

DEATH PENALTY THROWN OUT

Judge orders new sentencing for man convicted of killing Dru Sjodin

By April Baumgarten
The Forum

FARGO — A federal judge has overturned the death penalty for Alfonso Rodriguez Jr., who had been sentenced nearly 15 years ago for kidnapping and killing University of North Dakota student Dru Sjodin.

Eighth Circuit Court of Appeals Judge Ralph Erickson ordered in a 232-page opinion issued Friday, Sept. 3, a new sentencing trial for the man convicted of killing Sjodin, 22, in 2003. Rodriguez, 68, was the only person on death row connected to a murder



case in North Dakota. Erickson, who presided over Rodriguez's jury trial and sentencing in the mid-2000s, issued the latest ruling as a trial judge for the U.S. District Court for North Dakota. The decision states defense attorneys were ineffective during the 2007 sentencing trial.

Rodriguez was convicted in September 2006 of kidnapping Sjodin from the Columbia Mall on Nov. 22, 2003, in Grand Forks and killing her in Minnesota.

Her body was found April 17, 2004, in a ravine west of Crookston, Minnesota. An autopsy report said she died from a wound to her neck, suffocation or exposure.

Erickson's ruling found Ramsey County Medical Examiner Michael McGee's testimony about Sjodin's cause of death was "unreliable, misleading and inaccurate." Prosecutors based on McGee's testimony theories that Rodriguez raped Sjodin, marched her down a ravine, slashed her throat and left her to bleed to death in the snow.



Forum file photo
Alfonso Rodriguez Jr. listens at his bail hearing on a kidnapping charge in Northeast Central District Court in Grand Forks on Dec. 4, 2003.

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Michael Vosburg / The Forum
Titus Gruanue, right, takes the Oath of Honor during his swearing-in ceremony along with 12 other new officers Tuesday in Fargo City Hall. It was the largest group of new officers in 17 years.

SWORN TO SERVE

Fargo holds largest swearing-in ceremony in years

By C.S. Hagen
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FARGO — The Fargo Police Department swore in 13 officers on Tuesday, Sept. 7 — the largest group of new recruits in more than a decade.

"This new group is not only the largest in 17 years, but it is extremely diverse and representative from virtually all walks of life," Fargo Police Chief David Zibolski said during the ceremony.



Thirteen new police officers are applauded during their swearing-in ceremony Tuesday in Fargo City Hall.

All 13 new hires are recent graduates of the newly formed Fargo Police Academy. They

have backgrounds in various fields, including the service industry, the military, corrections, professional security, legal assistance and emergency medical services, Zibolski said.

Some of the new officers are from out of state, and one was born in another country, the chief said.

The cadets completed 12 weeks of academy training, "which I'm sure they will tell you was pretty rigorous," Zibolski said.

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Fargo mayor doubts public would accept local mask mandate

By Patrick Springer
The Forum

FARGO — The odds of a local mask mandate returning appear low despite climbing COVID-19 cases, with Fargo's mayor worried such a measure would meet little public support.

Mayor Tim Mahoney said hospitals have yet to ask the city for a mask mandate to help curb the spread of the highly contagious delta variant of the coronavirus.

Instead, he said, health providers continue to stress the importance of getting vaccinated and taking other precautions to protect against COVID-19. Vaccines have proven highly effective in preventing serious cases resulting in hospitalization or death, according to health experts.

"The health systems haven't come to us asking for that yet," Mahoney said on Tuesday, Sept. 7, referring to a mask mandate.

"They've been pushing the vaccine."

So far, the building wave has not progressed as rapidly as expected — but that could change now



Mahoney

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that students are back in school and with the return of big sporting events, he said.

Testing indicates the positivity rate in Cass County is hovering around 5% to 6%, compared to the expected 15% or 12%, Mahoney said.

Mahoney said he does not believe the public would support a mask mandate until the situation clearly becomes urgent.

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COMMENTARY

State auditor says he will look at ND's election systems

MINOT, N.D. Auditing elections has become something of a rallying cry among die-hard Donald Trump supporters convinced that President Joe Biden only ascended to the office because of fraud



ROB PORT
Forum News Service
at the ballot box. Pillow impresario

Mike Lindell has led a bizarre and high-profile national push to reveal what he claims is election fraud though, so far, he's failed to produce evidence he claims to have.

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Today's weather
Mostly sunny 74° 48°
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Woman pleads guilty in 15-month-old's death

By Michelle Griffith
The Forum

FARGO — A woman pleaded guilty to a murder charge a day before her trial was set to begin in the death of a 15-month-old girl who was in her care.

Brandi Adeleke, 37, changed her plea to guilty Tuesday, Sept. 7, on felony counts of murder and child abuse in Cass County District Court. Adeleke's sentencing hearing has not yet been scheduled, but it may occur sometime in December, prosecutor Ryan Youngren said. Adeleke faces a maximum penalty of life in

prison without the possibility of parole. Youngren would not say if a plea deal was reached in the case, but he said more details would emerge at the sentencing hearing.

Adeleke originally pleaded not guilty to the charges in the death of 15-month-old Mela Ducheneaux, who was found unresponsive in her care last November. The child was not identified in court records, but the Fargo Police Department previously confirmed her identity.

According to the case's incident report, Adeleke called emergency services for help

on Nov. 20, 2020, after she noticed Ducheneaux was struggling to breathe. First responders arrived to find the child in critical condition. Her face was blue, but she appeared to have a pulse, court records say. The child was taken to Sanford Health and later died.

Ducheneaux appeared to have "suspicious bruising," which Adeleke said came from life-saving measures she attempted on the child, the incident report states.

Adeleke told officers that Ducheneaux had a fever for a few days, and she gave her a bath to help with the illness,

according to the report. She left the child unattended for about 1.5 to two hours in the bath, and she said Ducheneaux went underwater for a brief period of time, which prompted Adeleke to perform life-saving measures, the report states.

An autopsy found that Ducheneaux died due to numerous blunt-force injuries that were determined to be non-accidental and inflicted by another person, according to court records. Her death was ruled a homicide.

Readers can reach Forum reporter Michelle Griffith, a Report for America corps member, at mgriffith@forumcon.com.



David Samson / The Forum
Brandi Adeleke appears for a change-of-plea hearing in Cass County District Court on Tuesday for the November 2020 death of a 15-month-old girl in her care.

SENTENCING

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"That image has now been shown to be based entirely on speculation," Erickson said. "Without question, that speculative image contributed to the jury's decision to impose the most severe penalty."

Other experts contradicted McGee's findings by saying she could have died from strangulation, Erickson said in noting the defense could have challenged McGee's testimony.

The judge also determined Rodriguez's mental health evaluation could have missed a possible insanity defense and evidence Rodriguez has severe post-traumatic stress disorder.

"The government told the jury repeatedly that this case was about Rodriguez's intentional and deliberate choices," Erickson said. "That may not be the truth."

A jury may have imposed a life sentence if it heard about Rodriguez's severe mental illness, Erickson said.

The U.S. Attorney's Office in North Dakota said in a statement it will look at all possible options on how to proceed. The office could ask the Eighth Circuit Court of Appeals to review and reverse Erickson's decision, hold another sentencing trial and seek the death penalty again, or agree to give Rodriguez the minimum sentence of life in prison without parole.

"The ruling does not affect the guilty verdict in the case, and Rodriguez remains in federal prison," Acting U.S. Attorney Nicholas Chase said in the statement.

If the case goes to the Eighth Circuit, Erickson would likely have to recuse himself from the case.

The very best chance he had'

Former U.S. Attorney Drew Wrigley prosecuted the case from its beginning into 2009, when the Eighth Circuit Court upheld the conviction and sentence. The U.S. Supreme Court also rejected a request to hear Rodriguez's case.

Wrigley praised Rodriguez's trial attorneys, Robert Hoy and Richard

Ney, as some of the best attorneys he's known. In disputing claims that Hoy and Ney were ineffective counsel, Wrigley said the defense gave Rodriguez "the very best chance he had" at avoiding the death penalty.

"These assertions by the court I think are indefensible," Wrigley said. "I'm in this strange situation ... of defending two men with whom I went toe-to-toe on a very important matter."

Erickson, who was appointed to the U.S. Court of Appeals in 2017, said both sides were represented by experienced, well-respected attorneys. His ruling, he wrote, was not intended to undermine Hoy's and Ney's work, nor was he second-guessing his own decisions with the evidence he had at the time of the trial.

"While it is beyond question that Rodriguez abducted and murdered Sjojin, the evidence now in the record has led the court to conclude that errors were made that violate the U.S. Constitution such that due process demands a new penalty phase trial be held," Erickson wrote.

Judges typically don't comment on cases, Erickson's office said. Ney and Hoy declined to comment. McGee and Rodriguez's public defense attorney, Victor Abreau of Philadelphia, did not return messages left by The Forum.

Breaking down the findings

Erickson acknowledged Rodriguez's intellectual disability in his ruling, though it did not play a role in the judge's decision.

The trial defense team, which did not represent Rodriguez in the most recent appeal, could have done more to disprove allegations that Rodriguez raped Sjojin before killing her, the judge ruled. Rodriguez's appeal team argued there was evidence that suggested Sjojin was not raped.

However, proving that they would not have resulted in a sentence other than the death penalty, Erickson wrote.

He noted Sjojin was found naked from the waist down with her hands tied behind her back. Combined with Rodriguez's past crim-

inal history involving sexual assault, a jury could determine the defendant's motives were sex-related, Erickson wrote.

Erickson did rule that McGee didn't attempt to support his trial opinions, suggesting the only reasonable conclusion to draw is the jury didn't hear the truth about the cause of death. Erickson challenged McGee's credibility in noting past cases where judges found the medical examiner gave false or misleading information regarding causes of death.

McGee took on the role of a "super sleuth" instead of simply following the evidence and science, Erickson wrote. He provided the government with a theory to warrant the death penalty, but that theory was not disclosed properly before the trial, the judge said.

"Worse yet, it was a theory unsupported by competent evidence," the judge wrote.

Wrigley suggested it doesn't matter if Sjojin died of exposure, asphyxiation, strangulation or from a knife wound. He emphasized she was beaten, marched out into the wilderness and left to die.

"You tell me which of those wouldn't have had Alfonso Rodriguez exactly where he is today," he said.

Wrigley also questioned why Erickson mentioned Rodriguez's PTSD since the defense waived that argument.

"They waived it because they know it is so baseless," Wrigley said, adding both sides called an array of mental health experts.

The defense team directed its mental health experts not to discuss the circumstances of Sjojin's death with Rodriguez, which ultimately hindered the investigation into the defendant's mental health condition, Erickson wrote. Rodriguez was sexually abused as a child and was diagnosed with PTSD.

The judge wrote that Rodriguez's PTSD could have been so severe it may have caused dissociative states, meaning he lost sense of reality.

Whether Rodriguez would be put to death already was in question after President Joe Biden voiced opposition to cap-

ing there were multiple aggravating factors that warranted capital punishment. The U.S. Department of Justice in July issued a moratorium on executions.

Wrigley said seeking the death penalty for Rodriguez was worth every minute, add-

ing there were multiple aggravating factors that warranted capital punishment.

"Rodriguez is worse than a cold blooded murderer with an impulse that he can't control,"

Wrigley said. "He was a serial rapist who murdered for his own convenience."

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