

# *Criminal and Forensic Psychology of a Case of Filicide by Decapitation of a Minor*

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## **Abstract**

The present article examines in depth a practical case of murder of an 18-month-old minor perpetrated by her own parent (filicide). The singularity of the casuistry not only lies in the criminological impact of the murder itself, but also pivots on the mental state of the perpetrator and whose sentence (consult) -based on the Mental Health professionals of the public sector, as well as the Forensic Doctors and other circumstances surrounding the casuistry- not appreciate Modifying Circumstances Of Criminal Responsibility (MCCR) based on the existence of psychic alteration. On the other hand, the Experts (private) maintained their professional evaluation during the plenary session, according to which the offender presented a mental disorder based on a psychotic disorder (brief, acute and transitory), according to the clinical documentation on hand closest to the facts of the case and the testimony of the witnesses. With the majority of the article available, the article analyzes the behavior of the convicted party and compares it with the hypothesis of the defense experts, in relation to the lucid intervals that may be manifested by psychotic and/or schizophrenic disorders under the harmful influence of mental dysfunction (a circumstance which, the same Experts informed of in the actual plenary act).

**Keywords:** Filicide; Treachery; Decapitation; Psychotic disorder; Psychic alteration; Aggravating kinship; Mitigating confession

## **Introduction**

When one of the parents kills their own child, it is known as filicide. As a criminological phenomenon, the killing of their own son/daughter by a parent arouses great social, legal and mediatic impact [1].

Furthermore, for classification purposes [1] class "filicide" as neonaticide when the killing of a child takes place in the first 24 h and as infanticide when the child is between 1 day and 1 year old. In general, filicide is reserved for children in the 1–18-year-old age range, with subdivision into 'early type' when it includes children 1-12 years old and 'late type' for those over 13 years old".

Few crimes arouse emotions as strong as those involving the intentional murder of an infant or older child. When the death of a helpless child occurs at the hands of a parent, it is natural to seek answers to the causes of such tragedies and wonder why they could not be prevented. Abhorrent events of this type play on people's fears and attract the attention of both the community and the media. However, history tells us that filicide has been an ever-present social problem throughout recorded history and in all corners of the world.

In the present case, a description will be given of the casuistry relating to a parent who was appraised (privately) as undergoing a Brief, Acute and Transitory Psychotic Disorder, although he was finally declared fully responsible for his acts at the actual moment of committing the crime of murder: decapitation of an 18-month-old female minor.

## **The Case**

It is the case of a 34-year-old male, born in Colombia, and married, who cut off the head of an 18-month-old female minor, in the belief of being possessed by the devil.

As a result of the commission of the crime, the party concerned entered the Psychiatry Unit of the Penitentiary Center and was later transferred to the ordinary regime module.

The purpose of the expert psychological-psychiatric report (private) was to examine the party's psychic and mental status and assess his compatibility at the actual moment of committing the penal-criminal act. For this purpose, the Experts (Psychologist and Psychiatrist) had to establish a retrospective evaluation of the

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perpetrator with regard to the facts that took place in November 2011 and which are the subject of litigation.

The documentary chronology (according to documentation provided) is the following:

Police Report of the General Directorate of Police states:

"That he had left the victim's head on the bed and that if it was not in that place, it was because 'the devil had removed it'.

That Mr. XXX did not cease to repeat that he was hearing voices and to say that 'the devil told me to do it'.

That on reaching the caller's floor, in front of the door of his home, there were police officers endeavoring to immobilize a man on the floor.

That one policeman helped to immobilize the man while another officer was handcuffing him.

That while the officers tried to get this man under control, he went on calling out continuously 'the devil, the devil, the devil'.

That as this man was in a very nervous state, he put up resistance and did not want to be lifted from the floor, and had to be carried in arms, applying the minimum force necessary so as to convey him to the ambulance that was waiting for him in the street."

According to the Health Department Emergency Assistance documentary report—an emergency assistance report of the actual day of the events and with hospital admittance approximately 2 h after these—, it states:

"The patient appears hostile, very nervous, in a clear state of psychomotor agitation, uncooperative, with continual shouts referring to the fact that he has the devil inside, asking us to perform an exorcism, that he had managed to overcome the devil because with this he had not killed his other daughter... at this time, psychiatric assessment is practically impossible because of the lack of cooperation and the patient's agitated state and that this suggests a dissociative profile.

We administer treatment with haloperidol+sinogan IM and mechanical constraint, in the hope of being able to perform a more complete psychopathological evaluation later on."

### Statement by a witness declares:

"That during transfer to the hospital, the detainee told them 'the devil is here', 'the devil told me what to do'." "That the person charged told them that if the girl's head was not there, it was because the devil had taken it away". "That when they were in the hospital, he told them that the day before he could have killed the three of them, that the devil ordered him to do this, but he did not tell them why he had not done so. That he does not know what he told the stretcher bearers about the devil".

### Statement by an AED witness declares:

(...) "That he told them that he had killed his daughter because he had been told to do so by the devil."

(...) "... that he was taken to the psychiatrist because he appeared to be in a state of delirium and that was his diagnosis. That in spite of

such a diagnosis he was able to maintain a normal conversation. That he was remitted to the psychiatrist for evaluation."

It should be pointed out that during the directed clinical interview (or anamnesis), the defendant declared to the party-appointed Experts (private) that he had consumed several bottles of alcohol on the day the criminal events were committed.

### Photographic report of the scene of the crime

To illustrate the crime scene, different images are illustrated:



**Figure 1:** State of the home, point out the state of neglect and disorder.



**Figure 2:** Initial state that the corpse of the minor was found.



**Figure 3:** State of the corpse [2,3].



**Figure 4:** Detail of a knife wrapped in a towel and hidden in a closet located behind the interveners.



**Figure 5:** Detail of the knife.

### Methodology and conclusions of the private expert evaluation

The expert evaluation methodology was as follows:

Directed expert-clinical interviews (anamnesis) with the accused carried out at the Penitentiary Center Hospital Psychiatry Unit (HPU) on 3 different days (from December 2011 to January 2012).

Study of the clinical documentation submitted, which we itemize below:

Psychopathological and psychometric study with the following evaluation instruments: psychopathologic evaluation or mental disorder test (MMPI-2, MINI-MULT, MCMI-III); personality disorder evaluation tests (Salamanca Personality Disorder Questionnaire); personality evaluation test (16 Personality Factor Questionnaire, Version 5-16PF-5-); a test that evaluates the depressive state (Hamilton's Scale for Depression); a test that rates the state of anxiety (State-Trait Anxiety Inventory-STAI-); a test that evaluates the risk of suicide (Plutchik's Suicide Risk Scale); a test that evaluates pathological impulsiveness (the Barratt Impulsiveness Scale); a test that evaluates alcohol consumption (Multidimensional Alcohol Craving Scale-MACS-) and a test that evaluates simulation (Structured Inventory of Malingered Symptomatology-SIMS-).

The expert conclusions were as follows:

A Mixed Personality Disorder was found, with observation of the existence of a marked emotional instability with an anxiety content, configured in characteropathic personality traits with a pronounced psychopathologic basis belonging to the Pre-Psychotic dimension. In other words, latent or larval psychotic personality traits that could reach their evident conductual and/or behavioral manifestation, with a high rate of probability of pathologically impulsive appearance in the event of critical and/or adverse circumstances.

The pathology suffered by the party examined met criteria required for the Brief (Acute and Transitory) Psychotic Disorder, considering that the criminal act took place in the context of the delirious ideas and hallucinations associated with this acute Psychotic Disorder.

Of the Hospital Emergency Care documentary report of 10.11.2011 -emergency care report of the same day as the events and admission approximately 2 h thereafter-, of the police documentation and existing testimony, the undersigning Experts consider compatible that on 10.11.2011 and at the time of the perpetration of the acts, the party concerned presented-from the retrospective standpoint-a severely disorganized behavior and a clinical-psychopathologic behavior characterized by the existence of auditory and visual hallucinations, with delusional ideas of influence, and by significantly diminished cognitive faculties that could be in line with the following diagnostic orientation of Brief Psychotic Disorder (298.8) (Code F23.81 of the APA DSM-IV-TR).

### Proven facts and considerations of the legal grounds of the sentence

According to Sentence 713/2013, of 12 December 2013, of Section 3 of the Provincial Court of Gerona, in their verdict the Jury considered as proven facts-unanimously in all cases-, the following facts:

"FIRST- Around 12:00 h, on 10 November 2011, Mr. XXX, at the residence located in Street O, nº. XX, town/city XXX, where he lived with his wife and his two minor-aged daughters, took a kitchen knife with a 20 cm single-cutting edge, sharp blade with the intention of taking the life of the minor, born in 2010, and decapitated her with a cervical cut causing total separation of the head from the body and resulting in her immediate death due to acute hemorrhage and beheading.

SECOND- For the purpose of committing what is described in the first fact, the accused knowingly took advantage of the eighteen-month-old minor's absolute inability to defend herself.

THIRD- XXX was the father of the minor.

FOURTH- After committing the actions described in the first fact, at 12:08 h on 10 November 2011, Mr. XXX called the emergency telephone number 112, explaining that he had killed his small daughter. He requested immediate police presence and indicated voluntarily to the Police Officers the place where he had put the knife used for the decapitation, thereby cooperating with the investigation and clarification of the facts.

In relation to the facts that affect civil liability, in the light of the examination carried out, the undersigned Presiding Magistrate declares as proven:



Sole fact- At the time of the events, the minor lived together with her eight-year-old sister, XXX, and the mother of both, Ms. XXX".

By way of a summary and as considerations with regard to the legal grounds of the sentence, this states the following.

"The actual statement of final conclusions of the defense sets out the offense, classifying it as murder.

The Jury was able to evaluate the confession made during the trial by the accused himself, who admitted having killed his daughter.

In his testimony at the plenary session the Police Officer stated that the accused told him where his daughter's lifeless body was located.

Likewise, the Jury has evaluated both the telephone call made by the accused to 112, in which he admits having killed his daughter, and the letter addressed to his then wife and mother of the victim, where he stated his intention to kill the girls.

The Emergency Service officer, with professional identification number XXX, stated in the plenary session that the accused admitted having killed his daughter as instructed by the devil. The Jury was also helped to form the conviction in the same direction by the fact that the defense experts, Drs. Bernat-Noël Tiffon Nonis and A.S.C., also stated in the plenary session that the accused had confessed killing his daughter to them.

Lastly, the Jury also values the evidence given by the Police Department biological laboratory technicians, with professional identification card nos. XXX and XXX, who stated that on the clothes that the accused was wearing at the time of the facts they found traces of blood, coinciding with the minor's and the accused's, which rules out the participation by a third party in the actions.

Lastly, but not in order of importance, the report of the forensic doctors, which confirms that the victim died as a result of an acute hemorrhage, the consequence of a bilateral cervical vascular lesion caused by decapitation.

With regard to the modalities, instruments or situations employed by the agent so as to assure the result, excluding all defense and consequent risk for his person, doctrine distinguishes three cases of intentional homicide:

So-termed traitorous or treacherous homicide:

Surprise homicide, characterized by sudden, unexpected and unforeseen attack:

And homicide through helplessness, in which the agent takes advantage of a special situation and deprotection of the victim, preventing any defensive reaction, which is what concerns us in the case at hand:

It is specific in jurisprudence that when a child or person is attacked unawares, the attendant circumstance of intention arises since their special fragility and deprotection prevents any effective defense: thus, SSTS of 24 November 1995, or 24 September 1999. Specifically, in the case at hand, at the time of her death the victim was eighteen months old, which means that she had no defense capability, a circumstance that the Jury cites and develops, stating that she was still on the bottle, which is clear evidence of her fragility, dependence and vulnerability without it being necessary to enter into

further considerations or explanations in this respect, insofar as they would prove completely superfluous.

The execution of the crime classified has the attendant aggravating factor of the parenthood circumstance specified in art. 23 of the Criminal Code, which acts as an aggravating factor in crimes against persons (thus SSTS of 25 November 1992; 13 October 1993, or 26 January 1996).

On the other hand, the accused does not manifest even the incomplete attenuating factor of psychic alteration described in art 21.1 CP, in relation to art 20.1 of the same legal body, cited by the defense in their final conclusions statement.

The Jury rejected declaring as proven the factual circumstances of alleged diminished imputability by eight votes to one on the basis of the conclusive report in the trial of the forensic doctors and psychiatrists of the Penitentiary Center, who did not observe any psychic pathology in the accused, unlike the defense experts, who defended that at the time of the events the accused was undergoing a brief psychotic disorder.

The brief psychotic disorder defended by the defense experts is ruled out insofar as the Jury considers it accredited that the accused, far from presenting a behavior in keeping with a person undergoing an acute psychotic disorder, appeared coherent at the time of answering the questions put to him by the 112 operator when he made the call after committing the actions.

The Jury also attributes importance to the capability of self-criticism displayed by the accused after the events, incompatible with the psychotic state being defended since, as asserted by the forensic doctors, the Medical Emergency Service officer and the penitentiary center psychiatrists, a psychotic subject does not manifest self-criticism for the episode, and the accused cried, which is an unmistakable sign that he possessed critical judgment.

In addition, the Forensic Doctor who attended the scene of the events stated in the plenary session that, when making an on-the-spot evaluation, he was not made aware of any disorder and, to the contrary, that he observed an organized conduct in the sequence of events, in particular, the fact that the accused wrote a letter addressed to his wife; caused the death of his daughter; covered her body; cleaned the knife he used to commit the act, wrapped it and put it away in the cupboard; and then made the telephone call.

The Jury also bases its decision on the actual declaration made by the accused, who stated that two months prior to the events he was already hearing the voices of Satan, whereas, according to the report issued by the Forensic Doctors, one of the features of the brief psychotic disorder is its duration, which ranges from 24 h to one month at the most.

In relation to what is stated by the psychiatrists of the penitentiary center where the accused is confined, the members of the Jury conclude that he does not suffer from any major psychiatric disorder or psychotic illness, or severe depression.

The Jury rules out the factual assumption that described the attenuating circumstance as typical of mental disorder, considering that, at the time of committing the actions the accused's faculties of understanding and/or volition were not affected by a nonspecific personality disorder.

The Jury did not consider it accredited that the accused had his intellectual or volitional faculties affected by the prior consumption of alcoholic beverages at the time of the events.

## Ruling of the sentence

In its Sentence 713/2013, of 12 December 2013, Section 3 of the Gerona Provincial Court ruled as follows:

"In accordance with the verdict of the Jury, I SENTENCE Mr. XXX as the perpetrator of a crime of murder, as defined, with the attendant aggravating circumstance of parenthood and the attenuating one of confession, to the penalty of nineteen years of imprisonment, with the ancillary penalty of absolute disqualification throughout the period of the sentence, as well as costs.

For compliance with the penalty imposed I agree that the convicted party should have the benefit of the time that he has already remained or may remain in the future deprived of his freedom for this reason.

As civil liability, I SENTENCE Mr. XXX to indemnify Ms. XXX with the sum of one hundred and forty-nine thousand, six hundred and sixty-three euro and ninety-four cents (€149,663.94), and the minor, XXX, legally represented by her mother, with the amount of twenty-seven thousand, two hundred and eleven euro and sixty-two cents (€27,211.62), amounts which from this date until their full payment shall accrue a yearly interest equal to the legal interest rate plus two percentage points".

## Conclusion.

After explanation of the case in the length and with the profuse details given in the Sentence, the conclusions that may be drawn from all the information and which are sought to be indicated are as follows:

The virtue of the methodology, as well as the orientation of the conclusions set out in the appraisal report issued by the Private Experts, is correct.

The Private Experts possessed the correct documentary sources to issue their conclusions, especially since a hospital Psychiatric Emergency Department report was available, issued 2 hours after the murder was committed and where it stated (literally): "the patient appears hostile, highly restless with evident psychomotor agitation, not at all cooperative, with continual shouts that refer to the fact that he has the devil inside, asking us to carry out an exorcism, that he had succeeded in overcoming the devil as through this he had not killed his other daughter... at this time psychiatric evaluation proves practically impossible due to the patient's lack of cooperation and agitated state, suggesting a dissociative profile.

We administer treatment with haloperidol+sinogan IM and mechanical restraint, pending being able to perform a more complete psychopathologic evaluation later on.

Although in the legal grounds of the sentence, it justifies and contends the defendant's orderly and organized conduct, nevertheless within the bibliographic doctrine of psychopathology and psychiatry we have to point out the existence of the theory of the lucid intervals of the psychotic state, in which the subject affected by this pathologic mental condition is capable of producing a momentary state of consciousness of a transitory nature in which he presents contact with reality. Although scientific advances have currently endeavored to eradicate this concept by showing that truly lucid intervals do not exist, *i.e.*, they maintain that when an anomaly exists in the psychism, although at certain moments he may display a notable mental clarity in many of his actions, the individual will proceed in accordance with his perturbation.

It should be stated that, not only from the standpoint of the compatibility of the existence of a Brief Psychotic Disorder (Acute and Transitory), but also that of absence of mental disorder, as the sentence tends to describe and argue with regard to the subject's "orderly and organized conduct", the author of this article considers it absolutely irrefutable that there has to be "something" dysfunctional in the psychic apparatus of a subject in order to make a parent-as in this specific case—wield a knife and go to the extent of carrying out and performing the decapitation of his own 18-month-old daughter.

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