STATE OF CONNECTICUT *v.* SHARON PATTERSON
(SC 18868)

Rogers, C. J., and Norcott, Palmer, Zarella, Eveleigh, McDonald and Espinosa, Js.

Argued March 15—officially released June 18, 2013

Mary Beattie Schairer, assigned counsel, for the appellant (defendant).

Michele C. Lukban, senior assistant state's attorney, with whom, on the brief, were *Michael Dearington*, state's attorney, and *Michael Pepper*, senior assistant state's attorney, for the appellee (state).

Opinion

PER CURIAM. The defendant, Sharon Patterson, appeals from the judgment of the Appellate Court affirming in part and reversing in part the judgment of conviction, rendered after a trial to the court, of one count of criminally negligent homicide in violation of General Statutes § 53a-58 (a),[1] two counts of cruelty to persons in violation of General Statutes § 53-20,[2] and two counts of risk of injury to a child in violation of General Statutes § 53-21.[3] We granted the defendant's petition for certification to appeal, limited to the following issues: "(1) Did the Appellate Court properly determine that the state presented sufficient evidence that the defendant had the required mental state in order to convict her under . . . § 53a-58 (a)?

"(2) Did the Appellate Court properly determine that the state presented sufficient evidence that the defendant had the required mental state in order to convict her under . . . § 53-20 (a) (1) and (b) (1)?

"(3) Did the Appellate Court properly determine that the state presented sufficient evidence that the defendant had the required mental state to convict her under . . . § 53-21 (a) (1)?" *State* v. *Patterson*, 302 Conn. 942, 943, 29 A.3d 467 (2011). In answering these questions in the affirmative, we adopt the reasoning of the Appellate Court as our own and, accordingly, affirm the judgment of the Appellate Court.

The opinion of the Appellate Court sets forth the following relevant facts and procedural history. "The victim,[4] a two year old boy, was placed in the care of the defendant by his mother on February 18, 2008.[5] On that date, the victim was in good health.

"Shortly thereafter, the defendant began to restrict the victim's access to fluids in order to correct certain behavioral problems. Specifically, the defendant did not allow the victim to consume liquids after 8 p.m. in order to prevent him from wetting the bed. The defendant also prevented the victim from consuming liquids at other times in order to encourage him to consume solid food.[6] As a result of such restrictions, the defendant gave the victim little or nothing to drink from the morning of February 22, 2009, to the morning of February 26, 2009.

"Moreover, at some point during the victim's stay, the defendant attempted to discourage him from drinking out of cups belonging to other people. In order to accomplish this, the defendant placed a small amount of hot sauce in a cup and left it on the kitchen table. The victim consumed hot sauce from a cup on at least one occasion.

"In the days immediately preceding his death, the victim began to exhibit numerous symptoms of dehydration. He had dry, cracked lips, a sunken face and a

diminished appetite. He also had lost a significant amount of weight. On the morning of February 26, 2008, the defendant discovered that the victim was not breathing. Shortly thereafter, the defendant contacted emergency personnel by telephone. During this call, the defendant stated that the victim was 'dehydrated.' The deputy chief medical examiner later confirmed that the child had died due to insufficient fluid intake.[7]

"The defendant possesses an IQ of 61. This score places her within the bottom one half of 1 percent of the population. Due to this cognitive disability, the defendant did not know that withholding liquids could cause the victim to die. The defendant did, however, generally understand that depriving someone of fluids can cause dehydration. . . .

"The state charged the defendant with one count of manslaughter in the first degree pursuant to General Statutes § 53a-55, two counts of risk of injury to a child and two counts of cruelty to persons. The trial court found the defendant not guilty of manslaughter in the first degree and of the lesser included offense of manslaughter in the second degree in violation of General Statutes § 53a-56 . . . [but] convicted the defendant of the lesser included offense of criminally negligent homicide, two counts of risk of injury to a child and two counts of cruelty to persons. The court imposed a total effective sentence of ten years incarceration, suspended after five years, with five years probation."[8] *State* v. *Patterson*, 131 Conn. App. 65, 68–70, 27 A.3d 374 (2011).

The Appellate Court rejected the defendant's claim on appeal that "because of her mental disability, there was insufficient evidence to support her conviction of (1) criminally negligent homicide, (2) cruelty to persons and (3) risk of injury to a child under the 'situation prong' of § 53-21 (a) (1)." Id., 67. Accordingly, the court affirmed the judgment of the trial court as to those counts.[9] Id., 81.

With respect to her first claim, the defendant argued that the trial court's finding that she was not guilty of manslaughter in the first degree and second degree necessarily precluded a finding of criminally negligent homicide. In support of this argument, the defendant relied on the trial court's finding that because of her cognitive disabilities, she was not "consciously aware of the fact that by withholding liquids from [the victim] . . . [he] could become dehydrated and die." (Internal quotation marks omitted.) Id., 72. According to the defendant, this finding necessarily implied that she was "cognitively unable to perceive the risks created by her actions," and could not therefore be found guilty of criminally negligent homicide.[10] Id., 73. The Appellate Court rejected this claim. Id. The court began by contrasting the mental states required for manslaughter (recklessness) and criminally negligent homicide (crim-

inal negligence). Whereas recklessness requires that the defendant be aware of, and consciously disregard, a substantial risk of death, criminal negligence requires only the "failure to perceive the risks created by one's actions." Id., 71; see General Statutes § 53a-3 (14). Recklessness thus requires a *subjective* awareness of the risk of death, the court noted, whereas criminal negligence is measured objectively. *State* v. *Patterson*, supra, 131 Conn. App. 71–72. In other words, "the [p]eculiarities of a given individual, such as intelligence, experience, and physical capabilities, are irrelevant in determining criminal negligence, since the standard is one of the reasonably prudent person." (Internal quotation marks omitted.) Id., 72.

The Appellate Court likewise rejected the defendant's claim that insufficient evidence supported her conviction for cruelty to persons pursuant to § 53-20 (a) (1) and (b) (1) because, as a result of her cognitive limitations, she was unable to form the requisite specific intent. Id., 73–74. The Appellate Court concluded that § 53-20 (a) (1) and (b) (1) require general, rather than specific, intent: that is, the intent only to do the proscribed act.[11] Id., 75. Because the trial court had found that the defendant "intentionally withheld fluids from the victim in order to prevent him from wetting the bed and to encourage him to eat more during meals," the Appellate Court concluded that sufficient evidence supported the defendant's conviction pursuant to § 53-20 (a) (1) and (b) (1). Id.

Finally, the Appellate Court rejected the defendant's claim that, in light of her diminished mental capacity, there was insufficient evidence that she possessed the specific intent required for a conviction of risk of injury to a child under the "situation prong" of § 53-21 (a) (1). Id., 75–76. The court explained that "[s]pecific intent is not a necessary requirement of [§ 53-21]. Rather, the intent to do some act coupled with a reckless disregard of the consequences . . . of that act is sufficient to [establish] a violation of the statute." (Internal quotation marks omitted.) Id., 76, quoting *State* v. *Sorabella*, 277 Conn. 155, 173, 891 A.2d 897, cert. denied, 549 U.S. 821, 127 S. Ct. 131, 166 L. Ed. 2d 36 (2006). Consequently, "[i]n order to be found guilty of risk of injury to a child, the defendant must have been aware of and consciously disregarded a substantial and unjustifiable risk that withholding liquids could cause the victim harm." *State* v. *Patterson*, supra, 131 Conn. App. 76–77. Because the defendant, on the morning of the victim's death, had observed the victim's body and informed emergency personnel that the victim was "dehydrated"; id., 77; the Appellate Court held that the trial court "reasonably could have concluded that the defendant understood the causal relationship between depriving the victim of liquids and the physiological condition known as dehydration that he suffered as a result."[12] Id. Accordingly, the Appellate Court concluded, the trial court's

determination that "the defendant possessed the mental state necessary for conviction under § 53-21 is supported by the evidence contained within the record." Id. This certified appeal followed.

As we previously noted in this opinion, we conclude that the Appellate Court properly resolved the issues in its well reasoned opinion. Because that opinion fully addresses all arguments raised in this appeal, we adopt it as a proper statement of the issues and the applicable law concerning those issues. It would serve no useful purpose for us to repeat the discussion contained therein. See *State* v. *Barnes*, 308 Conn. 38, 60 A.3d 256 (2013).

The judgment of the Appellate Court is affirmed.

[1] General Statutes § 53a-58 (a) provides: "A person is guilty of criminally negligent homicide when, with criminal negligence, he causes the death of another person, except where the defendant caused such death by a motor vehicle."

[2] General Statutes § 53-20 provides in relevant part: "(a) (1) Any person who intentionally tortures, torments or cruelly or unlawfully punishes another person or intentionally deprives another person of necessary food, clothing, shelter or proper physical care shall be fined not more than five thousand dollars or imprisoned not more than five years or both. . . .

"(b) (1) Any person who, having the control and custody of any child under the age of nineteen years, in any capacity whatsoever, intentionally maltreats, tortures, overworks or cruelly or unlawfully punishes such child or intentionally deprives such child of necessary food, clothing or shelter shall be fined not more than five thousand dollars or imprisoned not more than five years or both. . . ."

[3] General Statutes § 53-21 provides in relevant part: "(a) Any person who (1) wilfully or unlawfully causes or permits any child under the age of sixteen years to be placed in such a situation that the life or limb of such child is endangered, the health of such child is likely to be injured or the morals of such child are likely to be impaired, or does any act likely to impair the health or morals of any such child . . . shall be guilty of a class C felony . . . ."

[4] In accordance with our policy of protecting the privacy interests of the victims of the crime of risk of injury to a child, we decline to identify the victim or others through whom the victim's identity may be ascertained. See General Statutes § 54-86e.

[5] "On at least three occasions, the victim's mother agreed to extend the victim's stay with the defendant. These extensions occurred on February 18, 19, and 21, 2008. Each of these extensions occurred pursuant to a request or at the express invitation of the defendant." *State* v. *Patterson*, 131 Conn. App. 65, 68 n.3, 27 A.3d 374 (2011).

[6] "The trial court heard testimony relating to one incident in which the defendant's brother had given the victim something to drink, but the defendant took it away. According to the defendant's brother, 'she wasn't going to give him nothing to drink until he ate his food.' " *State* v. *Patterson*, 131 Conn. App. 65, 68 n.4, 27 A.3d 374 (2011).

[7] "The deputy chief medical examiner testified at trial that there was 'no evidence of natural disease, chronic or acute, that would have caused dehydration' and concluded that the child's death was caused by improper care." *State* v. *Patterson*, 131 Conn. App. 65, 69 n.5, 27 A.3d 374 (2011).

[8] "The trial court merged the two counts alleging cruelty to persons and sentenced the defendant as follows: one year imprisonment on the charge of criminally negligent homicide; ten years imprisonment, suspended after five, with five years probation on the first count of risk of injury to a child; one year imprisonment on the second count of risk of injury to a child; and three years imprisonment for cruelty to persons." *State* v. *Patterson*, 131 Conn. App. 65, 70 n.6, 27 A.3d 374 (2011).

[9] Because the Appellate Court concluded that there was insufficient evidence to support the trial court's conclusion that "giving 'a few drops' of hot sauce to the victim was likely to impair his health"; *State* v. *Patterson*, supra, 131 Conn. App. 78; the court reversed the judgment as to the defendant's conviction of risk of injury under the "act prong" of § 53-21 (a) (1).

Id., 80–81.

[10] We observe that the defendant conceded at oral argument before this court that she did not assert an affirmative defense pursuant to General Statutes § 53a-13 (a), which provides: "In any prosecution for an offense, it shall be an affirmative defense that the defendant, at the time he committed the proscribed act or acts, lacked substantial capacity, as a result of mental disease or defect, either to appreciate the wrongfulness of his conduct or to control his conduct within the requirements of the law."

[11] By contrast, the Appellate Court observed, "[w]hen the elements of a crime include a defendant's intent to achieve some result *additional to the act*, the additional language distinguishes the crime from those of general intent and makes it one requiring *a specific intent*." (Emphasis altered; internal quotation marks omitted.) *State* v. *Patterson*, supra, 131 Conn. App. 74.

[12] The Appellate Court found this conclusion to be "logically consistent with the [trial] court's conclusion that the defendant lacked the mental state of recklessness in relation to the charges of manslaughter in the first and second degrees." *State* v. *Patterson*, supra, 131 Conn. App. 77 n.12. "Although the defendant [had] demonstrated the ability to understand that withholding fluids from the victim could cause him to become *dehydrated*," the court reasoned, this finding did not "necessarily compel a finding that the defendant was aware of the risk that dehydration could cause the victim to *die*." (Emphasis added.) Id.