

22. THE CASE OF ANDREA YATES (TEXAS, 2001)

A. THE FACTS

It is 1989. Twenty-five year old Andrea Kennedy, a champion swimmer and high school valedictorian, swims in the pool of a Houston apartment complex. Rusty Yates, also 25 and a summa cum laude graduate of Auburn University, watches from his apartment. Weeks later, the two talk long into the night, realizing that for some time they have been living in the same building.

On April 17, 1993, they are married in a simple, nondenominational ceremony in Clear Lake Park, Texas. Rusty is employed as an engineer working for NASA; Andrea works at the M.D. Anderson Cancer Center as a post-operative nurse. The couple talk to wedding guests about their plans for the future, including their plan to not use contraceptives. Andrea Yates claims to want as many children as possible.

On February 25, 1994, the Yates' first child, Noah, is born. Andrea Yates leaves her nursing career to become a full-time mother, staying at home to take care of her newborn son. In early 1995, she is pregnant again. Though she tells no one, Yates suffers a recurring vision in which she watches a person get stabbed with a knife. The vision disappears as quickly as it appeared.

As Yates continues her career as a mother, she becomes more withdrawn and secretive, losing touch with many of her oldest friends and alienating others. Soon after the birth of her second son, Yates writes to the wife of a traveling Christian evangelist and longtime advisor to Rusty, complaining of loneliness and depression. The reply urges Yates to read the New Testament, and describes the appropriate role of women as being subservient to their husbands, working at home and raising children. Soon after, Rusty is transferred to Clearwater, Florida for a six-month assignment. The young family sells many of their possessions, including their house, and moves into a 38-foot travel trailer, arriving in Florida and taking up residence at a trailer park in Seminole. While they live in Florida, Andrea gets pregnant twice—miscarrying once but giving birth to a third son after moving back to Texas in June of 1997.

In May of 1998, Rusty and Andrea Yates decide that they would prefer to live a simpler life than the one that they lead in the trailer. Rusty purchases a converted 1978 GMC bus, which they use as a home. The bus has 350 square feet of living space, forcing the two oldest children to sleep in a luggage compartment. The seller of the van, Michael Woroniecki, is the evangelist husband of Andrea's previous confidante. Woroniecki advocates a particularly fundamentalist brand of Christianity, cautioning Rusty against the dangers of organized religion. The Yates family takes his advice to heart, subscribing to many of the religious teachings that Woroniecki preaches.



Figure 54. The Yates family before the birth of their fifth child. (Getty Images)



Figure 55. Andrea Yates. (Getty Images)

scribed to her mother. Paramedics later take her to a Houston hospital, where she is diagnosed with a major depressive disorder. Andrea tells the hospital staff that she took the pills to “sleep forever.”

Over the next week, Yates is treated with a combination of medicines that do not appear to have an effect on her condition. Still, on June 24, doctors conclude that though she is unstable, she is not suicidal. Yates is officially released from the hospital “for insurance reasons.”

Though Yates has been prescribed strong antipsychotic medication, she flushes it down the toilet. Her condition progressively worsens. Lying in bed all day, Yates scratches four bald spots into her scalp, cuts her arms and legs, and refuses to feed her children, claiming that they are “eating too much.” On July 2, the stabbing vision returns. Voices tell Andrea to get a knife, though she initially refuses.

Yates’s mother must tend to the children in addition to her husband, who suffers from Alzheimer’s Disease. After learning the full extent of her condition, Andrea’s siblings discuss their own difficulties, finding that two of them are being treated for depression, one is bipolar, and that their father more than likely suffered from untreated depression. Yates again attempts to commit suicide on July 20th, holding a knife to her throat in front of a bathroom mirror. She is returned to the psychiatric hospital, where she refuses to cooperate with interviewing nurses. She begins an intensive course of treatment via injections of Haldol, a powerful antipsychotic.

Throughout 1998, Andrea becomes more secretive and distant from everyone in her life, including Rusty. She refuses to change her clothes except alone in a closet. She refuses to have guests. Rusty says, “I know a few things about her, but I don’t know a lot. I don’t probe. I don’t want to be nosy.” On February 15, 1999, the Yates’ fourth child, Luke, is born.

June of 1999 is a particularly difficult month for Andrea. On the 16th, she calls Rusty at work, asking him to come home. He finds her in the back of the bus, shaking uncontrollably and biting her fingers. When he is unable to calm her, he packs the family and drives to Andrea’s mother’s house.

The next day, Rusty leaves to run errands. Andrea tells her mother that she plans to take a nap, and takes over 40 pills, including Trazodone, an antidepressant pre-

When she is released on August 9, 1999, the family moves out of the bus into a small house in Houston. Andrea leaves outpatient therapy on August 20, and her condition improves markedly over the following months. She begins to home-school the children, begins to swim in the neighborhood pool, and enjoys making costumes for her children and others', in addition to baking cakes from scratch and tending to the household. The family sets aside time three nights a week for Bible study, and their faith becomes deeper. Still, they do not adhere to organized religion, and Andrea remains in contact with Woroniecki, the evangelist. At one point, Woroniecki tells Andrea in a letter that "the role of woman is derived ... from the sin of Eve" and that bad mothers are the cause of bad children.

As Andrea's condition improves, she becomes less conscientious about taking her medication. Despite warnings from her psychotherapist, she becomes pregnant again in March, 2000. The couple's fifth child, Mary, is born on November 30.

In March of 2001, Andrea's father passes away. She is shaken and feels guilty about his death, leading her to stop talking and return to scratching her scalp and extremities. She is admitted to a psychiatric hospital on March 31, but shows little improvement under a new psychiatrist. Soon after she is discharged, she refuses to return for her outpatient appointments and stops taking the newly-prescribed medications. Despite Haldol having worked for her in the past, her new doctor distrusts the medicine and prescribes less powerful treatments. The psychiatrist agrees to her discharge from outpatient treatment, believing that Rusty can take care of her on his own.

On May 3, 2001, Yates's oldest son walks into the bathroom to find his mother filling a bathtub. Yates's mother arrives, and asks why she has filled it. "I might need it," Yates says.

Soon after this episode, Yates is rehospitalized. Again, she is put on Haldol, although this time it appears to be ineffective. Her doctor decides that because she is not suicidal, she should be discharged from the hospital. Rusty is surprised, but takes his wife home on May 14. Soon thereafter, Andrea stops taking the Haldol. On June 19, she plays basketball with Rusty and Noah, her oldest son. Immediately thereafter, she goes to bed, still in her clothing from the day.

Andrea wakes up at 8:10 a.m. on June 20, 2001. Though Rusty had promised his son John that he would take him to work for a day, he decides that because of an important design meeting that day, he cannot take the child. As Rusty leaves the house for work, Andrea is eating handfuls of Sugar Pops straight from the box.

After Rusty leaves for work, Yates fills the bathtub to three inches from the top, moving the bathmat to the side of the room so as to have better traction on the floor. All five children are in the kitchen, having breakfast. Yates has concluded that her children are "doomed to the fires of Hell," and that it is her fault. "My children were not righteous," she says. "I let them stumble." In recent months, Andrea has decided that she is marked by Satan as a bad mother. Woroniecki's rhetoric feeds her feelings of inadequacy. He has told her that parents are responsible for ensuring the salvation of their children. "Hell is right on the doorstep," he says, "waiting to bring you in." Andrea has taken his teaching to heart, deciding that she has been a bad mother and has assured her children's damnation. She has determined that they must die in order to save them from the eternal torment of hell.

Yates walks to the kitchen and picks up infant Mary, the youngest, taking her to the bathroom and putting her on the floor. She then walks Paul, the three year old, to the bathroom. She gives Mary a bottle, then holds Paul's body under the water. Paul dies within a minute, after which she carries him to her bed, tucking him under the sheets. Luke, her two year old, soon follows his older brother, and John, five years old, is next. All are placed on the bed with Paul.

Mary, who is now crying, is then drowned and left face-down in the bathtub while Yates summons Noah, her seven year old. As he comes to the bathroom, he asks "What happened to Mary?" Yates does not respond, but instead puts Noah in the tub with his sister. Noah struggles and

attempts to run away, but Yates catches him and forces him under the water. He dies within minutes and is left in the bathtub. Yates takes Mary's body and places it with the others' in her bed, covering all with a sheet.



Figure 56. Houston Police officers stand outside the Yates resident after discovering the drowned children. (CBS News)

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no liability	liability but no punishment	1 day	2 wks.	2 mo.	6 mo.	1 yr.	3 yrs.	7 yrs.	15 yrs.	30 yrs.	life	no imprisonment but civil preventive detention for as long as she is dangerous

B. THEN EXISTING LAW

Texas Penal Code (2001)

§ 19.02—Murder

(a) In this section:

(1) "Adequate cause" means cause that would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary temper, sufficient to render the mind incapable of cool reflection.

(2) "Sudden passion" means passion directly caused by and arising out of provocation by the individual killed or another acting with the person killed which passion arises at the time of the offense and is not solely the result of former provocation.

(b) A person commits an offense if he:

Yates picks up the telephone and calls 911, telling the dispatcher that she needs police and an ambulance. She hangs up and calls Rusty at work, telling him "It's time. I finally did it." She asks him to come home. Police arrive within minutes.

* * *

Would you convict Andrea Yates for the deaths of her five children? If so, what amount of punishment would you impose?

- (1) intentionally or knowingly causes the death of an individual;
 - (2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual; or
 - (3) commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.
- (c) Except as provided by Subsection (d), an offense under this section is a felony of the first degree.
- (d) At the punishment stage of a trial, the defendant may raise the issue as to whether he caused the death under the immediate influence of sudden passion arising from an adequate cause. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.

§ 19.03—Capital Murder

- (a) A person commits an offense if he commits murder as defined under Section 19.02(b)(1) and:
- (1) the person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman;
 - (2) the person intentionally commits the murder in the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, arson, or obstruction or retaliation;
 - (3) the person commits the murder for remuneration or the promise of remuneration or employs another to commit the murder for remuneration or the promise of remuneration;
 - (4) the person commits the murder while escaping or attempting to escape from a penal institution;
 - (5) the person, while incarcerated in a penal institution, murders another:
 - (A) who is employed in the operation of the penal institution; or
 - (B) with the intent to establish, maintain, or participate in a combination or in the profits of a combination;
 - (6) the person:
 - (A) while incarcerated for an offense under this section or Section 19.02, murders another; or
 - (B) while serving a sentence of life imprisonment or a term of 99 years for an offense under Section 20.04, 22.021, or 29.03, murders another;
 - (7) the person murders more than one person:
 - (A) during the same criminal transaction; or
 - (B) during different criminal transactions but the murders are committed pursuant to the same scheme or course of conduct; or
 - (8) the person murders an individual under six years of age.
- (b) An offense under this section is a capital felony.
- (c) If the jury or, when authorized by law, the judge does not find beyond a reasonable doubt that the defendant is guilty of an offense under this section, he may be convicted of murder or of any other lesser included offense.

§ 8.01—Insanity

(a) It is an affirmative defense to prosecution that, at the time of the conduct charged, the actor, as a result of severe mental disease or defect, did not know that his conduct was wrong.

(b) The term “mental disease or defect” does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

§ 9.22—Necessity

Conduct is justified if:

(1) the actor reasonably believes the conduct is immediately necessary to avoid imminent harm;

(2) the desirability and urgency of avoiding the harm clearly outweigh, according to ordinary standards of reasonableness, the harm sought to be prevented by the law proscribing the conduct; and

(3) a legislative purpose to exclude the justification claimed for the conduct does not otherwise plainly appear.

§ 9.33—Defense of Third Person

A person is justified in using force or deadly force against another to protect a third person if:

(1) under the circumstances as the actor reasonably believes them to be, the actor would be justified under Section 9.31 [Self-Defense] or 9.32 [Deadly Force in Defense of Person] in using force or deadly force to protect himself against the unlawful force or unlawful deadly force he reasonably believes to be threatening the third person he seeks to protect; and

(2) the actor reasonably believes that his intervention is immediately necessary to protect the third person.

§ 1.07—Definitions

(a) In this code:

* * *

(42) “Reasonable belief” means a belief that would be held by an ordinary and prudent man in the same circumstances as the actor.

Bigby v. State, 892 S.W.2d 864 (Tex.Crim.App. 1994)

If, at the time of the conduct charged, the defendant understood the nature and quality of his action and knew that the conduct was “illegal” by the standards of society, then for the purpose of the insanity defense that person understood that his conduct was “wrong.”

C. CURRENT LAW THAT WOULD BE APPLIED WERE THE CASE PROSECUTED TODAY

[Statutory changes are not relevant]