

## Mother not guilty in baby death

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### Document Text

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Woman collapses after jury clears her of shaking baby

Jonathan Bandler

The Journal News

WHITE PLAINS - An Ossining mother accused of shaking her baby to death was acquitted yesterday shortly after two jurors were replaced for improperly discussing the case during the trial.

Maria Gamboa fell to her knees and sobbed after the forewoman read "not guilty" to the single count of criminally negligent homicide. Moments later, after hugging jurors and being surrounded by relatives and friends, she collapsed in the hallway. Paramedics responded, but Gamboa declined medical attention.

"She's obviously very emotional right now," said defense lawyer Andrew Quinn. "I think anybody who sat through the entire trial realized that Maria was unjustly accused."

Jason Gamboa was 5 months old when he stopped breathing Oct. 13, 1999, while in his mother's arms at their Yale Avenue home. She became frantic, urging a neighbor to call 911 and running into the street for help. A police sergeant met her on the way to the hospital and performed cardiopulmonary resuscitation until an ambulance arrived. The baby was on a respirator for six days before he died.

Doctors found no external injuries and immediately suspected Jason was shaken. The deputy county medical examiner, Dr. Kunjlata Ashar, ruled the death a homicide. Gamboa was indicted 10 months later, although not on the more serious manslaughter charge prosecutors sought.

The defense contended that Jason fell from his brother's bed, and that a congenital cyst ruptured, causing a loss of oxygen and brain swelling.

Assistant District Attorney Barbara Egenhauser said there were stress factors in Gamboa's life - her husband had walked out and her mother had left the country - that made her unprepared to care for Jason and her 5-year-old son, Kevin.

She said Gamboa shook the baby during a momentary loss of composure that had fatal consequences.

The prosecution brought in a specialist in the pathology of child abuse, Dr. Lucy Rorke of Children's Hospital in Philadelphia.

She and Ashar insisted the cyst was insignificant, and they doubted the bleeding was caused by a fall because there were no external bruises.

The defense countered with three medical experts, including Dr. Jan Leestma, a neuropathologist from Chicago who expressed skepticism of shaken-baby syndrome. Leestma faulted the doctors for discounting the cyst.

Quinn suggested that police and prosecutors were too quick to suspect his client of abusing her child. Authorities have repeatedly said there was no rush to judgment and that prosecuting the case was appropriate.

"The Medical Examiner's Office ruled this child's death a homicide, the cause of which occurred when the child was in the sole care of its mother," said David Hebert, a spokesman for District Attorney Jeanine Pirro.

"In those circumstances, we have an obligation under the law to present those facts to a jury, and we accept the jury's verdict," Hebert said.

The jury, which got the case Tuesday, appeared deadlocked early yesterday, when juror Katherine Cressent asked to see the judge.

She reported that during the trial she had lunch with the forewoman, who told her she was certain Gamboa was guilty.

State Supreme Court Justice Joseph West excused both women and replaced them with the remaining alternates. Ten minutes later, the final holdout was convinced, and the acquittal was announced.

The forewoman who was removed declined to comment. Cressent was among the first to hug Gamboa as she left the courtroom.

"I should have said something to the judge earlier, but I thought maybe she would listen to the evidence and have an open mind. You're supposed to presume someone innocent," Cressent said. "I'm really happy for (Gamboa) after everything she's been through."

Gamboa will now seek custody of Kevin, with whom she is allowed supervised visits.

A Family Court decision was adjourned pending the outcome of the trial.

Back at home yesterday, Gamboa waited for her son to be dropped off. She said she was relieved that the cloud of suspicion that surrounded her had lifted.

"I knew I was innocent, but I was afraid (the jury) would do an injustice," she said. "I'm a good mother. How could they think I did that to my baby?"

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### **Abstract** (Document Summary)

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