

www.chicagotribune.com/news/local/breaking/chi-judge-finds-new-evidence-refuting-shaken-baby-conviction-20140128,0,2463767.story

chicagotribune.com

Judge finds new evidence refuting shaken baby conviction

By Jason Meisner

Tribune reporter

4:54 PM CST, January 28, 2014

Nearly a decade after a Hickory Hills daycare worker was convicted of murdering an infant in her care, a federal judge has found that new evidence points to her innocence and called into question the controversial science behind shaken baby syndrome that convicted her in the first place.

The 97-page ruling on Monday by U.S. District Judge Matthew Kennelly marked a significant legal hurdle for Jennifer Del Prete and could ultimately lead to a new trial in the 2003 death of 14-month-old Isabella Zielinski.

The strongly worded opinion laid out how the state's own witnesses contradicted the key theory presented to jurors at trial -- that Isabella died of acute trauma that could have been inflicted only when she was in Del Prete's care. In light of that fact, Kennelly asked whether any reasonable juror would have convicted her beyond a reasonable doubt of first-degree murder.

"The answer to that question is a rather resounding no," the judge wrote.

But Del Prete, 43, who is serving a 20-year sentence for the little girl's death, isn't going free any time soon. Patrick Blegen, her lead attorney, said her legal team must now proceed on separate claims that her trial lawyer erred by failing to challenge the science behind shaken baby syndrome and presenting an inadequate expert to testify about the child's injuries.

"We are pleased with the judge's ruling, but we know we still have some work to do," Blegen said today in a telephone interview.

Del Prete was convicted of shaking Isabella while caring for her at a home-based day-care center in Romeoville in December 2002. Suffering from brain damage so severe she needed tubes to breathe and eat, Isabella died 10 months later.

According to trial testimony, Del Prete called 911 and administered CPR to Isabella before paramedics arrived. At her sentencing hearing in 2005, Del Prete vowed to continue the fight to prove her innocence.

jmeisner@tribune.com

Copyright © 2014 Chicago Tribune Company, LLC