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McGovern: Religion won't deter conviction, insanity might

Bob McGovern Wednesday, February 07, 2018



Credit: Courtesy

Latarsha Sanders is arraigned in Brockton District Court, on two counts of murder. Pool photo.

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Latarsha L. Sanders can seek no sanctuary if she truly thought she was performing a religious ritual when she allegedly stabbed her two youngest children to death.

Her lawyer, however, may try to argue she was insane.

In Massachusetts, it's called a defense of lack of criminal responsibility. It requires defense attorneys to show that, through a mental disease or defect, a person is incapable of distinguishing between right and wrong or that they were unable to conform their conduct to the requirements of the law.

The problem for defendants trying to invoke the defense: It typically falls flat, and it's almost unheard of in the religious context.

"They are very, very hard to establish, and juries rarely agree," said Brad Bailey, a criminal defense attorney not involved in Sanders' case. "I would say that this would be a unique approach. I would think this would be a real uphill battle."

And while the U.S. Constitution guarantees freedom of religion, the Supreme Court has made it abundantly clear that a person's beliefs cannot be wielded as a defense when they



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have caused harm to someone else.

Parents across the country have been convicted of child abuse and manslaughter for failing to take care of their children in the name of their religious beliefs.

For example, in the 1980s and 1990s Christian Science parents were hit with charges from murder to neglect in cases involving their children.

A Supreme Court decision from the 1940s — in which a Jehovah's Witness in Massachusetts was convicted of violating child labor laws — set the groundwork when it ruled that parents can't find a defense in religion when they harm their children.

"Parents may be free to become martyrs themselves," wrote Justice Wiley Rutledge. "But it does not follow they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves."

There is good reason for this limitation. Offering a get-out-of-jail-free card to anyone who claims holy inspiration for their crimes would unleash a conga line of horrors and effectively create a lawless society.

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"Religious beliefs are very much respected normally, but there is certainly an exemption when actions are dangerous or harmful," said Peter Elikann, a criminal defense attorney not involved in the case. "Otherwise people could be committing horrendous crimes while claiming they should get a free pass."

So if, as prosecutors say, Sanders stabbed her 8-year-old son 50 times with a kitchen knife as part of a "voodoo" ritual and then killed his little brother when she thought she had "failed" with the older child, she can't point to her religious beliefs as a defense.

"Neither the rights of religion nor the rights of parenthood are beyond limitation," Rutledge wrote. "The right to practice religion freely does not include the right to expose the community or the child to communicable disease or the latter to ill-health or death."

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