

“Anatomy Of A Confession—The Debra Milke Case”

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A jury convicted Debra Milke of murdering her four-year old son in 1990. An Arizona judge sentenced her to death. She was the first women to get the death penalty in Arizona in fifty years and the only woman on death row until well into the 21st Century. The U.S. Court of Appeals for the Ninth Circuit overturned her conviction in 2013, and remanded her case back to Arizona for retrial. The new trial judge, the Hon. Rosa Mroz, found that “the proof of her guilt was not evident, nor was the presumption great she had committed murder.” Applying the historic proof evident—presumption great test, she ordered Milke released from jail in September 2013. The Arizona Court of Appeals ordered all charges dismissed based on egregious misconduct by the police and prosecutors in the case.

In its March 2013 opinion, Chief Judge Alex Kozinski, speaking for a unanimous panel, noted Milke’s alleged confession, as reported by Detective Saldate, as “the only direct evidence linking Milke to the crime.” The court narrowed the issue down to ground level. This confession “was only as good as Saldate’s word, as he’s the only one who claims to have heard Milke confess and there’s no recording, written statement or other evidence that she confessed. Saldate’s credibility was crucial to the state’s case against her. It’s hard to imagine anything more relevant to the jury’s—or the judge’s—determination whether to believe Saldate than evidence that Saldate lied under oath and trampled the constitutional rights of suspects in discharging his official duties. If even a single juror had found Saldate untrustworthy based on the documentation that he habitually lied under oath or that he took advantage of women he had in his power, there would have been at least a hung jury. Likewise, if this evidence had been disclosed, it may well have led the judge to order a new trial, enter judgment notwithstanding the verdict or, at least, impose a sentence less than death. The prosecution did its best to impugn Milke’s credibility. It wasn’t entitled, at the same time, to hide the evidence that undermined Saldate’s credibility.”