms. Brewer's psychiatric defense at the time of the offence was charged. This exhibit included the analysis of two board certified psychiatrists: Dr. Lawrence Siegel and Dr. Stuart Kleinman. They were hired by the Nassau

County District Attorney's office and the defendant respectfully during the criminal proceeding. Both doctors stated their expert opinions as to the mental condition of Ms. Brewer at the time of the deaths of her children. It is the opinion of both these experts that Ms. Brewer is not responsible for her actions due to her inability to substantially understand the nature and consequences of her action due to the mental disease from which she was suffering on the date of the incident.

4. This court in its review must address two central issues. The "first" legal by definition and the "second" factual by definition. The legal definition to be resolved is without precedence.

Can a person be found not responsible due to mental disease or defect and ~~therefore~~ lacking substantial capacity to know and appreciate that her conduct was wrong? Take from the estate of the person she killed while in that ^{psychotic} state of mind?

5. How will this court resolve this issue?
 - a. Fully familiarize with myself with the facts of this case through the contents of respondent #1.
 - b. Receive briefs and memorandums of law on this issue.
 - c. Review arguments supporting individual positions through analogy.
 - d. Then come to a decision today at 2 p.m.
6. Psychiatry and questions of culpability for individual actions ~~has~~ a significant history in the law. The McNaughten Rule and the Durham Rule have long been the subject matter for every law student while studying criminal law. When the unique legal principles of this case are decided by me a new principle will emerge. That principal will be called the

Brewer Rule.

The findings under the Brewer Rule will conclude the first part of this case but will not resolve the second issue.

7. ABANDONMENT

I will now address the more factually driven issue in this case. If the fathers of the dead children abandoned their children to the care of Ms. Brewer then they are ineligible to take funds from the estates of their children. I, therefore, have appointed Kenneth J. Weinstein, a noted member of our bar to act as Guardian for Subsequent Heirs.

He has made inquiry concerning the question of paternal abandonment in this case and today will advise this court of his findings. Abandonment in Surrogate's Court has a specific definition. READ IT.

Parental Abandonment

No distributive share in the estate of a deceased child shall be allowed to a parent if the parent, while such child is under the age of 21 years, has failed or refused to provide for the child or has abandoned such child, whether or not such child dies before having attained the age of 21 years, unless the parental relationship and duties have subsequently resumed and continue until the death of the child.

Estates, Powers and Trusts Law 4-1.4 disqualifies malfeasant parents from inheriting from their children. A parent is disqualified if he or she fails to support the child or abandons the child while he is under the age of 21. It is

irrelevant that the child has another means of support or that no court has ordered the parent to support the child.

Abandonment is defined by case law as “neglect or refusal to perform the natural and legal obligations of care and support which parents owe to their children” or a “settled purpose to be rid of all parental obligations or to forego all parental rights.”

A parent will be found to have abandoned his or her child where the parent has neglected or refused to fulfill the natural and legal obligations of training, care and guidance owed by a parent to the child. Abandonment includes the withholding of one’s presence, care and the opportunity to display voluntary affection.

Mr. Weinstein will protect the rights of subsequent heirs if there has been paternal abandonment.

8. Thus, if it is factually established that either father or both otherwise eligible to take from their children's estate will be deemed ineligible to share from their children's estates. The funds then go to each decedent's next of kin define in detail by the NYS Estate Powers and Trust Law and by their order of death.

In order to determine if there is an issue of abandonment in this case, I will later today ask Mr. Weinstein what his position on this matter may be.

I will also ask the attorneys for each child and the attorney for Ms. Brewer what their positions may be. If necessary, a hearing on this issue of abandonment will take place in December.

9. However before entering the Brewer Rule legal issues I must make an observation which is not part of this case but nevertheless must be said as a result of my detailed review concerning the factual aspects of this case.

1. Memorial Day 1978 - Medical Examiners office

2. 4 year old John Outlaw

3. Same Community

4. Same CPS Negligence

5. CPS allegedly saw him the day before he was killed. The CPS worker allegedly stripped him to his underpants saw no evidence of abuse. She left them to be beaten to death by this abusive foster parent.

6. Upon reviewing the body of John Outlaw at the ME's office, one day after the CPS worker examined him, it was apparent that there were 24 human adult bite marks on his body in different stages of healing inflicted ^{OVER A LONG PERIOD OF TIME} by his foster mother. Most showed scarring indicating wounds of long duration. Clearly, the CPS worker had not done an examination of the child as she had reported.

7. CPS 1978 failed John Outlaw.

CPS became part of the 1978 investigation. We were told that such an event would NEVER happen AGAIN. Their never again pledge was merely a pledge of the obvious. Yet in reading the report concerning the Brewer matter it was clear, 30 years later, that CPS in the same community has failed again.

My only message concerning a group not at this hearing is the inactions of 2008 CPS are legally and morally unacceptable.

We are now ready to proceed on today's legal issues concerning culpably mental state and legacy. This court has fully familiarized itself concerning the homicidal acts of Leatrice Brewer and the applicable estate law.

I caution you all to keep your arguments on a high legal-intellectual plane. The deaths of

1. Jewel Ward
2. Innocent Damasoo
3. Michael Damasoo

are an unspeakable horror. During my career I have walked through over 100 nightmarish homicide scenes. The photographs of this homicide scene makes it one of the worst that I have experienced. Do not attempt, through your arguments, to sensationalize this horrific event.

Yet the humanity of the severely mentally ill Latrice Brewer should also not be sensationalized. It NOW appears that in better mental health she loved her children and grieves for them. While in high school in the flower of her adolescence she had to care for her severely psychotic paranoid schizophrenic mother and her brothers and sisters. Her year book photo from the Westbury High School shows a vibrant young face of a woman who wants to be a nurse but had not one after school activity under her name. It appeared that she was going through life alone. She was already a full time nurse to her mother and full time mother to her brothers and sisters.

When her mental illness first struck her is anyone's guess but failure to support her was a commonality of her life. From a dysfunctional mother to the professional and personal acquaintances of her through the Westbury Community and Child Protective Services no one effectively answered her calls for help. These professional and personal support services were

individually and collectively not there for her when she spiraled down into the pit of her paranoid schizophrenia. It appears that the only person who tried to help her was her grandmother who is I note even present today.

The central theme, therefore, for you in today's arguments should be the INTENT she could form in light of her mental illness at the time of the deaths of her children and whether that intent forfeits her rights to take from their estates.

ARGUMENT = GREAT BRIEFS.

12-6

- 1. Mr. Weinstein
- 2. Mr. Kerins
- 3. Mr.
- 4. Mr. Kelly
- 5. New York State Attorney General
- 6. Mental Health Services

After argument I will reserve decision on this issue until 2 p.m. this afternoon.

I now must address the previously defined issue of abandonment. What is the position of:

- 1. Mr. Weinstein?
- 2. Father 1?
- 3. Father 2?
- 4. Mr. Kelly for Leatrice Brewer?

On December the following actions will take place.

- 1. A hearing to determine the issues of abandonment will commence. This hearing will proceed on a daily basis until the issue is resolved. I expect at a minimum that Leatrice Brewer and the fathers to be called as witnesses during the abandonment hearing.

CONCLUSION

I must make certain observations before the conclusion of this mornings proceedings. For the lawyers, the parties, the public, the media and for the Judge this case concerns unique and very divergent issues. It presents a challenge for all of us to present well, report well and adjudicate well. The legacy's of the three children concerning this case deserve nothing less.

I shall return at 2 p.m. to resolve the issue of lack of criminal responsibility and legacy in this case.