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Filan: A circumstantial case can be just as good as a direct evidence case



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LEGAL ANALYSIS

Wife murdered, husband arrested. Sound familiar? Only this time, it is an Ivy League professor from an upscale neighborhood who is being held without bail after allegedly bludgeoning his wife to death three days before Christmas. She was beaten beyond recognition.

The first degree murder case against Dr. Rafael Robb has been described as mainly a circumstantial case. Not to worry. A circumstantial case can be every bit as good as a direct evidence case.

What is circumstantial evidence? It is a fact from which you can infer another fact. The best way to understand it is by example: Last night you went to bed. It wasn't snowing when you fell asleep and it wasn't snowing when you woke up, but there is a foot of snow on the ground. You didn't see it snow. No witnesses can testify they saw it snow. There aren't any photos or videos of it snowing. There is no direct evidence that it snowed. After ruling out a snow-making machine, or a movie production crew capable of creating a snow scene, you have to conclude that it snowed. You infer one fact from another. There is no other reasonable or logical conclusion that you can draw. You don't need direct evidence to prove something. In fact, the law makes no distinction between the weight given to direct or circumstantial evidence.

So what is the circumstantial evidence against the professor? First, he had a motive. His wife was about to divorce him, which was going to cost him a lot of money, and he anticipated a custody battle over their 12-year-old daughter.

Next, he gave police a weak alibi. Among the holes, he told police he bought fruit at a Philadelphia market, but the cashier working that day told detectives she was certain she hadn't seen him.

Robb's story gets worse. He told police when he came home he saw his wife dead, and instead of dialing 911 right away from his home phone, he went to his car and got his cell phone. He then called the 10-digit non-emergency number, rather than 911, presumably because he thought the call would not be recorded. It was.

This is a man who once called 911 when he had a nosebleed, so he knew the number.

The trauma to Ellen Robb's head and face was so severe she was unrecognizable. Veteran homicide and forensic detectives who saw her body thought she had been shot, but when Robb called the police, he said "her head is cracked." It wasn't until after an autopsy proved otherwise that investigators learned she had been beaten, not shot. Only her killer could have known that.

Moreover, police concluded the "burglary" was staged. The broken glass in the back door leading into the kitchen had not been walked on. This was clearly not the point of entry. The killer left through the garage, which led out to the public street. That garage door had to be opened and shut manually. No burglar would leave that way. A burglar would sneak out the back door, the same way he or she entered. Plus, the wife's blood was in the garage, indicating that her killer was so covered in her blood that it dripped off him while he walked around.

In addition, there was no evidence the burglar took anything from the home and the family dog that had run of the house was locked in the daughter's bedroom, upstairs. What burglar would take the time to lock the family dog in an upstairs bedroom?

After Robb reported the broken glass to a glass company for repair, an undercover detective posed as the glass repair man. He told Robb that the police would become suspicious of his burglary complaint if he didn't report anything stolen. Robb told the glass repair man that he couldn't find his wife's purse, but didn't think any other valuables were missing. Several days later, he told the glass repair man that he had compiled a list of missing valuables to give police through his attorney.

The murder weapon has not yet been found, but in the garage where there were tools hung neatly on a wall, one tool is missing.

There was a history of domestic abuse. Ellen Robb once told her friend that she couldn't attend a party because her husband gave her a black eye.

She told another friend that if anything ever happened to her, consider her husband a prime suspect. While both of these statements are hearsay, it is still too early to know whether they will be ruled inadmissible.

I spoke with the district attorney, Bruce L. Castor, Jr., and he is confident about his case. He said that sometimes he likes a circumstantial evidence case even better than direct evidence cases -- a circumstantial case is like a jigsaw puzzle, and when you add all the little pieces together, you cannot help but see the whole picture. While Pennsylvania does have the death penalty, this is not a death penalty case, because it doesn't fit the statutory requirements. But if it did, he would charge it as such.

Ironically, Dr. Robb was a professor of game theory, which is a "method of mathematically analyzing competitive situations in order to choose various strategies to maximize outcomes," according to the Philadelphia Inquirer. Looks like Robb's strategy backfired.

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