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A Spectacularly Shallow Decision In Lapointe Case Judge Says No To Bid For New Trial On 1992 Murder Conviction

Rick Green

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While out walking his dog, Richard Lapointe hog-tied 160-pound Bernice Martin, raped her, stabbed her 11 times and then dragged the 88-year-old grandmother around her small apartment before strangling her to death.

He set the place on fire, cleaned himself up and returned to his own Manchester apartment, where he joined his wife for a quiet night in front of the TV.

If you believe the state's case, this took the mentally disabled man just 45 minutes. So what if he couldn't accurately describe basic details of the crime or even defend himself without looking foolish.

That's what Superior Court Judge John J. Nazzaro wants us all to believe happened in his spectacularly shallow decision rejecting Lapointe's bid for a new trial.

I've been writing for months that Lapointe, a gullible former dishwasher convicted of felony murder in 1992, deserves a new trial because his previous lawyers presented such a pathetic defense. So yes, I'm biased.

But so, evidently, is the judge. Nazzaro might as well not have bothered with the two-week trial last spring and summer where he considered whether Lapointe deserved another chance.

Despite a mountain of questions, Nazzaro's thin ruling merely parrots the arguments by state's attorneys, refuses to second-guess police and blatantly ignores new evidence.

"We get the feeling we never ever had a chance," Paul Casteleiro, Lapointe's shellshocked lawyer, told me Saturday afternoon.

This is a judge who casually dismisses Lapointe's "purported mental deficiencies" but finds no problem between glaring discrepancies between crime scene evidence and what Lapointe told police.

In his ruling, Nazzaro displays astonishing ignorance of intellectual disability when he states that Lapointe's "behavior may be nothing more than manipulation and duplicity."

Oh, tricky. So that's how these retarded people do it.

Lapointe spent last summer's trial sitting in court doing simple word games, oblivious to the complicated proceedings around him.

He has an IQ of about 80 and has Dandy-Walker syndrome, which makes him clumsy, uncoordinated and slow.

Yes, there are holes in the Lapointe defense. He confessed. He was unusually curious about the crime and appeared to know that Bernice Martin was raped before police revealed this. A long string of judges in years of appeals have not believed him.

So is Lapointe innocent? I can't say, but I know our justice system has failed this poor man who was pressured into a false confession.

When the police extracted a confession from him, they tricked Lapointe into thinking he was the No. 1 suspect, setting up an elaborate ruse. Conveniently, they did not tape this, though they taped an interview with Lapointe's wife.

Lapointe's lawyers argued that their client had been represented by incompetent counsel in the past. They argued that the state had suppressed critical police notes about a possible "burn time" of 30 to 40 minutes for the fire before it was put out. Under this time frame, Lapointe was at home with his wife when the murder occurred, his lawyers say.

Nazzaro, a judge who is supposed to bring some order to all this, couldn't even be bothered to make sense of the critical burn-time evidence — which would set the time of the murder — saying it was "impossible to establish with precision when the fire was set."

The critical point argued by Lapointe's lawyers is that back in 1992 the jury never heard a clear explanation of the burn time' for the fire and how it could provide an alibi. Nazzaro dismisses the significance of evidence suggesting a 30- to 40-minute burn time, writing that it would not have caused the jury to conclude there was enough reasonable doubt of Lapointe's guilt.

If the fire burned longer — as the state repeatedly argued — it supports the theory that Lapointe completed his bloody attack while on a TV break when he walked his dog.

We're left with the ludicrous scenario that this limping, guileless man committed a bloody, violent murder in a matter of minutes, without so much as a bloodstain on his clothes.

That's no problem for the judge, who becomes a junior police investigator when he states in his ruling that "the victim was almost 90 years old, in poor health, suffered superficial stab wounds to the back, and had a single ligature tied around her neck. The sexual assault does not appear to have been excessive or of long duration."

Yeah, the cunning little dishwasher who fakes being a dummy did it.

What a nauseating decision. What a disappointing judge. What a sad end.