

July 2011
Volume 2, Issue 1



Sanford H. Marks
President

TrialTech, Inc.
100 N. Biscayne Blvd.
Suite 2907
Miami, FL 33132

T: (305) 371-5991
F: (305) 371-6525

smarks@trialtech.com
www.trialtech.com



Cintia Calevoso, Esq.
Senior Associate

You can also view the
“Tip the Scales”
newsletter online. Visit
www.trialtech.com and
mouse over the News
toolbar.

TRIALTECH, INC. LITIGATION CONSULTANTS

A newsletter brought to you by TrialTech, Inc./305-371-5991

Lessons Learned from the Casey Anthony Trial

Sanford Marks, President
Cintia Calevoso, Esquire
Senior Research Associate, *TrialTech, Inc.*

After the court read the third and final “not guilty,” everybody under the sun has been wild over the Casey Anthony verdict. Whether you agree with the verdict or not, we hope that you find this month’s newsletter insightful and educational. Below are some of the key issues we wanted to address in light of discussions we have had here at *TrialTech*, as well as with our friends and colleagues regarding the Casey Anthony trial.

1. The jury made the right decision. The “not guilty” verdict rendered by the Casey Anthony jury demonstrates to all that the justice system worked in this case. Too often people think that the purpose of a criminal trial is to attain justice for the victim. One couldn’t be more mistaken! In a criminal trial, the state must prove the basis upon which it accuses an individual by *admissible* evidence and *beyond a reasonable doubt*. Even if jurors believe that a defendant “probably” or “likely” committed a crime, the defendant must be acquitted because neither of those satisfies the standard of *proof beyond a reasonable doubt*. A criminal trial is not a search for the truth. Its only purpose is to result in a verdict of proof beyond a reasonable doubt.

In the Casey Anthony trial, jurors were faced with countless theories and corresponding evidence and testimony of what happened to Caylee Anthony. They were asked to answer three fundamental questions: What caused Caylee’s death? Who killed Caylee? And if the death was homicidal, what degree of crime was it? The various theories presented to the jury by both the defense and the prosecution only raised more questions, which were, in the end, left unanswered. It is no wonder that in considering all the versions of what might have occurred, reasonable doubts were raised in the minds of the jurors. Rendering a “not guilty” verdict was the only option these jurors had, and they fairly and lawfully fulfilled their sworn oaths – that is, to “well and truly try the issues between the State of Florida and the defendant and render a true verdict according to the law and the evidence”. See Fla. R. Crim. Proc. 3.360 (Oath of Trial Jurors).

2. Being found “not guilty” is not the same thing as being found “innocent”. A common misconception that people have (and that many commentators seem to adamantly believe) is that in finding Casey Anthony “not guilty,” the jury actually found her to be “innocent.” This misunderstanding wholly contradicts long-established principles of criminal law. In a criminal case, the accused does not have to prove his or her innocence. In fact, the



Sanford H. Marks
President

TrialTech, Inc.
100 N. Biscayne Blvd.
Suite 2907
Miami, FL 33132

T: (305) 371-5991
F: (305) 371-6525

smarks@trialtech.com
www.trialtech.com



Cintia Calevoso, Esq.
Senior Associate

You can also view the
“Tip the Scales”
newsletter online. Visit
www.trialtech.com and
mouse over the News
toolbar.

accused has no burden of proof at all. It is the prosecutor that must prove guilt to the highest degree the law allows. If the government fails to prove that level of guilt, the jury has no choice but to find the defendant “not guilty.” What it all boils down to is what the government can prove. Often times, the accused does not put forth any evidence. In such cases, the court will instruct the jury that the law does not impose any burden on the accused to produce evidence and that the jury must accept that as the law before they commence deliberations.

So why is it that people are unaware of the distinction between “not guilty” and “innocent”? I personally blame it on television. As potential jurors, we, as a society, have come to expect too much evidence. In addition, everybody suddenly thinks they are forensic experts because they watched every season of TV shows like CSI or NCIS. People fail to understand that real life cases are not solved as quickly as they are on TV and that the kind of evidence that is seen on these shows may not be available in real life or, even if it is, it may not be admissible in court for a variety of reasons. This inability to distinguish between “not guilty” and “innocent” is also aggravated by the pervasiveness of lawyers and commentators on television, which leads me to my final point.

3. Lawyers and reporters who know little or nothing about the facts of a case should refrain from commentary on television. Who knows what the jury’s verdict would have been in this case had the jury not been sequestered. Can you imagine how things would have turned out had the jurors had access to TV shows like Nancy Grace or Geraldo Rivera? In building up their ratings, many “talking heads” have expressed such strong and adversarial opinions against Ms. Anthony that she can be said to have been convicted by the media long before the jurors began their deliberations. By taking such an open prosecutorial stance against her without having full knowledge of the facts of the case or fully understanding the law in this context, commentators have created a troublesome situation – they led the public to expect a definite conviction. Consequently, the public’s view of our justice system has been distorted. People have been unable to understand the outcome of the case and are enraged. Not only is the media’s behavior disrespectful towards our legal system, but it is also immoral and unprofessional. If this type of behavior does not stop, it could potentially result in devastating circumstances. In the future, it would surely be more beneficial for the media to focus on educating the public instead of being so self-serving.

Conclusion

The public should be made to understand that both the prosecutors and the defense attorneys did the best they could in this case. Whether the prosecution made a mistake in charging Casey Anthony with capital murder or by introducing questionable evidence are issues left for another day. In the end, the evidence that was presented left a *reasonable doubt* in the mind of all 12 jurors. The jurors made the proper decision given the circumstances and rightfully carried out the task they were assigned (an undesirable task for many). Contrary to what some may believe, this case was one in which the legal system *did* work.